

REVENUE: No revenue impact
FISCAL: Fiscal statement issued

Action: Do Pass
Vote: 3 - 1 - 1
Yeas: Prozanski, Walker, Burdick
Nays: Kruse
Exc.: Beyer
Prepared By: Matt Kalmanson, Counsel
Meeting Dates: 3/12

WHAT THE MEASURE DOES: Adds “sexual orientation” – already a protected characteristic under Oregon’s hate crime statutes – to several statutes that prohibit discrimination based on religion, age, race, color, sex, national origin, and marital status. Defines “sexual orientation” to mean an individual’s actual or perceived heterosexuality, homosexuality, bisexuality or gender identity, regardless of whether the individual’s gender identity, appearance, expression or behavior differs from that traditionally associated with the individual’s sex at birth. Establishes that a person may not discriminate based on an individual’s sexual orientation with regard to employment, housing, public accommodations, public services, public education, adult foster homes and foster parenting, among other things. Declares that the opportunity to obtain employment, housing and use public accommodations, free of discrimination based on sexual orientation, religion, age, race, color, sex, national origin, or marital status, is a civil right. Allows an individual who has experienced discrimination based on sexual orientation to bring a civil action for injunctive relief, damages and attorney fees. Permits churches or other religious institutions to take actions based on sexual orientation with respect to employment, housing or the use of public accommodations if the institution (1) has a “bona fide” religious belief about sexual orientation, and (2) the employment, housing or use of facilities in question is closely connected with, or related to, the primary purposes of the church or institution, and is not connected with a commercial or business activity that has no necessary relationship to the institution or the institution’s primary purpose. Allows employers to enforce valid dress codes and policies if the employer provides reasonable accommodations when necessitated by the health and safety needs of the individual. Repeals ORS 236.380, which prohibits state officials from forbidding the taking of personnel action against any state employee based on sexual orientation.

ISSUES DISCUSSED:

- The Governor’s Task Force on Equality in Oregon
- Existence of discrimination against Oregon citizens based on sexual orientation and necessity of legislation
- Definition of “sexual orientation”
- Potential impact on businesses, churches, sectarian religious institutions, non-sectarian religious institutions, parachurches, schools and persons of faith
- Experiences of Oregon counties and municipalities, and other jurisdictions, that outlaw discrimination based on sexual orientation
- Scope of religious exemption
- Legality under Oregon and United States Constitutions
- Effect of civil remedy provisions

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: The Oregon Equality Act, SB 2, is a result of the Governor's Task Force on Equality in Oregon, which was established in February 2006 by Executive Order No. 06-03. The Governor charged the Task Force with studying whether changes to Oregon law were necessary to guarantee that Oregonians are protected from discrimination in employment, housing, public accommodations and other opportunities, regardless of sexual orientation or gender identity. The Task Force held public meetings throughout Oregon and issued a report on December 15, 2006. The report notes, among other things: 1) That courts have determined that homosexuals are a suspect class under the Oregon Constitution; 2) Discrimination based on sexual orientation exists in Oregon; and 3) Laws and ordinances that prohibit discrimination based on sexual orientation have not had a negative impact on businesses. The Task Force recommended several changes to Oregon anti-discrimination law, many of which are part of SB 2.

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This summary has not been adopted or officially endorsed by action of the committee.

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