

**A-Engrossed**  
**Senate Bill 87**

Ordered by the Senate April 23  
Including Senate Amendments dated April 23

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Veterans and Emergency Preparedness)

**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.

Modifies law regarding requirement that public employer grant preference to veteran and disabled veteran in selection process for competitive position. Requires public employer to use either tested and scored selection process or sorted or ranked selection process to make hiring or promotion decision. Establishes how eligibility for preference is determined and how preference and interviews are granted.

Makes violation of Act unlawful employment practice.

Becomes operative March 1, 2016.

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to preferences for veterans in public employers' employment selection processes; creating  
3 new provisions; amending ORS 408.225 and 659A.885; repealing ORS 408.230, 408.235 and 408.237;  
4 and declaring an emergency.

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

6 **SECTION 1. (1) The Legislative Assembly finds that:**

7 **(a) Veterans have obtained skills through military education and experience that are**  
8 **transferable to employment with public employers.**

9 **(b) It is challenging to describe military education and experience and to translate them**  
10 **into civilian education and experience.**

11 **(c) The first interview in a selection process is the most critical phase for veterans be-**  
12 **cause the first interview provides veterans with the opportunity to present and describe**  
13 **transferable military skills that are relevant to the positions for which veterans have applied.**

14 **(d) The interest of the state in providing veterans with a preference in selection pro-**  
15 **cesses for public employment competitive positions must be balanced with the interest of**  
16 **public employers in managing merit-based competitive selection processes that are fair and**  
17 **reasonable to implement.**

18 **(e) It is not beneficial to a veteran to be granted an interview if the veteran is not rela-**  
19 **tively competitive with other applicants.**

20 **(f) It is not beneficial to a veteran, and it is not a reasonable expectation of a public**  
21 **employer, to require a public employer to interview every veteran who applies for a com-**  
22 **petitive position and meets only the minimum qualifications for the position.**

23 **(2) It is the policy of the State of Oregon that:**

**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 (a) Public employers shall give a preference to veterans and disabled veterans in the se-  
2 lection processes for competitive positions.

3 (b) Public employers must make hiring decisions for competitive positions based on the  
4 results of a merit-based competitive selection process that includes, but is not limited to,  
5 consideration of the skills, abilities, knowledge and experience of all applicants.

6 (c) Application of the veterans' preference should be easy to understand and implement  
7 and uniformly granted.

8 (d) The veterans' preference that is granted for first interviews provides the best oppor-  
9 tunity during the selection processes for public employment competitive positions for veter-  
10 ans to describe and explain their transferable skills that are derived from military education  
11 and experience.

12 (e) The veterans' preference must be granted in a merit-based competitive selection  
13 process and does not apply to employment processes for assignments and transfers.

14 **SECTION 2.** ORS 408.225 is amended to read:

15 408.225. [(1)] As used in [ORS 408.225 to 408.237] this section and section 5 of this 2015 Act:

16 (1) "Applicant" means a person who has:

17 (a) Submitted a complete application for a competitive position as required by the public  
18 employer; and

19 (b) Not withdrawn from consideration for the competitive position.

20 (2)(a) "Assignment" means a change made by an employer to the duties of an employee  
21 within the employee's existing position and may include an increase in the employee's salary.

22 (b) "Assignment" does not include moving a current employee to a different position that  
23 has a higher maximum salary rate.

24 (3) "Combat zone" means an area designated by the President of the United States by  
25 executive order in which, on the dates designated by executive order, the Armed Forces of  
26 the United States are or have engaged in combat.

27 [(a)(A)] (4)(a) "[Civil service] Competitive position" means [any] a position with a public em-  
28 ployer for which a hiring or promotion decision is made or required to be made based on the results  
29 of a [merit based,] merit-based competitive selection process that includes, but is not limited to,  
30 consideration of an applicant's or employee's relative skills, ability, knowledge[,] and experience  
31 [and other skills].

32 (b) "Competitive position" does not include an assignment or transfer.

33 [(B) A "civil service position" need not be labeled a "civil service position."]

