

SB 307 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 1/18, 1/25

WHAT THE MEASURE DOES:

Specifies that a party in court-annexed arbitration objecting only to the costs or fees awarded in the action must raise any claims or defenses relating to offers of judgment at that time. Applies to arbitrations commenced after the effective date.

REVENUE: No revenue impact

FISCAL: No fiscal impact

ISSUES DISCUSSED:

- Arbitration judgment finality
- Litigants' uncertainty about when to raise offer of judgment issues in arbitration proceedings

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Parties who file civil actions in a Circuit Court can sometimes arbitrate the claims through court-annexed arbitration, either because they have agreed to do so, or because the court requires arbitration for claims under \$50,000. The arbitrator issues a decision and may also award costs and attorney fees when permitted or required by contract or statute. A party who must pay the costs or attorney fees can choose to object to only those costs and fees awarded, if the party chooses not to appeal the entire decision. Objections to the costs or fees can be about the legal grounds for the award or about the amount awarded.

Oregon Rule of Civil Procedure (ORCP) 54 E governs the award of attorney fees when a defending party to a claim has made an offer to allow judgment, but the party making the claim did not accept the offer, and then did not beat the offer at trial. The decision-maker is not aware of the offer of judgment before making a decision on the merits of the claim. After the decision on the merits, the court conducts a separate hearing to determine whether and how much costs and attorney fees to award, at which point the parties may argue that ORCP 54 E grants or limits an award of costs or attorney fees. Litigants are uncertain about when to raise offer of judgment issues in court-annexed arbitration.

Senate Bill 307 would clarify that a party who objects only to the costs or fees awarded in a court-annexed arbitration must raise any ORCP 54 E claims or defenses at that time.