

**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 (-7) amendments provide affirmative defense to civil or criminal charges if employee's disclosure is made in good faith and is objectively reasonable. Requires disclosed information to be accessed lawfully. Requires information be provided to state regulatory agency, law enforcement agency, member of Legislature, manager of employee, or attorney. Prohibits ascertain of affirmative defense if information is disclosed to any other party. Disclosure relating to coworkers or supervisors must relate to scope and course of employment of coworker or supervisor. Prohibits attorney who discloses information relating to representation of a client from using defense and applies attorney rules of professional conduct to disclosures. Subject to said rules, allows disclosure by public employee who is an attorney to Attorney General if reporting violation by employee's public or nonprofit employer. Clarifies attorney-client privilege extends to information disclosed, if applicable. Includes nonprofit employees and members of board on nonprofit as employee for purposes of Unlawful Discrimination in Employment statutes. Specifies knowledge, as used in act, means actual knowledge. Defines nonprofit organization.

**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

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

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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.