34 [(b) "Combat zone" means an area designated by the President of the United States by executive  
35 order in which, on the dates designated by executive order, the Armed Forces of the United States are  
36 or have engaged in combat.]

37 (5) "Compiled list" means a list of the names of applicants that is compiled during a  
38 tested and scored selection process or a sorted or ranked selection process as described in  
39 section 5 of this 2015 Act.

40 [(c)] (6) "Disabled veteran" means a [person] veteran who has a disability rating from the  
41 United States Department of Veterans Affairs, a [person] veteran whose discharge or release from  
42 active duty was for a disability incurred or aggravated in the line of duty or a [person] veteran who  
43 was awarded the Purple Heart for wounds received in combat.

44 (7) "Employment test" means a test administered by a public employer to an applicant  
45 to establish the applicant's eligibility for placement on a compiled list for a competitive po-

1 sition and that is graded by giving a numerical score or as “pass” or “fail.” An employment  
2 test may include but is not limited to an oral examination, a written examination, an evalu-  
3 ation of experience and training, an evaluation of application materials, a skills-based as-  
4 sessment or performance testing.

5 (8) “Hiring or promotion decision” means a public employer’s offer of employment for a  
6 competitive position to an applicant based on a selection process. A hiring or promotion de-  
7 cision does not include an assignment or transfer.

8 [(d)] (9) “Honorable conditions” has the meaning given that term in rules adopted by the De-  
9 partment of Veterans’ Affairs.

10 (10) “Initial interview” means the first interview between an applicant and a public em-  
11 ployer.

12 (11) “Interview” means a conversation between an applicant and a public employer for  
13 the purpose of determining the applicant’s suitability for employment in a competitive posi-  
14 tion.

15 (12) “Preference” means special consideration that is given by a public employer to  
16 qualified applicants who are veterans or disabled veterans during a selection process for a  
17 competitive position.

18 (13) “Preferred qualifications” means certain qualities that a public employer desires in  
19 an applicant for a competitive position and that the public employer may use to:

20 (a) Narrow the number of applicants in a selection process; or

21 (b) Identify the most qualified applicants in a selection process.

22 (14) “Promotion” means the selection of a current employee of a public employer for a  
23 different position that has a higher maximum salary rate.

24 [(e)] (15) “Public employer” means a public body, as that term is defined in ORS 174.109, and  
25 any person authorized to act on behalf of the public body[, *with respect to control, management or*  
26 *supervision of any employee*].

27 (16) “Rank order” means the placement of applicants in order of qualification, after  
28 granting the preference required under section 5 (1) of this 2015 Act, on a compiled list  
29 during a selection process.

30 (17) “Required qualifications” means the minimum requirements, including but not lim-  
31 ited to certain specified skills, transferable skills, knowledge, experience, training, education,  
32 performance on an employment test, licensing, certification or results of reference or back-  
33 ground checks, that are specific to a competitive position and that an applicant must have  
34 to be considered in the selection process.

35 (18) “Selection process” means the process by which a public employer makes a hiring  
36 or promotion decision for a competitive position and includes a tested and scored selection  
37 process and a sorted or ranked selection process as described in section 5 of this 2015 Act.

38 (19) “Transfer” means a public employer’s movement of an employee from one employ-  
39 ment position to a different employment position with the same maximum salary rate, or a  
40 public employer’s movement of an employee to a new work location or different shift or  
41 schedule without a change in the employee’s employment position.

42 (20) “Transferable skill” means a skill that a veteran or disabled veteran has obtained  
43 through military education or experience that is sufficient to meet any required qualifica-  
44 tions or preferred qualifications and that complies with the provisions of section 5 (2) of this  
45 2015 Act.

