

# House Bill 3063

Sponsored by Representative THOMPSON (at the request of Mike Nearman)

## 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 **as introduced**.

Imposes requirements for filling positions in state service. Requires appointing authority to advertise position for at least 10 days. Provides that if there are more than five qualified applicants, appointing authority may not fill position without again advertising position with five percent reduction in total compensation for position. Requires appointing authority to continue to advertise position, with additional five percent reductions in compensation, until there are five or fewer qualified applicants.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to state service; creating new provisions; amending ORS 240.306; and declaring an emer-  
3 gency.

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

5 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS chapter 240.**

6 **SECTION 2. (1) Before filling any position in state service, the appointing authority for**  
7 **the position must advertise the position on the Internet and in such publications as are most**  
8 **likely to reach persons who might be interested in the position. The position must be ad-**  
9 **vertised on the Internet for a period of at least 10 days, and must contain:**

10 (a) **A description of the position and the duties of the position;**

11 (b) **A list of the qualifications for the position; and**

12 (c) **The total compensation for the position, including the value of employer paid health**  
13 **insurance premiums, retirement benefits and other benefits in addition to salary, expressed**  
14 **in dollars.**

15 (2) **If more than five applicants meet the qualifications for a position that is advertised**  
16 **under this section:**

17 (a) **The appointing authority shall notify the applicants that the position will not be filled**  
18 **at that time;**

19 (b) **The appointing authority may not thereafter fill the position without again advertis-**  
20 **ing the position in the manner provided in subsection (1) of this section; and**

21 (c) **The appointing authority must reduce the total compensation for the position by five**  
22 **percent.**

23 (3) **An appointing authority that advertises a position under subsection (2)(b) of this**  
24 **section may not fill the advertised position until five or fewer applicants who meet the**  
25 **qualifications for the position apply for the position, and shall continue to reduce the com-**  
26 **penetration in the manner provided in subsection (2)(c) of this section when subsequently ad-**  
27 **vertising the position until five or fewer applicants who meet the qualifications for the**  
28 **position apply for the position.**

**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       **(4) This section does not apply to positions in which the employee will be represented by**  
 2 **a collective bargaining unit.**

3       **(5) In no event may the salary offered by the state agency under this section be less than**  
 4 **the minimum wage rate established by ORS 653.025.**

5       **(6) Notwithstanding any provision of ORS 192.410 to 192.505, upon request by any person**  
 6 **an appointing authority shall provide to the person:**

7       **(a) A statement of the number of applicants for a position advertised under this section;**  
 8 **and**

9       **(b) The qualifications of the applicants for the position, as reflected in the application**  
 10 **forms of the individuals.**

11       **(7) Any person may bring an action to compel an appointing authority to comply with the**  
 12 **requirements of this section. In any action brought under this subsection, the court shall**  
 13 **award reasonable attorney fees to a prevailing plaintiff.**

14       **SECTION 3.** ORS 240.306 is amended to read:

15       240.306. (1) Recruiting, selecting and promoting employees shall be on the basis of their relative  
 16 ability, knowledge, experience and skills, determined by open competition and consideration of  
 17 qualified applicants, without regard to an individual's race, color, religion, sex, sexual orientation,  
 18 national origin, marital status, age, disability, political affiliation or other nonjob related factors,  
 19 with proper regard for an individual's privacy. Nothing in this subsection shall be construed to en-  
 20 large or diminish the obligation of the state or the rights of employees concerning claims of em-  
 21 ployment discrimination as prescribed by applicable state and federal employment discrimination  
 22 laws.

23       (2) The Oregon Department of Administrative Services shall establish procedures to provide for  
 24 statewide open recruitment and selection for classifications that are common to state agencies. The  
 25 procedures shall include adequate public notice, affirmative action to seek out underutilized mem-  
 26 bers of protected minorities, and job related testing. The department may delegate to individual op-  
 27 erating agencies the responsibility for recruitment and selection of classifications where appropriate.

28       (3) Competition for appropriate positions may be limited to facilitate employment of those with  
 29 a substantial disability or who are economically disadvantaged, or for purposes of implementing a  
 30 specified affirmative action program.

31       (4) Appointments to positions in state service shall be made on the basis of qualifications and  
 32 merit by selection from eligible lists established by the department or a delegated operating agency.

33       (5)(a) **Except as provided in section 2 of this 2013 Act**, noncompetitive selection and ap-  
 34 pointment procedures may be used for unskilled or semiskilled positions, or where job related  
 35 ranking measures are not practical or appropriate.

36       (b) **Except as provided in section 2 of this 2013 Act**, noncompetitive selection and appoint-  
 37 ment or direct appointment also may be used by agency appointing authorities to fill positions that:

38       (A) Require special or unique skills such as expert professional level or executive positions; or

39       (B) Have critical timing requirements affecting recruitment.

40       (6) Minimum qualifications and performance requirements and duties of a classification may be  
 41 appropriately modified to permit the appointment and promotion of trainees to positions normally  
 42 filled at full proficiency level.

43       (7) The department or delegated agencies shall establish systems to provide opportunities for  
 44 promotion through meritorious service, training, education and career development assignments.  
 45 The department shall certify to the eligibility of persons selected for promotion or delegate that

1 responsibility to operating agencies in appropriate situations. Provision shall be made to bring per-  
2 sons into state service through open competition at higher levels when the competition provides  
3 abilities not available among existing employees, enrich state service or contribute to improved  
4 employment opportunity for underrepresented groups.

5 **SECTION 4. This 2013 Act being necessary for the immediate preservation of the public**  
6 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
7 **on its passage.**

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