

SB 478 A STAFF MEASURE SUMMARY**Carrier:** Sen. Gelser, Sen. Golden**Senate Committee On Workforce**

Action Date: 04/09/19
Action: Do pass with amendments. (Printed A-Eng.)
Vote: 4-0-1-0
Yeas: 4 - Golden, Knopp, Monnes Anderson, Taylor
Exc: 1 - Hansell
Fiscal: Fiscal impact issued
Revenue: No revenue impact
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Meeting Dates: 2/28, 4/2, 4/9

WHAT THE MEASURE DOES:

Prohibits use of contributions to certain political entities, including candidates, for payment in connection with nondisclosure agreements (NDA) relating to workplace harassment as defined. Prohibits public officials or candidates from using money from third party in certain circumstances or public money to make payment in connection with prohibited NDA. Renders NDA void and unenforceable if prohibited terms or conditions are present. Authorizes Secretary of State to impose upon political and petition committees and Oregon Government Ethics Commission to impose upon candidates and public officials a civil penalty that is two times the amount of the contractual penalty contained in a prohibited NDA.

ISSUES DISCUSSED:

- Public interest in access to information about candidates
- Existing laws regulating use of campaign funds
- Difficulty of discovering payments made by third parties in connection with a NDA

EFFECT OF AMENDMENT:

Defines workplace harassment. Defines "payments in connection with a nondisclosure agreement." Renders NDA void and unenforceable if prohibited terms or conditions are present. Authorizes Secretary of State and Oregon Government Ethics Commission to impose civil penalties for violation.

BACKGROUND:

Oregon law is silent on whether campaign funds or public funds may be used to make payments in connection with a nondisclosure agreement relating to conduct that constitutes unlawful employment discrimination, defined in the bill as "workplace harassment." Senate Bill 478-A prohibits a candidate, a political committee of a candidate or holder of public office, or a chief petitioner or treasurer of a petition committee from using campaign funds or public funds to make such payments. In addition, Senate Bill 478-A prohibits public officials or candidates from using money from any third party to make payments in connection with a prohibited NDA if the workplace harassment covered by the NDA occurred when the official or candidate was acting as an official or candidate.

The Secretary of State enforces certain election laws relating to the actions of political and petition committees. For noncriminal violations of election laws, the Secretary of State is authorized to impose civil penalties ranging from \$1,000 to \$10,000 depending on the violation. Where a political or petition committee provides consideration for a prohibited NDA, Senate Bill 478-A authorizes the Secretary of State to impose a civil penalty of two times the amount of the contractual penalty contained in the NDA.

The Oregon Government Ethics Commission (OGE) enforces ethics laws applicable to public officials as well as lobbying disclosure laws. Generally, OGE is authorized to impose civil penalties ranging from \$5,000 to \$25,000. Where a public official or candidate uses public money or money from a third party to make payments pursuant

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to a prohibited NDA, Senate Bill 478-A authorizes the OGEC to impose a civil penalty of two times the amount of the contractual penalty contained in the NDA.