77th OREGON LEGISLATIVE ASSEMBLY – 2013 Regular Session **MEASURE: HB 2668 A**
STAFF MEASURE SUMMARY **CARRIER: Sen Dingfelder**
Senate Committee on Judiciary

REVENUE: No revenue impact
FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	5 - 0 - 0
Yeas:	Close, Dingfelder, Kruse, Roblan, Prozanski
Nays:	0
Exc.:	0
Prepared By:	Anna Braun, Counsel
Meeting Dates:	5/9, 5/30

WHAT THE MEASURE DOES: Expands definition of public accommodation to places that are open to public and owned or maintained by public body and services provided by public body regardless of whether the place or service is commercial in nature. Excludes certain public facilities.

ISSUES DISCUSSED:
- History of racism
- Whether covers inmates
- Complaint process with Bureau of Labor and Industries

EFFECT OF COMMITTEE AMENDMENT: Excludes Department of Corrections, state hospital youth correction facility, local correction facility and an institution, bona fide club or place of accommodation that is distinctly private. Includes conflict amendments that resolve conflicts between this bill and Senate Bill 610.

BACKGROUND: Oregon's Public Accommodation Law, first enacted in 1953, prevented discrimination on "race, religion, color, or national origin" in any hotel, restaurant, or place offering "public entertainment, recreation, or amusement." It was primarily concerned with discrimination against African Americans. In a 1976 case, the Oregon Supreme Court heard a challenge to the Boy Scouts' policy of limiting membership to boys. *Schwenk v. Boy Scouts of America*, 275 Or. 327 (1976). The Court found the phrase "place or service" to be ambiguous and referred to legislative history to determine the legislature's intent. They found that the focus of the legislation was on "business or commercial services which offer goods or services to the public." *Id.* at 334. Thus, the statutes did not apply to an organization like the Boy Scouts.

The limitation of public accommodation laws to business or commercial services has prevented certain challenges under the law. In *C.O. v. Portland Public Schools*, 406 F. Supp.2d. 1157, 1172 (2005), a complaint against the school district was dismissed in part because the school was not considered a "place of public accommodation" because it was not a business or commercial enterprise.