

## **HB 2097 STAFF MEASURE SUMMARY**

### **House Committee On Rules**

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**Prepared By:** Josh Nasbe, Counsel

**Meeting Dates:** 2/11, 2/27

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#### **WHAT THE MEASURE DOES:**

Modifies authority of Oregon Government Ethics Commission to issue advice relating to lobbying laws. Creates three categories of advice: 1) Written commission advisory opinions; 2) Written staff advisory opinions; and 3) Written or oral staff advice. Establishes tiered protections for good faith action taken in reliance on advice. Describes process for issuing advice and establishes timelines.

#### **ISSUES DISCUSSED:**

##### **EFFECT OF AMENDMENT:**

No amendment.

##### **BACKGROUND:**

ORS 171.725 to 171.1785 describe the obligations of certain persons who meet the statutory definition of "lobbyist." These statutes require registration with, and quarterly expenditure reporting to, the Oregon Government Ethics Commission (OGEC), while also prohibiting certain lobbying-related conduct. ORS 171.776 currently authorizes OGEC to provide two categories of advice: 1) Opinions, issued under the signature of the Commission Chair and in response to a request from any person, that may be based on actual or hypothetical circumstances; and 2) Advisory interpretations, issued by the full Commission and in response to a request from a lobbyist or their employer, addressing whether a proposed action or transaction violates the lobbying statutes. ORS 171.776 (4), in turn, provides lobbyists and their employers with safe harbor for actions or transactions carried out in accordance with an advisory interpretation issued by the full Commission.

House Bill 2097 replaces the current statutory system with three tiers of advice: 1) Written commission advisory opinions; 2) Written staff advisory opinions; and 3) Written or oral staff advice. The bill also creates three, corresponding levels of protections for persons who, in good faith, rely on this advice. In circumstances in which a person provides OGEC with an accurate descriptions of the material facts, and takes good faith actions in reliance on a written commission advisory opinion, the bill prohibits OGEC from imposing a civil penalty based on those actions. In similar circumstances, the bill limits OGEC to the issuance of a written letter of reprimand, explanation or education, where a person relies on a staff advisory opinion. Finally, the bill authorizes OGEC, before imposing a civil penalty, to consider whether an underlying action was taken in reliance on written or oral staff advice.

House Bill 2097 also establishes timelines applicable to written commission and staff advisory opinions and requires OGEC, or its executive director, to provide a written explanation when opinion requests are denied. House Bill 2097 becomes effective January 1, 2020.