

HCR 20 A STAFF MEASURE SUMMARY**Carrier:** Sen. Burdick, Sen. Knopp**Joint Committee On Capitol Culture****Action Date:** 05/01/19**Action:** Do adopt the A-Eng measure.**Senate Vote****Yeas:** 5 - Baertschiger Jr, Burdick, Fagan, Knopp, Prozanski**Exc:** 1 - Thatcher**House Vote****Yeas:** 5 - Boles, Fahey, Sanchez, Williamson, Wilson**Exc:** 1 - Sprenger**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Josh Nasbe, Counsel**Meeting Dates:** 2/20, 3/13, 3/20, 3/27, 4/3, 4/10, 4/24, 5/1**WHAT THE MEASURE DOES:**

Amends Legislative Branch Rules to adopt harassment, discrimination, and retaliation policy. Authorizes any person who experiences or observes behavior prohibited by rule to utilize policy and applies policy to legislators, legislative staff, lobbyists, and any other person present in State Capitol. Defines “harassment,” “sexual harassment,” “hostile work environment,” “retaliation,” and “protected class.” Prohibits harassment or sexual harassment that constitutes a hostile work environment, discrimination in place of public accommodation, and retaliation. Creates confidential process counseling and three reporting avenues: 1) Confidential disclosures; 2) Conduct reports; and 3) Conduct complaints.

Authorizes Legislative Equity Officer and offsite process counselor to provide confidential process counseling and receive confidential disclosures. Provides person receiving counseling from, or making disclosure to, offsite process counselor with evidentiary privilege held by person. Allows Equity Officer and offsite process counselor to disclose nonpersonally identifiable information, including to persons who have previously made confidential disclosure for purpose of encouraging person to make conduct report or complaint. Requires Equity Officer and offsite process counselor to explain level of protections afforded to communications, advise person of internal and external options to address report, and inquire whether person needs safety measures.

Requires legislators, appointing authorities, and nonpartisan staff supervisors to make conduct report when person has knowledge of behavior they reasonably believe may be prohibited by rule. Authorizes any person who experiences or observes behavior to make conduct report. Establishes five-year filing period and requires investigation when report alleges behavior prohibited by rule. Allows mandatory reporters to make confidential disclosure if reporter is experiencing prohibited behavior. Authorizes Equity Officer to take steps when reported conduct does not violate rule, including referring matter to Human Resources, conducting coaching, or recommending training.

Authorizes any person who experiences or observes prohibited behavior to make conduct complaint. Establishes five-year reporting period and requirement that complaint be submitted under penalty of perjury. Mandates investigation and provides that complaint is immediately subject to public disclosure.

Authorizes investigator, Equity Officer, and offsite process counselor to recommend interim safety measures following receipt of disclosure, report, or complaint. Provides that investigatory records relating to legislator are subject to disclosure at conclusion of investigation and investigatory records relating to all other persons are subject to disclosure when discipline or other remedial measures are imposed. Establishes mechanisms for

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imposing remedial measures on all classes of respondents. Allows Conduct Committee to impose remedial measures on legislators, while reserving ability to modify committee assignments to presiding officer and ability to expel legislator to chamber in which legislator serves. Provides non-legislators with limited appeal.

Provides mechanism for nominating and electing legislators to House and Senate Conduct Committees, consisting of equal members from each party. Directs Joint Committee on Conduct to adopt respectful workplace policy. Requires Joint Committee to review need for in-house investigator and make recommendation to presiding officers on or before January 1, 2021. Requires Human Resources to act as repository for contact information for all employees, interns, externs, and volunteers and requires Equity Office to provide training as soon as practicable after start date. Requires Equity Officer to conduct exit interviews upon separation from service. Provisions of rule become operative on date Joint Committee notifies presiding officers that Equity Officer has been appointed.

ISSUES DISCUSSED:

- Improving Capitol culture
- Preventing harassment, discrimination, and retaliation
- Protecting free expression and due process

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

In 2018, responding to then-unfolding events in the State Capitol, the President of the Senate and the Speaker of the House requested that the Oregon Law Commission assist with legislative efforts to make the State Capitol a model workplace where employees, legislators, lobbyists, and visitors alike can feel safe and participate in the democratic process, without fear of harassment, discrimination, or retaliation. The Commission was requested to advise the Legislative Assembly on how best to revise its laws and policies related to workplace harassment. The Commission appointed 14 members to the Oregon State Capitol Workplace Harassment Work Group, including employment lawyers representing employees and management, former legislators and legislative staff, registered lobbyists, a retired Oregon Supreme Court justice, an academic in the field of implicit bias, and several professionals with extensive experience preventing and responding to harassment in professional and educational settings. After several months of public hearings and soliciting public input, both with attribution and anonymously, the Work Group's final report and recommendations were submitted to the Presiding Officers in December of 2018 and made available to the public on the Oregon Law Commission website.