

B-Engrossed
House Bill 3207

Ordered by the Senate June 6
Including House Amendments dated April 4 and Senate Amendments
dated June 6

Sponsored by Representative ESQUIVEL; Representatives BARKER, BOONE, HUFFMAN, MATTHEWS,
THATCHER, WHISNANT, WITT, Senators BOQUIST, DEVLIN

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires public employer to interview each veteran who applies for civil service position **or eligibility list** and who has obtained through military education or experience skills that substantially relate to civil service position. **Provides exception.**
Makes violation unlawful employment practice.

A BILL FOR AN ACT

1
2 Relating to veterans who apply for civil service positions; creating new provisions; and amending
3 ORS 659A.885.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS 408.225 to**
6 **408.235.**

7 **SECTION 2. (1) As used in this section:**

8 (a) **“Eligibility list” means a list of ranked eligible candidates for a civil service position**
9 **who have become eligible for the position through a test or series of tests and who will be**
10 **considered for the civil service position in ranked order.**

11 (b) **“Transferable skill” means a skill that a veteran has obtained through military edu-**
12 **cation or experience that substantially relates, directly or indirectly, to the civil service po-**
13 **sition for which the veteran is applying.**

14 (2) **When an interview is a component of the selection process for a civil service position**
15 **or for an eligibility list for a civil service position, a public employer shall interview each**
16 **veteran:**

17 (a) **Whom the public employer determines meets the minimum qualifications and special**
18 **qualifications for the civil service position or eligibility list; and**

19 (b) **Who submits application materials that the public employer determines show suffi-**
20 **cient evidence that the veteran has the transferable skills required and requested by the**
21 **public employer for the civil service position or eligibility list.**

22 (3) **A public employer is not required to comply with subsection (2) of this section if the**
23 **employer conducts interviews only as part of the process of selecting a candidate for a civil**
24 **service position from an eligibility list.**

25 (4) **A public employer may consult with the Oregon Military Department and the De-**
26 **partment of Veterans' Affairs to determine whether certain military education or experience**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 produces a transferable skill.

2 (5) The Department of Veterans' Affairs shall provide training to veterans on how to
3 show evidence of transferable skills in an application for a civil service position or eligibility
4 list.

5 (6) Violation of subsection (2) of this section is an unlawful employment practice under
6 ORS chapter 659A.

7 (7) A veteran claiming to be aggrieved by a violation of subsection (2) of this section may
8 file a complaint under ORS 659A.820.

9 **SECTION 3.** ORS 659A.885, as amended by section 3, chapter 102, Oregon Laws 2010, is
10 amended to read:

11 659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-
12 section (2) of this section may file a civil action in circuit court. In any action under this subsection,
13 the court may order injunctive relief and any other equitable relief that may be appropriate, in-
14 cluding but not limited to reinstatement or the hiring of employees with or without back pay. A
15 court may order back pay in an action under this subsection only for the two-year period imme-
16 diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau
17 of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-
18 year period immediately preceding the filing of the action. In any action under this subsection, the
19 court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-
20 cept as provided in subsection (3) of this section:

21 (a) The judge shall determine the facts in an action under this subsection; and

22 (b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall
23 review the judgment pursuant to the standard established by ORS 19.415 (3).

24 (2) An action may be brought under subsection (1) of this section alleging a violation of ORS
25 25.337, 25.424, 171.120, 408.230, 476.574, 652.355, 653.060, 659A.030, 659A.040, 659A.043, 659A.046,
26 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.150 to 659A.186, 659A.194,
27 659A.199, 659A.203, 659A.218, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277,
28 659A.290, 659A.300, 659A.306, 659A.309, 659A.315, 659A.318 or 659A.421, [or] section 2, chapter 102,
29 Oregon Laws 2010, or **section 2 (2) of this 2011 Act.**

30 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
31 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199,
32 659A.230, 659A.250 to 659A.262, 659A.290, 659A.318 or 659A.421:

33 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
34 compensatory damages or \$200, whichever is greater, and punitive damages;

35 (b) At the request of any party, the action shall be tried to a jury;

36 (c) Upon appeal of any judgment finding a violation, the appellate court shall review the judg-
37 ment pursuant to the standard established by ORS 19.415 (1); and

38 (d) Any attorney fee agreement shall be subject to approval by the court.

39 (4) In any action under subsection (1) of this section alleging a violation of ORS 652.355 or
40 653.060, the court may award, in addition to the relief authorized under subsection (1) of this section,
41 compensatory damages or \$200, whichever is greater.

42 (5) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574,
43 659A.203 or 659A.218, the court may award, in addition to the relief authorized under subsection (1)
44 of this section, compensatory damages or \$250, whichever is greater.

45 (6) Any individual against whom any distinction, discrimination or restriction on account of

1 race, color, religion, sex, sexual orientation, national origin, marital status or age, if the individual
2 is 18 years of age or older, has been made by any place of public accommodation, as defined in ORS
3 659A.400, by any employee or person acting on behalf of the place or by any person aiding or
4 abetting the place or person in violation of ORS 659A.406 may bring an action against the operator
5 or manager of the place, the employee or person acting on behalf of the place or the aider or abettor
6 of the place or person. Notwithstanding subsection (1) of this section, in an action under this sub-
7 section:

8 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
9 compensatory and punitive damages;

10 (b) The operator or manager of the place of public accommodation, the employee or person
11 acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all
12 damages awarded in the action;

13 (c) At the request of any party, the action shall be tried to a jury;

14 (d) The court shall award reasonable attorney fees to a prevailing plaintiff;

15 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-
16 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable
17 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;
18 and

19 (f) Upon any appeal of a judgment under this subsection, the appellate court shall review the
20 judgment pursuant to the standard established by ORS 19.415 (1).

21 (7) When the commissioner or the Attorney General has reasonable cause to believe that a
22 person or group of persons is engaged in a pattern or practice of resistance to the rights protected
23 by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied
24 any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner
25 or the Attorney General may file a civil action on behalf of the aggrieved persons in the same
26 manner as a person or group of persons may file a civil action under this section. In a civil action
27 filed under this subsection, the court may assess against the respondent, in addition to the relief
28 authorized under subsections (1) and (3) of this section, a civil penalty:

29 (a) In an amount not exceeding \$50,000 for a first violation; and

30 (b) In an amount not exceeding \$100,000 for any subsequent violation.

31 (8) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or
32 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing
33 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to
34 the commissioner if the commissioner prevails in the action. The court may award reasonable at-
35 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court
36 determines that the commissioner had no objectively reasonable basis for asserting the claim or for
37 appealing an adverse decision of the trial court.

38 (9) In an action under subsection (1) or (7) of this section alleging a violation of ORS 659A.145
39 or 659A.421 or discrimination under federal housing law:

40 (a) "Aggrieved person" includes a person who believes that the person:

41 (A) Has been injured by an unlawful practice or discriminatory housing practice; or

42 (B) Will be injured by an unlawful practice or discriminatory housing practice that is about to
43 occur.

44 (b) An aggrieved person in regard to issues to be determined in an action may intervene as of
45 right in the action. The Attorney General may intervene in the action if the Attorney General cer-

1 tifies that the case is of general public importance. The court may allow an intervenor prevailing
2 party costs and reasonable attorney fees at trial and on appeal.

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