

## **HB 2205 -1 STAFF MEASURE SUMMARY**

### **House Committee On Judiciary**

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**Meeting Dates:** 2/24, 3/17

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#### **WHAT THE MEASURE DOES:**

Allows individuals or organizations to bring a public enforcement action on behalf of and in the name of the State of Oregon. Allows multiple allegations by different persons aggrieved by same defendant within the public enforcement action. Provides confidentiality for individuals who are represented in action by an organization. Allows court to levy a civil penalty equivalent to what the relevant state agency or state official could levy, and if no penalty is provided, allows the court to assess a \$250 penalty for each aggrieved person per two-week period in which the violation occurred. Provides distribution formula for recovered penalties. Prohibits contracts from impairing right to bring enforcement action. Prohibits use of public enforcement action for cases that have already been heard and determined. Prohibits public enforcement action when state agency has taken enforcement action within specific time periods. Provides protection from and cause of action for retaliation based on bringing or cooperating with a public enforcement action. Requires Attorney General to establish publicly available database of public enforcement actions. Applies public record disclosures to contents of public enforcement actions. Specifies timeline and notice provisions for public enforcement actions. Allows Attorney General or responsible state official to intervene in public enforcement action and specifies process for settlement. Makes findings.

#### **ISSUES DISCUSSED:**

##### **EFFECT OF AMENDMENT:**

-1 Replaces measure. Allows whistleblowers acting on non-public information or organization representing whistleblower to bring public enforcement action on behalf of and in the name of the State of Oregon to recover civil penalties against for violations enforceable by a responsible state official. Specifies responsible state official is the Commission of Bureau of Labor and Industries (BOLI) and Director of Department of Consumer and Business Services (DCBS) or their designee. Applies to violations of state or rule related to: wage and hour; minimum wage, employment conditions, and employment of minors; occupational safety and health; farm labor; and employment and discrimination. Specifies measure does not apply to violations of housing, real property, or public accommodation discrimination provisions. Specifies measure does not apply to violations of notice or posting requirements, agency reporting or filing requirements, or minor variations in name or address on itemized statements. Allows court to levy a civil penalty equivalent to what the relevant state agency or state official could levy, and if no penalty is provided, allows the court to assess a \$250 penalty for each aggrieved person per two-week period in which the violation occurred. Allows responsible state official to recover 80 percent of civil penalty when official intervenes and 70 percent when official does not. Requires 75 percent of state official recovery of civil penalty to go to enforcement of laws of state and 25 percent to go to Community Outreach and Labor Education Fund. Requires fund be administered by Bureau of Labor and Industries and to award, at least annually, grant money to nonprofit organizations to assist workers regarding workers' rights in the workplace. Prohibits contracts from impairing right to bring enforcement action. Prohibits use of public enforcement action for cases that have already been heard and determined unless court determines the initial enforcement action had not been diligently prosecuted. Provides protection from, and cause of action for, retaliation based on bringing or cooperating with a public enforcement action. Requires BOLI to establish publicly available database of public enforcement actions but allows confidentiality of identifying details of relator. Applies public record

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disclosures to contents of public enforcement actions. Specifies timeline and notice provisions for public enforcement actions. Allows responsible state official to intervene in public enforcement action and specifies process for settlement. Makes findings.

### **BACKGROUND:**

The state of California enacted a Private Attorneys General Act (PAGA) in 2004. Under the measure, an employee may file a claim with a state alleging violation of labor laws and if the state does not provide notice that it will undertake an investigation, the individual may bring a claim against the employer directly on behalf of themselves or others.

House Bill 2205 creates a process for private individuals and organizations to bring public enforcement actions on behalf of and in the name of the State of Oregon for violations of statute or rule for which a state official has the power to enforce. The measure provides parameters on notice, timelines, and process for public enforcement actions.