

House Bill 2043

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for Department of Human Services)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows agency ombudsman to treat communications to ombudsman or ombudsman staff as confidential. Provides that if communication is treated as confidential, any work product, notes, memoranda and files of ombudsman or staff related to communication are also confidential.

Provides that communications, work product, notes, memoranda and files treated as confidential are privileged and that ombudsman and ombudsman's staff may not be compelled in adjudicatory proceeding to testify, or to produce evidence, relating to confidential communications, work product, notes, memoranda or files.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to ombudsmen; creating new provisions; amending ORS 182.500; and declaring an emer-
3 gency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 182.500 is amended to read:

6 182.500. (1) If an agency or officer of the executive department, as defined by ORS 174.112,
7 designates a person to perform ombudsman services, the person shall report to the Governor in
8 writing at least once each quarter. A report shall include a summary of the services that the person
9 provided during the quarter and the person's recommendations for improving ombudsman services
10 and the services for which the person provides assistance.

11 (2) All public bodies, as defined [by] **in** ORS 174.109, shall cooperate with an ombudsman estab-
12 lished or specifically authorized by law, or designated by the Governor, and shall promptly provide
13 all information requested by the ombudsman that is relevant to the duties of the ombudsman. Any
14 person that contracts with a public body, as defined by ORS 174.109, shall cooperate with an om-
15 budsman established or authorized by law or designated by the Governor to the extent the om-
16 budsman is investigating matters related to the contract, and shall promptly provide all information
17 requested by the ombudsman that is related to the contract and relevant to the duties of the om-
18 budsman. An agency or officer of the executive department, as defined [by] **in** ORS 174.112, shall
19 consult with the Attorney General if there is any legal dispute relating to:

20 (a) Whether confidential or other restricted information may be provided under this subsection
21 to an ombudsman; or

22 (b) Whether the ombudsman is seeking information that is relevant to the duties of the om-
23 budsman.

24 **(3) An ombudsman may treat any communication to the ombudsman, or to a member**
25 **of the ombudsman's staff, as confidential and not subject to public disclosure. If an om-**
26 **budsman treats a communication as confidential, any work product, notes, memoranda or**
27 **files of the ombudsman and the ombudsman's staff relating to the communication are also**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in **boldfaced** type.

1 **confidential.**

2 (4) Any communication, work product, notes, memoranda or files treated as confidential
3 under subsection (3) of this section are privileged, and the ombudsman and the ombudsman's
4 staff may not be compelled in any adjudicatory proceeding to testify, or to produce evidence,
5 relating to the communications, work product, notes, memoranda or files.

6 **SECTION 2.** The amendments to ORS 182.500 by section 1 of this 2011 Act apply to all
7 communications to an ombudsman or a member of the ombudsman's staff, whether made
8 before, on or after the effective date of this 2011 Act, and to all work product, notes, mem-
9 oranda and files of an ombudsman and the ombudsman's staff, whether created before, on
10 or after the effective date of this 2011 Act.

11 **SECTION 3.** This 2011 Act being necessary for the immediate preservation of the public
12 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
13 on its passage.

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