

HR 1 A STAFF MEASURE SUMMARY

Carrier: Rep. Noble, Rep. Fahey

House Committee On Conduct

Action Date: 02/05/21

Action: Be adopted with amendments. (Printed A-Eng.)

Vote: 4-0-0-0

Yeas: 4 - Fahey, Moore-Green, Noble, Sanchez

Fiscal: No fiscal impact

Revenue: No revenue impact

Prepared By: Melissa Leoni, LPRO Analyst

Meeting Dates: 2/5

WHAT THE MEASURE DOES:

Finds that Representative Diego Hernandez has engaged in disorderly behavior within the meaning of Article IV, section 15, of the Oregon Constitution and resolves that with the concurrence of two-thirds of the members of the House of Representatives, Representative Hernandez be expelled from the House of Representatives and that Representative Hernandez's seat be considered vacant.

ISSUES DISCUSSED:

- Legislative Assembly's commitment to a respectful and inclusive environment
- Accountability and reconciliation

EFFECT OF AMENDMENT:

Replaces measure.

BACKGROUND:

Article IV, sections 11 and 15, of the Oregon Constitution, direct the House of Representatives to determine its own rules of proceeding and to discipline its members. The House of Representatives adopted rules of proceeding when it convened in organizational session on January 11, 2021 and adopted Legislative Branch Personnel Rule 27. Rule 27 memorializes the commitment of the House of Representatives to promoting a respectful and inclusive environment in the State Capitol and in any setting in which conduct has the ability to create a Capitol environment that is intimidating, hostile, or offensive.

Rule 27 similarly memorializes the commitment of the House of Representatives to provide a safe and respectful workplace and to take proactive steps to improve the culture of the State Capitol so that behavior from any source that has a negative impact on the workplace may be effectively addressed and resolved. Rule 27 establishes standards of conduct applicable to the House of Representatives that prohibit conduct that constitutes harassment or sexual harassment and that creates a hostile work environment, and prohibits conduct that is retaliation.

Legislative branch personnel received reports regarding the conduct of Representative Diego Hernandez. Rule 27 requires an independent investigator, unaffiliated with the legislative branch, to be appointed to conduct an investigation and determine findings of fact relevant to the allegations when a report is made concerning the conduct of a member of the House of Representatives and the reported conduct, on its face, could violate Rule 27.

An independent investigator was appointed to investigate the allegations against Representative Hernandez. The investigator interviewed impacted parties and witnesses, interviewed Representative Hernandez twice, and examined written records. The investigator prepared and submitted to the House Committee on Conduct a report setting forth the investigator's findings of fact concerning Representative Hernandez's interactions with five

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individuals.

The House Committee on Conduct conducted four days of hearings from February 1 to 4, 2021, at which the investigators presented their findings, and at which Representative Hernandez, through counsel, presented for the committee's consideration his views on the allegations and on the investigation and committee procedures. Impacted parties who elected to testify were also able to present to the committee. Committee members had the opportunity to, and asked clarifying questions of, the investigator.

After due deliberation, the House Committee on Conduct determined that Representative Hernandez's conduct constituted 18 violations of the standards of conduct established for members of the House of Representatives related to sexual harassment and workplace harassment, involving three separate individuals.

The House Committee on Conduct held an additional hearing on February 5, 2021, to deliberate on and recommend to the House of Representatives appropriate discipline of Representative Hernandez.

House Resolution 1-A finds that Representative Diego Hernandez has engaged in disorderly behavior within the meaning of Article IV, section 15, of the Oregon Constitution and resolves that with the concurrence of two-thirds of the members of the House of Representatives, Representative Hernandez be expelled from the House of Representatives and that Representative Hernandez's seat be considered vacant.