1        *[(f)]* **(21)(a)** “Veteran” means a person who **has been discharged or released from service**  
2 **with the Armed Forces of the United States and who:**

3        (A) Served on active duty with the Armed Forces of the United States:

4        (i) For a period of more than 90 consecutive days beginning on or before January 31, 1955, and  
5 was discharged or released under honorable conditions;

6        (ii) For a period of more than 178 consecutive days beginning after January 31, 1955, and was  
7 discharged or released from active duty under honorable conditions;

8        (iii) For 178 days or less and was discharged or released from active duty under honorable  
9 conditions because of a service-connected disability;

10       (iv) For 178 days or less and was discharged or released from active duty under honorable  
11 conditions and has a disability rating from the United States Department of Veterans Affairs; or

12       (v) For at least one day in a combat zone and was discharged or released from active duty under  
13 honorable conditions;

14       (B) Received a combat or campaign ribbon or an expeditionary medal for service in the Armed  
15 Forces of the United States and was discharged or released from active duty under honorable con-  
16 ditions; or

17       (C) Is receiving a nonservice-connected pension from the United States Department of Veterans  
18 Affairs.

19       *[(2)]* **(b)** As used in **this** subsection *[(1)(f) of this section]*, “active duty” does not include attend-  
20 ance at a school under military orders, except schooling incident to an active enlistment or a reg-  
21 ular tour of duty, or normal military training as a reserve officer or member of an organized reserve  
22 or a National Guard unit.

23       **SECTION 3. ORS 408.235 and 408.237 are repealed.**

24       **SECTION 4. ORS 408.230 is repealed and section 5 of this 2015 Act is enacted in lieu**  
25 **thereof.**

26       **SECTION 5. (1) A public employer shall grant a preference as provided in this section to**  
27 **an applicant for a competitive position who is a veteran or disabled veteran.**

28       **(2)(a) In determining whether an applicant who is a veteran or disabled veteran has met**  
29 **the required qualifications or preferred qualifications for a competitive position, a public**  
30 **employer shall give the same weight to transferable skills of the veteran or disabled veteran**  
31 **as the public employer gives to similar education and experience that is obtained outside of**  
32 **the military.**

33       **(b) It is the responsibility of the applicant who is a veteran or disabled veteran to submit**  
34 **sufficient information and materials to demonstrate how education or experience obtained**  
35 **in the military qualifies as one or more transferable skills for a competitive position.**

36       **(c) It is the responsibility of the applicant who is a veteran or disabled veteran to de-**  
37 **scribe and explain how education or experience obtained in the military qualifies as one or**  
38 **more transferable skills for a competitive position during an interview.**

39       **(d) The determination of whether military education or experience is a transferable skill**  
40 **for a competitive position is within the public employer’s sole discretion.**

41       **(3) The provisions of this section do not require a public employer to interview every**  
42 **veteran or disabled veteran who is an applicant for a competitive position.**

43       **(4) A public employer is not required to hire a veteran or disabled veteran who does not**  
44 **successfully complete a preemployment check including, but not limited to, a medical, ref-**  
45 **erence or background check.**

1       **(5) A public employer may end a selection process at any time without making a hiring**  
2 **or promotion decision.**

3       **(6) For purposes of applying the preference required by subsection (1) of this section, a**  
4 **public employer shall use one of the following selection processes:**

5       **(a) The tested and scored selection process described in subsection (7) of this section; or**

6       **(b) The sorted or ranked selection process described in subsection (8) of this section.**

7       **(7) For the tested and scored selection process:**

8       **(a) An applicant who is a veteran or a disabled veteran is eligible for the preference re-**  
9 **quired by subsection (1) of this section if the veteran or disabled veteran has:**

10       **(A) Met the required qualifications for the competitive position; and**

11       **(B) Achieved at least the minimum qualifying score on one or more employment tests**  
12 **as required by the public employer.**

13       **(b) The public employer must convert the scores on all employment tests completed by**  
14 **an applicant to a single score based on a 100-point scoring system such that the maximum**  
15 **score that an applicant who is not a veteran or a disabled veteran may receive is 100 points.**  
16 **For employment tests graded by giving a “pass” or “fail,” all applicants with a “pass” must**  
17 **be assigned a score of 100 points and all applicants with a “fail” must be assigned a score**  
18 **of zero points.**

