

**PRELIMINARY STAFF MEASURE SUMMARY****CARRIER:**

Senate Committee on Judiciary

**REVENUE: May have revenue impact, statement not yet issued****FISCAL: May have fiscal impact, statement not yet issued****SUBSEQUENT REFERRAL TO:****Action:****Vote:****Yeas:****Nays:****Exc.:****Prepared By:** Channa Newell, Counsel**Meeting Dates:** 2/9**WHAT THE MEASURE DOES:**

Provides affirmative defense to employee who discloses, in good faith, information under reasonable belief of violation of state, federal, or local law, rule, or regulation so long as disclosure is to state regulatory agency, law enforcement, or member of Legislative Assembly. Requires public and nonprofit employers establish and implement policy on employee rights and requires policy be delivered to each employee. Requires attorneys who are employees to report knowledge of violations to Oregon Government Ethics Commission, subject to rules of professional conduct. Includes nonprofit employees and members of board on nonprofit as employee for purposes of Unlawful Discrimination in Employment statutes. Includes invoking or encouraging assistance of law enforcement to prevent disclosure of documents within prohibited employer conduct; makes Class A misdemeanor and allows civil penalty of up to \$10,000. Allows civil action. Declares emergency; effective on passage.

**ISSUES DISCUSSED:****EFFECT OF COMMITTEE AMENDMENT:**

Proposed (-2) amendments apply affirmative defense in cases in which information disclosed was obtained lawfully. Modifies application of rules of professional conduct.

Proposed (-3) remove disclosure by employee attorneys from measure. Clarifies award of damages instead of civil penalty.

Proposed (-5) amendments apply in cases in which information was obtained lawfully. Prohibits use of affirmative defense by attorneys or employees who are supervised by attorneys. Specifies information disclosed is subject to attorney-client privilege.

Proposed (-6) amendments change standard from “good faith” to “objective.”

**BACKGROUND:** Oregon’s whistleblower statute, ORS 659A.199 makes an unlawful employment proactive for an employer to “discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment for the reason that the employee has in good faith reported information that the employee believes is evidence of a violation of a state or federal law, rule or regulation.” The statutes continue to enumerate prohibited conduct by employers, including prohibiting employees from engaging with Legislators or staff or threatening disciplinary action for disclosure of information that the employee reasonably believes is evidence of a violation of federal or state law.

House Bill 4067 expands the whistleblower statutes to include an affirmative defense to criminal or civil charges brought about as a result of an employees good faith disclosure of information that the employee reasonably believed showed a violation of state, federal, or local law, regulation, or rule. It also requires attorneys to report violations of public or nonprofit employer to the Oregon Government Ethics Commission, subject to the rules of professional conduct.

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

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