

## HOUSE AMENDMENTS TO HOUSE BILL 2856

By COMMITTEE ON BUSINESS AND LABOR

April 13

1 On page 1 of the printed bill, delete line 3 and insert “prescribing an effective date.”.

2 Delete lines 5 through 30 and delete pages 2 through 4 and insert:

3 **“SECTION 1. (1) There is created the Community Outreach and Labor Education Pro-**  
4 **gram within the division of the Bureau of Labor and Industries that enforces wage and hour**  
5 **laws, as a grant program to fund outreach, education and technical assistance to Oregon**  
6 **workers pertaining to employee rights in the workplace.**

7 **“(2) Grants provided through the Community Outreach and Labor Education Program**  
8 **may be used for activities including:**

9 **“(a) Door-to-door outreach;**

10 **“(b) Community-based education events;**

11 **“(c) Training materials;**

12 **“(d) Technical assistance;**

13 **“(e) Counseling; and**

14 **“(f) Referral services.**

15 **“(3) When considering applications for grants, the program administrators shall give**  
16 **priority to pilot projects that provide services to:**

17 **“(a) Low-wage workers;**

18 **“(b) Women;**

19 **“(c) Immigrant and refugee workers;**

20 **“(d) Lesbian, gay, bisexual, non-binary or transgender individuals;**

21 **“(e) Workers under 20 years of age;**

22 **“(f) Disabled workers; and**

23 **“(g) Workers of color.**

24 **“(4) Grants will be distributed in a manner that ensures populations around the state**  
25 **will be served and reached.**

26 **“(5) Grant recipients must have experience serving the populations they propose serving**  
27 **with grant funds.**

28 **“SECTION 2. In addition to and not in lieu of any other appropriation, there is appro-**  
29 **priated to the Bureau of Labor and Industries, for the biennium beginning July 1, 2017, out**  
30 **of the Wage Security Fund, the amount of \$2,000,000, for grants described in section 1 of this**  
31 **2017 Act.**

32 **“SECTION 3. ORS 659A.885, as amended by section 5, chapter 73, Oregon Laws 2016, is**  
33 **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,**

1 the court may order injunctive relief and any other equitable relief that may be appropriate, in-  
2 cluding but not limited to reinstatement or the hiring of employees with or without back pay. A  
3 court may order back pay in an action under this subsection only for the two-year period imme-  
4 diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau  
5 of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-  
6 year period immediately preceding the filing of the action. In any action under this subsection, the  
7 court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-  
8 cept as provided in subsection (3) of this section:

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

10 “(b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall  
11 review the judgment pursuant to the standard established by ORS 19.415 (3).

12 “(2) An action may be brought under subsection (1) of this section alleging a violation of ORS  
13 10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237 (2), 475B.233, 476.574, 652.355, 653.060, 653.601  
14 to 653.661, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088,  
15 659A.103 to 659A.145, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228,  
16 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306,  
17 659A.309, 659A.315, 659A.318, 659A.320, 659A.355, 659A.421, 653.547 or 653.549.

18 “(3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,  
19 **408.230, 408.237 (2), 652.355, 653.060, 653.601 to 653.661**, 659.852, 659A.030, 659A.040, 659A.043,  
20 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, **659A.150 to 659A.186, 659A.194**, 659A.199,  
21 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262, **659A.277**, 659A.290, 659A.318, **659A.355**,  
22 659A.421, 653.547 or 653.549:

23 “(a) The court may award, in addition to the relief authorized under subsection (1) of this sec-  
24 tion, compensatory damages or \$200, whichever is greater, and punitive damages;

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

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

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

29 “[*4*] *In any action under subsection (1) of this section alleging a violation of ORS 652.355 or*  
30 *653.060, the court may award, in addition to the relief authorized under subsection (1) of this section,*  
31 *compensatory damages or \$200, whichever is greater.]*

32 “[*5*] **(4)** In any action under subsection (1) of this section alleging a violation of ORS 171.120,  
33 476.574 or 659A.218, the court may award, in addition to the relief authorized under subsection (1)  
34 of this section, compensatory damages or \$250, whichever is greater.

35 “[*6*] **(5)** In any action under subsection (1) of this section alleging a violation of ORS 10.090  
36 or 10.092, the court may award, in addition to the relief authorized under subsection (1) of this  
37 section, a civil penalty in the amount of \$720.

38 “[*7*] **(6)** Any individual against whom any distinction, discrimination or restriction on account  
39 of race, color, religion, sex, sexual orientation, national origin, marital status or age, if the individ-  
40 ual is 18 years of age or older, has been made by any place of public accommodation, as defined in  
41 ORS 659A.400, by any employee or person acting on behalf of the place or by any person aiding or  
42 abetting the place or person in violation of ORS 659A.406 may bring an action against the operator  
43 or manager of the place, the employee or person acting on behalf of the place or the aider or abettor  
44 of the place or person. Notwithstanding subsection (1) of this section, in an action under this sub-  
45 section:

1 “(a) The court may award, in addition to the relief authorized under subsection (1) of this sec-  
2 tion, compensatory and punitive damages;

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

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

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

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

12 “(f) Upon any appeal of a judgment under this subsection, the appellate court shall review the  
13 judgment pursuant to the standard established by ORS 19.415 (1).

14 “[8] (7) When the commissioner or the Attorney General has reasonable cause to believe that  
15 a person or group of persons is engaged in a pattern or practice of resistance to the rights protected  
16 by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied  
17 any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner  
18 or the Attorney General may file a civil action on behalf of the aggrieved persons in the same  
19 manner as a person or group of persons may file a civil action under this section. In a civil action  
20 filed under this subsection, the court may assess against the respondent, in addition to the relief  
21 authorized under subsections (1) and (3) of this section, a civil penalty:

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

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

24 “[9] (8) In any action under subsection (1) of this section alleging a violation of ORS 659A.145  
25 or 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing  
26 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to  
27 the commissioner if the commissioner prevails in the action. The court may award reasonable at-  
28 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court  
29 determines that the commissioner had no objectively reasonable basis for asserting the claim or for  
30 appealing an adverse decision of the trial court.

31 “[10] (9) In an action under subsection (1) or [(8)] (7) of this section alleging a violation of ORS  
32 659A.145 or 659A.421 or discrimination under federal housing law:

33 “(a) ‘Aggrieved person’ includes a person who believes that the person:

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

35 “(B) Will be injured by an unlawful practice or discriminatory housing practice that is about to  
36 occur.

37 “(b) An aggrieved person in regard to issues to be determined in an action may intervene as of  
38 right in the action. The Attorney General may intervene in the action if the Attorney General  
39 certifies that the case is of general public importance. The court may allow an intervenor prevailing  
40 party costs and reasonable attorney fees at trial and on appeal.

41 “**SECTION 4. Section 1 of this 2017 Act and the amendments to ORS 659A.885 by section**  
42 **3 of this 2017 Act become operative January 1, 2018.**

43 “**SECTION 5. The Commissioner of the Bureau of Labor and Industries may take any**  
44 **action before the operative date specified in section 4 of this 2017 Act that is necessary to**  
45 **enable the commissioner to carry out, on and after the operative date specified in section 4**

1 of this 2017 Act, the duties imposed by section 1 of this 2017 Act and the amendments to ORS  
2 659A.885 by section 3 of this 2017 Act.

3 “SECTION 6. This 2017 Act takes effect on the 91st day after the date on which the 2017  
4 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.”.

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