

## SB 602 -5 STAFF MEASURE SUMMARY

### Senate Committee On Rules

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**Sub-Referral To:** Joint Committee On Ways and Means

**Meeting Dates:** 4/9, 5/28

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#### WHAT THE MEASURE DOES:

The measure establishes the Nonprofit Organization Advisory Council within the Oregon Department of Administrative Services (DAS) and establishes the Nonprofit Organization Partnership Fund, which is separate from the General Fund. It also establishes criteria for grant agreements and public contracts between the state and nonprofit organizations. The measure is effective on the 91st day after adjournment sine die of the 2025 regular session.

#### Detailed Summary

##### **Nonprofit Organization Advisory Council**

- Must review the state's granting and procurement processes, as applied to nonprofit organizations
- Must develop an annual report about progress in state government related to grant making reform, procurement services from nonprofit organizations, and improvement in partnerships with community-based organizations
- Has 15 members: 12 appointed by the Governor, and one each appointed by the Attorney General, the Speaker of the House of Representatives, and the President of the Senate

##### **Oregon Department of Administrative Services**

- Must establish an office to provide staff support
- Must develop a centralized database to manage grants that the state awards to nonprofit organizations

##### **Grant agreements and public contracts**

- Requires that the state agency awarding a grant to, or entering into a contract with, a nonprofit organization must establish a budget for the program or activity and identify the scope of work the state agency wants the nonprofit organization to carry out, based on established criteria
- Establishes requirements that a state agency must include in a grant to, or contract with, a nonprofit organization.

*Fiscal impact: A statement has been issued for the purpose of moving the measure to the Joint Committee on Ways and Means.*

*Revenue impact: No impact.*

#### ISSUES DISCUSSED:

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

-5 The amendment replaces the measure. It changes the composition of the Nonprofit Advisory Council (Council), establishes a single appointment authority, and makes changes to its duties. It removes the Nonprofit Organization Partnership Fund. It removes requirement for Council to be within the Oregon Department of Administrative Services (DAS). It makes changes to definitions. It changes to the criteria for grant agreements and public contracts between the state and nonprofit organizations. It removes the requirement for DAS to create a centralized database, and removes the effective date of the measure.

### Detailed Summary

#### **Nonprofit Advisory Council**

- Changes the membership from 15 members to 11 members.
- Changes the appointment authority from the Senate President, the House Speaker, and the Attorney General, to only the Governor.
- Adds two members to represent state agencies.
- Removes three members representing nonprofit organizations, bringing the number from nine members, to six.
- Establishes that Council members are not entitled to compensation.
- Establishes requirements for reaching a majority of the Council.
- Allows designees of members to attend Council meetings.
- Requires the Council to consult with DAS, and with employees of other state agencies, concerning granting and procurement processes with nonprofit organizations.
- Requires the Council to make recommendations for how to ensure that the processes and materials take account of business practices that are common among nonprofits organizations, including:
  - Statutory and administrative rule changes;
  - Improving training plans; and
  - Whether to create a centralized database to manage grant making.
- Requires the Council to compile and deliver a progress report, by the end of each biennium, to the interim committees related to public procurement, and to the Racial Justice Council.

#### **Definitions**

- Removes "grant" and "grant agreement"
- Changes time period in "program year"
- Adds language to "public contract"
- Changes "state agency" to "state contracting agency"

#### **Grant agreements and public contracts**

- Allows a state contracting agency (agency) to adjust the grant or contract award amount, in specific ways, if the agency included certain information in its advertisement for the grant or contract.
- Establishes requirements that an agency must include in a grant to, or contract with, a nonprofit organization.
  - Allows an agency to include a cost of living, or inflation, adjustment for a contract that exceeds 12 months, if the agency has the appropriation that provides this funding
  - Requires an agency to allow a nonprofit organization to present an adjusted scope of work if an agency does not have this funding
- Allows an agency to provide advance payments, other than those required in the measure, and requires the terms to be included in the award
  - Requires an agency to include the reasons that it either cannot, or does not intent to, provide advance payments, in the advertisement for the grant or contract
- Allows an agency to establish a program year that best suits the objectives of the grant agreement or public contract

#### **BACKGROUND:**

##### **Boards and Commissions**

The Governor of Oregon appoints individuals to serve on over 250 boards and commissions, and 117 of them require Senate confirmation. The membership requirements for each entity are set in statute, as are the ways in which an individual may become the chair or executive director, when applicable. The appointments requiring Senate confirmation are referred to as "executive appointments" (EAs). The current EA process has three parts:

1. the Governor submits the EA nominations to the Secretary of the Senate, who transmits them to the Senate Committee on Rules;
2. the Senate Committee on Rules holds hearings to consider the nominations and votes on whether the nominations should move to the Senate for confirmation; and,
3. the Senate holds a floor session to consider the nominations that are voted out of committee and then votes to confirm.

**Nonprofit Organizations**

The Internal Revenue Service (IRS) defines a "nonprofit organization" as an organization that is organized and operated exclusively for tax-exempt purposes. To be tax exempt, these organizations must be:

- Charitable;
- Religious;
- Educational;
- Scientific;
- Literary;
- testing for public safety;
- fostering national or international amateur sports competition; and/or
- preventing cruelty to children or animals.

The IRS defines "charitable" as including:

- relief of the poor, the distressed, or the underprivileged;
- advancement of education or science;
- erecting or maintaining public buildings, monuments, or works;
- lessening the burdens of government;
- lessening neighborhood tensions;
- eliminating prejudice and discrimination;
- defending human and civil rights secured by law; and
- combating community deterioration and juvenile delinquency.

A nonprofit organization may not:

- have any of its earnings inure to any private shareholder or individual;
- be an action organization, meaning that it may not attempt to influence legislation as a substantial part of its activities and it may not participate in any campaign activity for or against political committees; or
- be organized to operate for the benefit of private interests.