

**Fiscal:** Has minimal fiscal impact

**Revenue:** No Revenue Impact

---

**Action Date:** 02/11/16

**Action:** Do Pass With Amendments. (Printed A-Eng.)

**Meeting Dates:** 02/09, 02/11

**Vote:**

Yeas: 9 - Barker, Barton, Greenlick, Krieger, Lininger, Olson, Post, Sprenger, Vega Pederson

**Prepared By:** Channa Newell, Counsel

---

**WHAT THE MEASURE DOES:**

Provides affirmative defense to employee who discloses, in good faith with objectively reasonable belief, information on violation of state, federal, or local law, rule, or regulation so long as disclosure is to state regulatory agency, law enforcement, member of Legislative Assembly, a manager or supervisor, or licensed attorney. Requires information disclosed to be accessed lawfully for protections. Requires allegations against coworkers or supervisors to be related to course and scope of employment. Requires public and nonprofit employers establish and implement policy on employee rights and requires policy be delivered to each employee. 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. Makes Class A misdemeanor and allows civil penalty of up to \$10,000. Allows civil action for violation of measure.

**ISSUES DISCUSSED:**

- Need for protection for workers who disclose violation of laws by employer
- Balance between worker protections and employer needs
- Effects of measure on attorney-client privilege
- Work group on consensus amendments

**EFFECT OF COMMITTEE AMENDMENT:**

Replaces measure.

**BACKGROUND:**

Oregon's whistleblower statute, ORS 659A.199, makes an unlawful employment practice 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 4067A expands the whistleblower statutes to include an affirmative defense to criminal or civil charges brought about as a result of an employee's good faith and objectively reasonable disclosure of information that the employee believes shows a violation of state, federal, or local law, regulation, or rule.