

Senate Bill 380

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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**.

Makes certain actions based on complaints filed with Commissioner of Bureau of Labor and Industries discretionary on part of commissioner.

A BILL FOR AN ACT

1
2 Relating to authority of Commissioner of Bureau of Labor and Industries pertaining to complaints
3 filed with bureau; amending ORS 659A.845 and 659A.870.

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

5 **SECTION 1.** ORS 659A.845 is amended to read:

6 659A.845. (1) If the Commissioner of the Bureau of Labor and Industries issues a finding of
7 substantial evidence under ORS 659A.835 and the matter cannot be settled through conference,
8 conciliation and persuasion, or if the commissioner determines that the interest of justice requires
9 that a hearing be held without first seeking settlement, the commissioner [*shall*] **may** prepare formal
10 charges. Formal charges must contain all information required for a notice under ORS 183.415 and
11 must specify the allegations of the complaint to which the respondent will be required to make re-
12 sponse. Formal charges shall also set the time and place for hearing the formal charges.

13 (2)(a) The commissioner shall serve the formal charges on all respondents found to have engaged
14 in the unlawful practice.

15 (b) If the formal charges allege a violation of ORS 659A.145 or 659A.421 or discrimination under
16 federal housing law, the commissioner shall serve on the named respondents and complainants the
17 formal charges and a notice of the right of the respondents and complainants under ORS 659A.870
18 to opt for a court trial instead of a hearing under ORS 659A.850.

19 (3) The commissioner may not prepare formal charges alleging an unlawful practice under ORS
20 659A.145 or 659A.421 or discrimination under federal housing law after trial has begun in a civil
21 action that the complainant commenced under state or federal law and that seeks relief with respect
22 to that unlawful or discriminatory practice.

23 **SECTION 2.** ORS 659A.870 is amended to read:

24 659A.870. (1) Except as provided in this section, the filing of a civil action by a person in circuit
25 court pursuant to ORS 659A.885, or in federal district court under applicable federal law, waives the
26 right of the person to file a complaint with the Commissioner of the Bureau of Labor and Industries
27 under ORS 659A.820 with respect to the matters alleged in the civil action.

28 (2) The filing of a complaint under ORS 659A.820 is not a condition precedent to the filing of
29 any civil action.

30 (3) If a person files a civil action alleging an unlawful practice under ORS 659A.145 or 659A.421

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 or discrimination under federal housing law, the filing does not constitute an election of remedies
2 or a waiver of the right of the person to file a complaint with the commissioner under ORS 659A.820,
3 but the commissioner shall dismiss the complaint upon the commencement of a trial in the civil
4 action.

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

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

17 (c) If the Attorney General or the commissioner files a complaint under ORS 659A.825, the At-
18 torney General or the commissioner may elect to have the matter heard in circuit court under ORS
19 659A.885.

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

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

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

29