

HB 3060 -4 STAFF MEASURE SUMMARY

House Committee On Business and Labor

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Meeting Dates: 3/20, 3/22, 4/12

WHAT THE MEASURE DOES:

Requires every public contract to include as material term that contractor certifies that contractor has policy and practice to prevent sexual harassment, sexual assault and discrimination against members of protected classes. Prohibits state contracting agency from entering into public contract with anticipated price exceeding \$150,000 with contractor that has not certified in writing that contractor has such policy and practice. Specifies minimum requirements of policy and practice. Becomes operative January 1, 2018. Takes effect 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Attempt to prevent discrimination, which would eliminate need for whistleblowers and harm they suffer
- Prevalence of workplace harassment
- Measure applies only to prime contractor, not subcontractors
- Options for when bidder/proposer could provide certification

EFFECT OF AMENDMENT:

-4 (From Rep. Lininger)

Redefines "protected class" and "sexual harassment."

Clarifies that policy and practice must include prohibition against discrimination in providing benefits to the employee or employee's dependent based on protected class of employee or employee's dependent.

Adds that policy and practice must include prohibition on denying benefits to employee or employee's dependent based on gender identity if the prospective contractor provides health insurance or health care benefits.

Eliminates requirement that prospective contractor include with bid or proposal a written assurance that contractor has policy and practice to prevent sexual harassment, sexual assault and discrimination against employees of a protected class. Allows prospective contractor to provide written notice by means of an employee handbook. Allows DAS to develop and make available an electronic template and provide other guidance to prospective contractors in meeting requirements of Act

Requires only state contracting agencies on contracts exceeding \$150,000 to require contract include as material term that contractor certify that policy and practice will be maintained during entire term of contract.

Expands exceptions for state agency to enter into contract with contract that has not provided certification that policy and practice exists.

BACKGROUND:

The Public Contracting Code includes three chapters: ORS 279A generally applies to all contracts, ORS 279B applies to procurements for goods and services, and ORS 279C applies to contracts for public improvements (i.e., construction

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projects) and architectural, engineering and related services. Some provisions of the Public Contracting Code apply to all public contracting agencies (e.g., state agencies, counties, cities, special districts, and school districts), while others apply to only state contracting agencies.

Provisions of House Bill 3060 are placed in ORS 279A, applying to both procurements and public improvement contracts. The measure prohibits state public contracting agencies from entering into a contract worth \$150,000 or more unless the contract certifies in writing that the contractor has a policy and practice to prevent sexual harassment, sexual assault and discrimination against members of protected classes. An exception is made for the following procurements: sole source procurements (279B.075) and emergency procurements (279B.080).