

Washington County (Oregon) Law Library
DETERMINING LEGISLATIVE INTENT, after Gaines, 2009

Summary Only: Please read full case!

(Italics, underlining, highlighting, layout, etc. are for this *Guide* only - not from the case itself.)

Supreme Court of Oregon: [Oregon v. Gaines](#) (346 Or ____, SC S055031, April 30, 2009)

*Appeal from Multnomah County Circuit Court, Lewis B. Lawrence, Judge. 211 Or App 356, 155 P3d 61, modified and adh'd to as modified on recons, 213 Or App 211, 159 P3d 1291 (2007).

LINDER, J..... “*The question presented ... poses an issue of statutory interpretation. ... [The methodology, as outlined in PGE v. Bureau of Labor and Industries](#), 317 Or 606, 610-12, 859 P2d 1143 (1993), entails three sequential levels of analysis to determine the legislature's intent.*

First, the court examines the text and context of the statute. ... If the legislature's intent is obvious from that first level of analysis, "further inquiry is unnecessary."

[Second] "If, but only if," the legislature's intent is not obvious from the text and context inquiry, "the court will then move to the second level, which is to consider legislative history[.]"

[Third] If the legislature's intent remains unclear after examining legislative history, "the court may resort to general maxims of statutory construction to aid in resolving the remaining uncertainty."

[case continues]

... We therefore conclude that, in light of the 2001 amendments to ORS 174.020, [the appropriate methodology for interpreting a statute is as follows.](#)

[First] The first step remains an examination of text and context. PGE, 317 Or at 610-11.

[Second] But, contrary to this court's pronouncement in PGE, we no longer will require an ambiguity in the text of a statute as a necessary predicate to the second step -- consideration of pertinent legislative history that a party may proffer. Instead, a party is free to proffer legislative history to the court, and the court will consult it after examining text and context, even if the court does not perceive an ambiguity in the statute's text, where that legislative history appears useful to the court's analysis.(7) However, the extent of the court's consideration of that history, and the evaluative weight that the court gives it, is for the court to determine.

[Third] The third, and final step, of the interpretative methodology is unchanged. If the legislature's intent remains unclear after examining text, context, and legislative history, the court may resort to general maxims of statutory construction to aid in resolving the remaining uncertainty.

With regard to this changed methodology, we clarify that a party seeking to overcome seemingly plain and unambiguous text with legislative history has a difficult task before it. Legislative history may be used to confirm seemingly plain meaning and even to illuminate it; a party also may use legislative history to attempt to convince a court that superficially clear language actually is not so plain at all -- that is, that there is a kind of latent ambiguity in the statute.(8) For those or similar purposes, whether the court will conclude that the particular legislative history on which a party relies is of assistance in determining legislative intent will depend on the substance and probative quality of the legislative history itself.(9) We emphasize again that ORS 174.020 obligates the court to consider proffered legislative history only for whatever it is worth-- and what it is worth is for the court to decide. When the text of a statute is truly capable of only one meaning, no weight can be given to legislative history that suggests -- or even confirms -- that legislators intended something different.(10)” ([link to full case](#)).