19       **(c) A public employer may require applicants to achieve a minimum qualifying score on**  
20 **an employment test in order to be placed on a compiled list.**

21       **(d) For an applicant who is a veteran or disabled veteran and who has achieved the**  
22 **minimum qualifying score on any required employment test, the public employer shall apply**  
23 **the preference required by subsection (1) of this section by adding five points to the score**  
24 **of an applicant who is a veteran and 10 points to the score of an applicant who is a disabled**  
25 **veteran.**

26       **(e) The public employer shall place all applicants who have achieved the minimum quali-**  
27 **fying score on all required employment tests, including any preference points to which an**  
28 **applicant is entitled under paragraph (d) of this subsection, in rank order on a compiled list.**

29       **(f) The public employer shall consider all applicants on the compiled list in rank order**  
30 **using one of the following approaches:**

31       **(A) The public employer may make a hiring or promotion decision that makes an offer**  
32 **of employment to, or that makes an offer of an initial interview to, only the highest ranked**  
33 **applicant on the list. If that applicant declines the position or declines to interview or, if**  
34 **after the initial interview, the public employer determines that the applicant is not suitable**  
35 **for employment in the competitive position, the public employer may make a hiring or pro-**  
36 **motion decision that makes an offer of employment to, or that makes an offer of an initial**  
37 **interview to, the next highest ranked applicant on the list. The public employer may offer**  
38 **employment or an initial interview to subsequent applicants under similar circumstances**  
39 **until the public employer makes a hiring or promotion decision or otherwise ends the se-**  
40 **lection process.**

41       **(B)(i) The public employer may make concurrent offers of an initial interview to more**  
42 **than one of the highest ranked applicants on the compiled list. After completing initial**  
43 **interviews, the public employer may take additional steps in the selection process to deter-**  
44 **mine the suitability of an applicant for employment in the competitive position, including but**  
45 **not limited to additional interviews or additional employment tests. The preference required**

1 by subsection (1) of this section for an applicant who is a veteran or disabled veteran does  
2 not apply to the additional steps taken under this sub-subparagraph.

3 (ii) After completing initial interviews and taking any additional steps under sub-  
4 subparagraph (i) of this subparagraph, the public employer may make a hiring or promotion  
5 decision. The public employer is required to apply the preference required by subsection (1)  
6 of this section by making an offer of employment for a competitive position to a veteran if  
7 the veteran is equal to or more qualified and suitable for the position than an applicant who  
8 is not a veteran. If a disabled veteran is equal to or more qualified and suitable for the po-  
9 sition than an applicant who is a veteran or an applicant who is not a veteran or a disabled  
10 veteran, the public employer shall make an offer of employment to the disabled veteran.

11 (g) A public employer that makes an offer of an initial interview under this subsection  
12 shall consider transferable skills in the manner described in subsection (2) of this section.

13 (8) For the sorted or ranked selection process:

14 (a) An applicant who is a veteran or a disabled veteran is eligible for the preference re-  
15 quired by subsection (1) of this section if the veteran or disabled veteran has met the re-  
16 quired qualifications for the competitive position.

17 (b) After determining that an applicant is eligible for the preference under paragraph (a)  
18 of this subsection, the public employer shall:

19 (A) Sort into groups those applicants with similar characteristics that are of particular  
20 relevance and importance in the context of the preferred qualifications for the competitive  
21 position; or

22 (B) Place applicants in rank order based upon one or more aspects of the preferred  
23 qualifications for the competitive position.

24 (c) After sorting or ranking applicants as described in paragraph (b) of this subsection,  
25 a public employer shall establish and apply a method for giving preference to an applicant  
26 who is a veteran or disabled veteran. The method must give a preference to an applicant who  
27 is a veteran, and the method must give an applicant who is a disabled veteran a greater  
28 preference than the preference granted to an applicant who is a veteran.

