

## HOUSE AMENDMENTS TO A-ENGROSSED SENATE BILL 380

By COMMITTEE ON BUSINESS AND LABOR

June 10

1 On page 1 of the printed A-engrossed bill, line 3, after “bureau;” insert “creating new  
2 provisions;”.

3 On page 2, after line 32, insert:

4 **“SECTION 3. No later than February 1, 2017, the Commissioner of the Bureau of Labor  
5 and Industries shall submit to the appropriate legislative committees a written report on the  
6 resolution of complaints before the commissioner in the two-year period prior to the effec-  
7 tive date of this 2015 Act and on the resolution of those complaints after the implementation  
8 of the amendments to ORS 659A.845 and 659A.870 by sections 1 and 2 of this 2015 Act.**

9 **“SECTION 4.** ORS 659A.845, as amended by section 1 of this 2015 Act, is amended to read:

10 **“659A.845.** (1) If the Commissioner of the Bureau of Labor and Industries issues a finding of  
11 substantial evidence under ORS 659A.835 and the matter cannot be settled through conference,  
12 conciliation and persuasion, or if the commissioner determines that the interest of justice requires  
13 that a hearing be held without first seeking settlement, the commissioner [*may*] **shall** prepare formal  
14 charges. Formal charges must contain all information required for a notice under ORS 183.415 and  
15 must specify the allegations of the complaint to which the respondent will be required to make re-  
16 sponse. Formal charges shall also set the time and place for hearing the formal charges.

17 **“(2)(a)** The commissioner shall serve the formal charges on all respondents found to have en-  
18 gaged in the unlawful practice.

19 **“(b)** If the formal charges allege a violation of ORS 659A.145 or 659A.421 or discrimination un-  
20 der federal housing law, the commissioner shall serve on the named respondents and complainants  
21 the formal charges and a notice of the right of the respondents and complainants under ORS  
22 659A.870 to opt for a court trial instead of a hearing under ORS 659A.850.

23 **“(3)** The commissioner may not prepare formal charges alleging an unlawful practice under ORS  
24 659A.145 or 659A.421 or discrimination under federal housing law after trial has begun in a civil  
25 action that the complainant commenced under state or federal law and that seeks relief with respect  
26 to that unlawful or discriminatory practice.

27 **“SECTION 5.** ORS 659A.870, as amended by section 2 of this 2015 Act, is amended to read:

28 **“659A.870.** (1) Except as provided in this section, the filing of a civil action by a person in cir-  
29 cuit court pursuant to ORS 659A.885, or in federal district court under applicable federal law,  
30 waives the right of the person to file a complaint with the Commissioner of the Bureau of Labor and  
31 Industries under ORS 659A.820 with respect to the matters alleged in the civil action.

32 **“(2)** The filing of a complaint under ORS 659A.820 is not a condition precedent to the filing of  
33 any civil action.

34 **“(3)** If a person files a civil action alleging an unlawful practice under ORS 659A.145 or 659A.421  
35 or discrimination under federal housing law, the filing does not constitute an election of remedies

1 or a waiver of the right of the person to file a complaint with the commissioner under ORS 659A.820,  
2 but the commissioner shall dismiss the complaint upon the commencement of a trial in the civil  
3 action.

4 “(4)(a) The filing of a complaint under ORS 659A.820 by a person alleging an unlawful practice  
5 under ORS 659A.145 or 659A.421 or discrimination under federal housing law does not constitute  
6 an election of remedies or a waiver of the right of the person to file a civil action with respect to  
7 the same matters, but a civil action may not be filed after a hearing officer has commenced a  
8 hearing on the record under this chapter with respect to the allegations of the complaint.

9 “(b) A respondent or complainant named in a complaint filed under ORS 659A.820 or 659A.825  
10 alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal  
11 housing law may elect to have the matter heard in circuit court under ORS 659A.885. The election  
12 must be made in writing and received by the commissioner within 20 days after service of formal  
13 charges under ORS 659A.845. If the respondent or the complainant makes the election, the commis-  
14 sioner [may] **shall** pursue the matter in court on behalf of the complainant at no cost to the  
15 complainant.

16 “(c) If the Attorney General or the commissioner files a complaint under ORS 659A.825, the  
17 Attorney General or the commissioner may elect to have the matter heard in circuit court under  
18 ORS 659A.885.

19 “(d) If the respondent, the complainant, the Attorney General or the commissioner do not elect  
20 to have the matter heard in circuit court, the commissioner may conduct a hearing on the formal  
21 charges under ORS 659A.850.

22 “(5) A person who has filed a complaint under ORS 659A.820 need not receive a 90-day notice  
23 under ORS 659A.880 before commencing a civil action that is based on the same matters alleged in  
24 the complaint filed with the commissioner.

25 “(6) Except as provided in subsections (3) and (4) of this section, this section does not limit or  
26 alter in any way the authority or power of the commissioner, or limit or alter in any way any of the  
27 rights of an individual complainant, until and unless the complainant commences a civil action.

28 “**SECTION 6. The amendments to ORS 659A.845 and 659A.870 by sections 4 and 5 of this**  
29 **2015 Act become operative on October 1, 2017.**

30 “**SECTION 7. Section 3 of this 2015 Act is repealed on October 1, 2017.”.**

31 In line 33, delete “3” and insert “8”.

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