

HCR 28 -1, -2 STAFF MEASURE SUMMARY

Joint Committee On Conduct

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Meeting Dates: 5/25, 6/3

WHAT THE MEASURE DOES:

Amends Legislative Branch Personnel Rule 27 to prohibit Senate and House Committees on Conduct from meeting using virtual or electronic means and requires meetings to be conducted on weekdays between 8:00 a.m. and 5:00 p.m.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Replaces the measure. Amends Legislative Branch Personnel Rule 27.

Conforming Changes

Makes changes to conform with ORS 659A.375. Adds definitions for nondisclosure agreement, nondisparagement agreement, and sexual assault. Provides advise to appointing authority, member, or employee to document certain incidents involving prohibited conduct. Prohibits requiring or coercing employee to enter into nondisclosure or nondisparagement agreement. Clarifies that sexual harassment includes any conduct that constitutes sexual assault.

Investigator

Allows Legislative Equity Officer (LEO) to hire an investigator as employee of Legislative Equity Office. Adds definition of investigator to mean either independent investigator or one employed by Legislative Assembly. Clarifies certain responsibilities for LEO, independent investigator, and investigator.

Interim Safety Measures

Allows interim safety measures to be applied to respondent, complainant, or impacted party within certain limitations. Sets requirements for approval and revocation of voluntary interim safety measures.

Other Changes

Specifies that Senate and House determine co-chairpersons from majority and minority party when it determines committee membership and that if co-chairperson is unable to serve, then other member from the same party is acting co-chairperson. Makes other corrections to rule.

-2 Replaces the measure. Makes same changes to Legislative Branch Personnel Rule 27 as -1 amendment with the following differences:

- Corrects definition of sexual assault by replacing "unwanted contact" with "unwanted conduct."
- Clarifies that conduct inconsistent with a safe, respectful, and inclusive workplace that does not rise to the level of creating a hostile work environment under rule may be addressed under respectful workplace policy.

BACKGROUND:

In 2019, the Legislative Assembly adopted House Concurrent Resolution (HCR) 20 to make numerous changes to Legislative Branch Personnel Rule 27 (Safe, Respectful and Inclusive Workplace). Following discussions of a work group comprised of the four co-chairs of the Joint Committee on Conduct, partisan staff, and nonpartisan staff, the Legislative Assembly adopted HCR 221 during the 2020 Second Special Session, which revised Rule 27 to address prohibited conduct, conduct reports, conduct complaints, investigations, remedies, and process. HCR 221 also made these amendments to Rule 27 apply to conduct reports and conduct complaints, and the investigations

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

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of those reports and complaints, made on or after August 10, 2020.

ORS 659.375 was enacted in the 2019 session (Senate Bill 726) and requires all Oregon employers to adopt written policies to reduce and prevent unlawful employment practices related to discrimination, including sexual harassment. The measure generally prohibits a public employer from requiring employees to enter into nondisclosure agreements having the effect of prohibiting them from disclosing workplace harassment or sexual assault and extends the statute of limitations for actions based on prohibited conduct from one to five years.

House Concurrent Resolution 28 amends Legislative Branch Personnel Rule 27 to prohibit the Senate and House Committees on Conduct from meeting virtually and requires meetings to be conducted on weekdays between 8:00 a.m. and 5:00 p.m.