

SB 479 A -A12 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 5/20, 5/22

WHAT THE MEASURE DOES:

Requires public employers to establish and adopt a written policy that seeks to prevent workplace harassment. Requires policy to include a statement prohibiting workplace harassment, information explaining victim's rights through internal process, Bureau of Labor and Industries (BOLI) process, or other available laws, including a timeline under which relief must be sought, available remedies, and the advance notice that is required under ORS 30.275. Requires policy to include statements that person who reports harassment is protected from retaliation, scope of policy and application to public officials, volunteers, and interns, explanation that victim may voluntarily disclose information relating to incidents of workplace harassment, and information to connect victim legal and support services. Requires employer to give copy of policy to new employees at time of hire and at any time an employee discloses concerns about workplace harassment. Requires public employer to develop written policies and procedures for prompt investigation of reports of workplace harassment. Specifies policies and procedures must provide instruction for maintaining records of workplace harassment, establish a process for filing a complaint, and require the employer to follow up with the victim at least once every three months in year following report to determine whether harassment has stopped or whether victim has been subject to retaliation. Makes it an unlawful employment practice for an employer to enter into a nondisclosure agreement as a condition of employment, continued employment, promotion, compensation, or receipt of benefits if agreement prevents employee from disclosing or discussing employment discrimination or sexual assault. Specifies conditions for entering into a settlement, separation, or severance agreement between employer and employee. Provides five year statute of limitations for action based on prohibited conduct. Specifies provisions relating to policies prohibiting workplace harassment and procedures for investigation become operative January 1, 2020; provisions relating to nondisclosure agreements become operative October 1, 2020. Allows BOLI to adopt rules and take action prior to operative date. Applies to conduct constituting harassment on or after effective date. Applies to conduct relating to prohibited nondisclosure agreements occurring on or after October 1, 2020. Takes effect 91 days after adjournment sine die.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-A12 Modifies provisions of measure to conform with provisions in Senate Bill 726. Makes clear that the policy required by measure must also comply with requirements of policy required by SB 726.

BACKGROUND:

Oregon law makes it an unlawful employment practice for an employer to discriminate in wages or in the terms, conditions, or privileges of employment based on race, color, religion, sex, sexual orientation, national origin, marital status, age, expunged juvenile criminal record, person's service in a uniformed service, or disability. See ORS 659A.030, 659A.082, and 659A.112. An aggrieved employee or applicant may file a complaint with the Bureau of Labor and Industries (BOLI) or may file a civil action in court. The remedy in either case can include recovery of back pay for the prior two-year period as well as compensatory and punitive damages. An action based on a unlawful employment practices must be filed within one year of the occurrence of the practice, unless a complaint was made to BOLI.

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Senate Bill 479 requires public employers to have a written policy to prevent workplace harassment. The policy must prohibit workplace harassment and contain information on how to report and pursue claims. Additionally, the measure requires the public employer to have policy and procedures relating to investigating workplace harassment. Finally, the measure prohibits a public employer from requiring employees to enter into nondisclosure agreements as a condition of employment, continued employment, promotion, compensation, or receipt of benefits if the agreement prohibits the person from discussion or disclosure of workplace harassment or sexual assault.