

HCR 28 A STAFF MEASURE SUMMARY

Carrier: Sen. Prozanski

Senate Committee On Rules

Action Date: 06/22/21
Action: Do adopt the A-Eng measure.
Vote: 3-2-1-0
Yeas: 3 - Burdick, President Courtney, Wagner
Nays: 2 - Girod, Thatcher
Exc: 1 - Manning Jr
Fiscal: Has minimal fiscal impact
Revenue: No revenue impact
Prepared By: Melissa Leoni
Meeting Dates: 6/22

WHAT THE MEASURE DOES:

Amends Legislative Branch Personnel Rule 27. Makes changes to conform with ORS 659A.375 (prevention of discrimination and sexual assault). Adds definitions for nondisclosure agreement, nondisparagement agreement, and sexual assault, and clarifies that sexual harassment includes any conduct that constitutes sexual assault. Advises appointing authority, member, or employee to document certain incidents involving prohibited conduct. Prohibits requiring or coercing employee to enter into nondisclosure or nondisparagement agreement. Allows Legislative Equity Officer (LEO) to hire an investigator as employee of Legislative Equity Office. Adds definition of investigator to mean either independent investigator or one employed by Legislative Assembly. Clarifies certain responsibilities for LEO, independent investigator, and investigator. Allows interim safety measures to be applied to respondent, complainant, or impacted party within certain limits. Sets requirements for approval and revocation of voluntary interim safety measures. Requires Senate and House to determine co-chairpersons from majority and minority party when selecting committee membership. Specifies that if co-chairperson is unable to serve, then other member from the same party is acting co-chairperson. Clarifies that conduct inconsistent with a safe, respectful, and inclusive workplace that does not rise to the level of creating a hostile work environment under rule may be addressed under respectful workplace policy. Makes other corrections.

ISSUES DISCUSSED:

- Relationship between Legislative Branch Personnel Rule 27 and Respectful Workplace Policy
- Voluntary agreements under Rule 27
- Provision that prohibits person from requiring or coercing an employee to enter into a nondisclosure or nondisparagement agreement
- Legislative Assembly role in nondisclosure or nondisparagement agreements
- Role and membership of Joint Committee on Conduct

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

In 2019, the Legislative Assembly adopted House Concurrent Resolution (HCR) 20 to make numerous changes to Legislative Branch Personnel Rule 27 (Safe, Respectful and Inclusive Workplace). Following discussions of a work group comprised of the four co-chairs of the Joint Committee on Conduct, partisan staff, and nonpartisan staff, the Legislative Assembly adopted HCR 221 during the 2020 Second Special Session, which revised LBPR 27 to address prohibited conduct, conduct reports, conduct complaints, investigations, remedies, and process. Changes to LBPR 27 by HCR 221 applied to conduct reports and conduct complaints, and the investigations of those reports and complaints, made on or after August 10, 2020.

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Senate Bill 726 was enacted in the 2019 session (codified in ORS 659A.375) to require all Oregon employers to adopt written policies to reduce and prevent unlawful employment practices related to discrimination, including sexual harassment. The law generally prohibits a public employer from requiring employees to enter into nondisclosure agreements having the effect of prohibiting them from disclosing workplace harassment or sexual assault and extends the statute of limitations for actions based on prohibited conduct from one to five years.

House Concurrent Resolution 28 A updates Legislative Branch Personnel Rule 27 to conform with ORS 659A.375; allows the Legislative Equity Officer to hire an investigator as an employee of the Legislative Equity Office; allows voluntary interim safety measures; and clarifies co-chairperson appointment and replacement procedures.