29 (d) Examples of methods that may be established and applied under paragraph (c) of this  
30 subsection include:

31 (A) Moving a veteran who is eligible for the preference to a group that is of greater rel-  
32 evance and importance than the group to which the veteran was originally sorted, and  
33 moving a disabled veteran who is eligible for the preference to a group that is of even greater  
34 relevance and importance than the group to which an eligible veteran may be sorted; and

35 (B) Moving a veteran who is eligible for the preference to a higher rank than the rank  
36 in which the veteran was originally placed, and moving a disabled veteran who is eligible for  
37 the preference to a rank that is even higher than the rank in which an eligible veteran may  
38 be placed.

39 (e) After applying the preference as described in paragraph (c) of this subsection, the  
40 public employer shall place all applicants in rank order on a compiled list.

41 (f) The public employer shall offer initial interviews to applicants based on rank order  
42 on the compiled list. The number of applicants selected for an initial interview is in the  
43 public employer's sole discretion except that:

44 (A) The public employer shall interview no more than 10 percent, not to exceed a maxi-  
45 mum of 10, of the highest ranked applicants who are veterans or disabled veterans.

1       **(B) Notwithstanding subparagraph (A) of this paragraph, a public employer shall inter-**  
 2 **view a minimum of five of the highest ranked applicants who are veterans or disabled vet-**  
 3 **erans. If the number of highest ranked applicants who are veterans or disabled veterans is**  
 4 **less than five, the public employer shall interview all of the highest ranked applicants who**  
 5 **are veterans or disabled veterans.**

6       **(g) A public employer that makes an offer of an initial interview under this subsection**  
 7 **shall consider transferable skills in the manner described in subsection (2) of this section.**

8       **(h) After completing initial interviews, the public employer may take additional steps in**  
 9 **the selection process to determine the suitability of an applicant for employment in the**  
 10 **competitive position, including but not limited to additional interviews or additional employ-**  
 11 **ment tests. The preference required by subsection (1) of this section for an applicant who is**  
 12 **a veteran or disabled veteran does not apply to the additional steps taken under this sub-**  
 13 **section.**

14       **(i) After completing initial interviews and taking any additional steps under paragraph**  
 15 **(h) of this subsection, the public employer may make a hiring or promotion decision. The**  
 16 **public employer is required to apply the preference required by subsection (1) of this section**  
 17 **by making an offer of employment for a competitive position to a veteran if the veteran is**  
 18 **equal to or more qualified and suitable for the position than an applicant who is not a vet-**  
 19 **eran. If a disabled veteran is equal to or more qualified and suitable for the position than**  
 20 **an applicant who is a veteran or an applicant who is not a veteran or a disabled veteran, the**  
 21 **public employer shall make an offer of employment to the disabled veteran.**

22       **(9) If a public employer does not make an offer of employment to a veteran or disabled**  
 23 **veteran for a competitive position, upon written request of the veteran or disabled veteran,**  
 24 **the public employer, in writing, shall provide the public employer's reasons for the decision.**

25       **(10) The Employment Department may provide training to veterans on how to show evi-**  
 26 **dence of transferable skills in an application for a competitive position or for placement on**  
 27 **an eligibility list.**

28       **(11) Violation of this section is an unlawful employment practice under ORS chapter**  
 29 **659A.**

30       **(12) A veteran or disabled veteran claiming to be aggrieved by a violation of this section**  
 31 **may file a verified written complaint with the Commissioner of the Bureau of Labor and In-**  
 32 **dustries in accordance with ORS 659A.820.**

33       **SECTION 6.** ORS 659A.885 is amended to read:

34       659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-  
 35 section (2) of this section may file a civil action in circuit court. In any action under this subsection,  
 36 the court may order injunctive relief and any other equitable relief that may be appropriate, in-  
 37 cluding but not limited to reinstatement or the hiring of employees with or without back pay. A  
 38 court may order back pay in an action under this subsection only for the two-year period imme-  
 39 diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau  
 40 of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-  
 41 year period immediately preceding the filing of the action. In any action under this subsection, the  
 42 court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-  
 43 cept as provided in subsection (3) of this section:

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

45       (b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall

1 review the judgment pursuant to the standard established by ORS 19.415 (3).

