

HB 2598 -2, -3 STAFF MEASURE SUMMARY

House Committee On Judiciary

Prepared By: Channa Newell, Counsel

Meeting Dates: 3/19, 4/8

WHAT THE MEASURE DOES:

Authorizes creation of trust for noncharitable business purposes. Allows noncharitable business purpose trust to holding an ownership interest in corporations, partnerships, limited partnerships, or other business entities. Allows trust to be achieve objectives in management other than direct financial or economic benefit. Allows trust to be enforced beyond existing 90 year limit. Specifies that noncharitable business purpose trust is not bound by rule against perpetuities if terms of trust expressly state that statutory rule against perpetuities does not apply and there is a specific reference to that section.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

- 2 Replaces measure. Specifies process for creation of stewardship trust. Allows creation of stewardship trust for business purposes without a definite beneficiary. Specifies trust may seek economic or noneconomic benefits. Allows trust to hold an ownership interest in any corporate entity. Creates process for trust enforcers to enforce the purpose and terms of trust and to exercise authority as a fiduciary. Requires stewardship trusts to have committee of at least three members, with each member acting as a fiduciary. Specifies powers of committee. Requires committee to report to trustees and enforcers at least once per year. Makes technical adjustments.
- 3 Incorporates -2 amendment. Makes technical modification.

BACKGROUND:

In Oregon, trusts can take several different forms, from a revocable living trust used as a mechanism to avoid probate proceedings, to special needs trusts established to cover certain expenses of a person while maintaining eligibility for benefits. One type of trust currently allowed in Oregon is a noncharitable purpose trust. Such trusts may be created without a definite beneficiary, and may not continue to exist for more than 90 years.

House Bill 2598 establishes noncharitable business purpose trusts and provides additional details on the ownership interest that can be an asset of the trust, the objectives allowed for such a trust, and allows enforcement for more than 90 years, if specifically noted in the terms of the trust.