

Senate Bill 298

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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 permanent Commissioner of Bureau of Labor and Industries' discretion to prepare formal charges and pursue certain matters in court.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to discretion of the Commissioner of the Bureau of Labor and Industries to pursue matters
3 on behalf of certain complainants; amending ORS 659A.845 and 659A.870; repealing section 6,
4 chapter 609, Oregon Laws 2015; and declaring emergency.

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

6 **SECTION 1. Section 6, chapter 609, Oregon Laws 2015, is repealed.**

7 **SECTION 2.** ORS 659A.845, as amended by section 4, chapter 609, Oregon Laws 2015, is
8 amended to read:

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

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

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

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

26 **SECTION 3.** ORS 659A.870, as amended by section 5, chapter 609, Oregon Laws 2015, is
27 amended to read:

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

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 under ORS 659A.820 with respect to the matters alleged in the civil action.

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

4 (3) If a person files a civil action alleging an unlawful practice under ORS 659A.145 or 659A.421
5 or discrimination under federal housing law, the filing does not constitute an election of remedies
6 or a waiver of the right of the person to file a complaint with the commissioner under ORS 659A.820,
7 but the commissioner shall dismiss the complaint upon the commencement of a trial in the civil
8 action.

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

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

21 (c) If the Attorney General or the commissioner files a complaint under ORS 659A.825, the At-
22 torney General or the commissioner may elect to have the matter heard in circuit court under ORS
23 659A.885.

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

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

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

33 **SECTION 4. This 2017 Act being necessary for the immediate preservation of the public**
34 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**
35 **on its passage.**

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