

# Senate Bill 394

Sponsored by Senator SHIELDS (at the request of Beth Creighton) (Presession filed.)

## 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**.

Extends statute of limitations under certain circumstances for filing complaint or civil action based on alleged unlawful practice.

## A BILL FOR AN ACT

1  
2 Relating to the statute of limitations for certain actions related to unlawful practices; amending ORS  
3 30.275, 659A.820 and 659A.875.

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

5 **SECTION 1.** ORS 659A.820 is amended to read:

6 659A.820. (1) As used in this section, for purposes of a complaint alleging an unlawful practice  
7 under ORS 659A.145 or 659A.421 or discrimination under federal housing law, "aggrieved person"  
8 includes a person who believes that the person:

9 (a) Has been injured by an unlawful practice or discriminatory housing practice; or

10 (b) Will be injured by an unlawful practice or discriminatory housing practice that is about to  
11 occur.

12 (2) Any person claiming to be aggrieved by an alleged unlawful practice may file with the  
13 Commissioner of the Bureau of Labor and Industries a verified written complaint that states the  
14 name and address of the person alleged to have committed the unlawful practice. The complaint  
15 must be signed by the complainant. The complaint must set forth the acts or omissions alleged to  
16 be an unlawful practice. The complainant may be required to set forth in the complaint such other  
17 information as the commissioner may require. Except as provided in ORS 654.062, a complaint under  
18 this section must be filed no later than [*one year*] **two years** after the alleged unlawful practice.

19 (3)(a) Except as provided in paragraph (b) of this subsection, a complaint may not be filed under  
20 this section if a civil action has been commenced in state or federal court alleging the same matters.

21 (b) The prohibition described in paragraph (a) of this subsection does not apply to a complaint  
22 alleging an unlawful practice under ORS 659A.145 or 659A.421 or alleging discrimination under  
23 federal housing law.

24 (4) If an employer has one or more employees who refuse or threaten to refuse to abide by the  
25 provisions of this chapter or to cooperate in carrying out the purposes of this chapter, the employer  
26 may file with the commissioner a verified complaint requesting assistance by conciliation or other  
27 remedial action.

28 (5) Except as provided in subsection (6) of this section, the commissioner shall notify the person  
29 against whom a complaint is made within 30 days of the filing of the complaint. The commissioner  
30 shall include in the notice the date, place and circumstances of the alleged unlawful practice.

31 (6) The commissioner shall notify the person against whom a complaint alleging an unlawful

**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 practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law is made  
2 within 10 days of the filing of the complaint. The commissioner shall include in the notice:

3 (a) The date, place and circumstances of the alleged unlawful practice; and

4 (b) A statement that the person against whom the complaint is made may file an answer to the  
5 complaint.

6 **SECTION 2.** ORS 659A.875 is amended to read:

7 659A.875. (1) Except as provided in subsection (2) of this section, a civil action under ORS  
8 659A.885 alleging an unlawful employment practice must be commenced within [*one year*] **two years**  
9 after the occurrence of the unlawful employment practice unless a complaint has been timely filed  
10 under ORS 659A.820.

11 (2) A person who has filed a complaint under ORS 659A.820 must commence a civil action under  
12 ORS 659A.885 within **the later of** 90 days after a 90-day notice is mailed to the complainant under  
13 ORS 659A.880 **or two years of the last occurrence of the alleged unlawful employment**  
14 **practice.** This subsection does not apply to a complainant alleging an unlawful practice under ORS  
15 659A.145 or 659A.421 or discrimination under federal housing law.

16 (3) A civil action alleging a violation of ORS 659A.145 or 659A.421 must be commenced not later  
17 than two years after the occurrence or the termination of the unlawful practice, or within two years  
18 after the breach of any settlement agreement entered into under ORS 659A.840, whichever occurs  
19 last. The two-year period shall not include any time during which an administrative proceeding was  
20 pending with respect to the unlawful practice.

21 (4) A civil action under ORS 659A.885 alleging an unlawful practice in violation of ORS  
22 659A.403 or 659A.406 must be commenced within one year of the occurrence of the unlawful prac-  
23 tice.

24 (5) The notice of claim required under ORS 30.275 must be given in any civil action under ORS  
25 659A.885 against a public body, as defined in ORS 30.260, or any officer, employee or agent of a  
26 public body as defined in ORS 30.260.

27 (6) [*Notwithstanding ORS 30.275 (9),*] A civil action under ORS 659A.885 against a public body,  
28 as defined in ORS 30.260, or any officer, employee or agent of a public body as defined in ORS  
29 30.260, based on an unlawful employment practice must be commenced within [*one year*] **two years**  
30 after the occurrence of the unlawful employment practice [*unless a complaint has been timely filed*  
31 *under ORS 659A.820*].