2 (2) An action may be brought under subsection (1) of this section alleging a violation of ORS  
3 10.090, 10.092, 25.337, 25.424, 171.120, [408.230, 408.237 (2),] 476.574, 652.355, 653.060, 659A.030,  
4 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145,  
5 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230, 659A.233,  
6 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306, 659A.309, 659A.315,  
7 659A.318, 659A.320 or 659A.421 **or section 5 of this 2015 Act.**

8 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,  
9 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199,  
10 659A.228, 659A.230, 659A.250 to 659A.262, 659A.290, 659A.318 or 659A.421:

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

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

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

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

17 (4) In any action under subsection (1) of this section alleging a violation of ORS 652.355 or  
18 653.060, the court may award, in addition to the relief authorized under subsection (1) of this section,  
19 compensatory damages or \$200, whichever is greater.

20 (5) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574,  
21 659A.203 or 659A.218, the court may award, in addition to the relief authorized under subsection (1)  
22 of this section, compensatory damages or \$250, whichever is greater.

23 (6) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092,  
24 the court may award, in addition to the relief authorized under subsection (1) of this section, a civil  
25 penalty in the amount of \$720.

26 (7) Any individual against whom any distinction, discrimination or restriction on account of  
27 race, color, religion, sex, sexual orientation, national origin, marital status or age, if the individual  
28 is 18 years of age or older, has been made by any place of public accommodation, as defined in ORS  
29 659A.400, by any employee or person acting on behalf of the place or by any person aiding or  
30 abetting the place or person in violation of ORS 659A.406 may bring an action against the operator  
31 or manager of the place, the employee or person acting on behalf of the place or the aider or abettor  
32 of the place or person. Notwithstanding subsection (1) of this section, in an action under this sub-  
33 section:

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

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

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

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

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

45 (f) Upon any appeal of a judgment under this subsection, the appellate court shall review the

1 judgment pursuant to the standard established by ORS 19.415 (1).

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

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

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

12 (9) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or  
13 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing  
14 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to  
15 the commissioner if the commissioner prevails in the action. The court may award reasonable at-  
16 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court  
17 determines that the commissioner had no objectively reasonable basis for asserting the claim or for  
18 appealing an adverse decision of the trial court.

19 (10) In an action under subsection (1) or (8) of this section alleging a violation of ORS 659A.145  
20 or 659A.421 or discrimination under federal housing law:

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

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

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

25 (b) An aggrieved person in regard to issues to be determined in an action may intervene as of  
26 right in the action. The Attorney General may intervene in the action if the Attorney General cer-  
27 tifies that the case is of general public importance. The court may allow an intervenor prevailing  
28 party costs and reasonable attorney fees at trial and on appeal.

29 **SECTION 7. Section 5 of this 2015 Act, the amendments to ORS 408.225 and 659A.885 by**  
30 **sections 2 and 6 of this 2015 Act and the repeal of ORS 408.230, 408.235 and 408.237 by sections**  
31 **3 and 4 of this 2015 Act apply to selection processes for competitive positions commenced on**  
32 **or after the operative date of this 2015 Act.**

33 **SECTION 8. (1) Section 5 of this 2015 Act, the amendments to ORS 408.225 and 659A.885**  
34 **by sections 2 and 6 of this 2015 Act and the repeal of ORS 408.230, 408.235 and 408.237 by**  
35 **sections 3 and 4 of this 2015 Act become operative on March 1, 2016.**

36 **(2) A public employer may take any action before the operative date specified in sub-**  
37 **section (1) of this section that is necessary to enable the public employer to exercise, on and**  
38 **after the operative date specified in subsection (1) of this section, all the duties, functions**  
39 **and powers conferred on public employers by section 5 of this 2015 Act, the amendments to**  
40 **ORS 408.225 and 659A.885 by sections 2 and 6 of this 2015 Act and the repeal of ORS 408.230,**  
41 **408.235 and 408.237 by sections 3 and 4 of this 2015 Act.**

42 **SECTION 9. This 2015 Act being necessary for the immediate preservation of the public**  
43 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**  
44 **on its passage.**