32 **SECTION 3.** ORS 30.275 is amended to read:

33 30.275. (1) No action arising from any act or omission of a public body or an officer, employee  
34 or agent of a public body within the scope of ORS 30.260 to 30.300 shall be maintained unless notice  
35 of claim is given as required by this section.

36 (2) Notice of claim shall be given within the following applicable period of time, not including  
37 the period, not exceeding 90 days, during which the person injured is unable to give the notice be-  
38 cause of the injury or because of minority, incompetency or other incapacity:

39 (a) For wrongful death, within one year after the alleged loss or injury.

40 (b) For all other claims, within 180 days after the alleged loss or injury.

41 (3) Notice of claim required by this section is satisfied by:

42 (a) Formal notice of claim as provided in subsections (4) and (5) of this section;

43 (b) Actual notice of claim as provided in subsection (6) of this section;

44 (c) Commencement of an action on the claim by or on behalf of the claimant within the appli-  
45 cable period of time provided in subsection (2) of this section; or

- 1 (d) Payment of all or any part of the claim by or on behalf of the public body at any time.
- 2 (4) Formal notice of claim is a written communication from a claimant or representative of a  
 3 claimant containing:
- 4 (a) A statement that a claim for damages is or will be asserted against the public body or an  
 5 officer, employee or agent of the public body;
- 6 (b) A description of the time, place and circumstances giving rise to the claim, so far as known  
 7 to the claimant; and
- 8 (c) The name of the claimant and the mailing address to which correspondence concerning the  
 9 claim may be sent.
- 10 (5) Formal notice of claim shall be given by mail or personal delivery:
- 11 (a) If the claim is against the state or an officer, employee or agent thereof, to the office of the  
 12 Director of the Oregon Department of Administrative Services.
- 13 (b) If the claim is against a local public body or an officer, employee or agent thereof, to the  
 14 public body at its principal administrative office, to any member of the governing body of the public  
 15 body, or to an attorney designated by the governing body as its general counsel.
- 16 (6) Actual notice of claim is any communication by which any individual to whom notice may  
 17 be given as provided in subsection (5) of this section or any person responsible for administering tort  
 18 claims on behalf of the public body acquires actual knowledge of the time, place and circumstances  
 19 giving rise to the claim, where the communication is such that a reasonable person would conclude  
 20 that a particular person intends to assert a claim against the public body or an officer, employee  
 21 or agent of the public body. A person responsible for administering tort claims on behalf of a public  
 22 body is a person who, acting within the scope of the person's responsibility, as an officer, employee  
 23 or agent of a public body or as an employee or agent of an insurance carrier insuring the public  
 24 body for risks within the scope of ORS 30.260 to 30.300, engages in investigation, negotiation, ad-  
 25 justment or defense of claims within the scope of ORS 30.260 to 30.300, or in furnishing or accepting  
 26 forms for claimants to provide claim information, or in supervising any of those activities.
- 27 (7) In an action arising from any act or omission of a public body or an officer, employee or  
 28 agent of a public body within the scope of ORS 30.260 to 30.300, the plaintiff has the burden of  
 29 proving that notice of claim was given as required by this section.
- 30 (8) The requirement that a notice of claim be given under subsections (1) to (7) of this section  
 31 does not apply if:
- 32 (a)(A) The claimant was under the age of 18 years when the acts or omissions giving rise to a  
 33 claim occurred;
- 34 (B) The claim is against the Department of Human Services or the Oregon Youth Authority; and
- 35 (C) The claimant was in the custody of the Department of Human Services pursuant to an order  
 36 of a juvenile court under ORS 419B.150, 419B.185, 419B.337 or 419B.527, or was in the custody of  
 37 the Oregon Youth Authority under the provisions of ORS 419C.478, 420.011 or 420A.040, when the  
 38 acts or omissions giving rise to a claim occurred.
- 39 (b) The claim is against a private, nonprofit organization that provides public transportation  
 40 services described under ORS 30.260 (4)(d).
- 41 (9) Except as provided in ORS 12.120[,] **and** 12.135 [*and 659A.875*], but notwithstanding any other  
 42 provision of ORS chapter 12 or other statute providing a limitation on the commencement of an  
 43 action, an action arising from any act or omission of a public body or an officer, employee or agent  
 44 of a public body within the scope of ORS 30.260 to 30.300 shall be commenced within two years after  
 45 the alleged loss or injury.

