

HB 2856-1
(LC 2888)
2/20/17 (GES/ps)

Requested by HOUSE COMMITTEE ON BUSINESS AND LABOR

**PROPOSED AMENDMENTS TO
HOUSE BILL 2856**

1 On page 1 of the printed bill, delete lines 5 through 30 and delete pages
2 2 through 4 and insert:

3 **“SECTION 1. (1) There is created the Community Outreach and**
4 **Labor Education Program within the Wage and Hour Division of the**
5 **Bureau of Labor and Industries, as a grant program to fund outreach,**
6 **education and technical assistance to Oregon workers pertaining to**
7 **employee rights in the workplace.**

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

10 **“(a) Door-to-door outreach;**

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

12 **“(c) Training materials;**

13 **“(d) Technical assistance;**

14 **“(e) Counseling; and**

15 **“(f) Referral services.**

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

18 **“(a) Low-wage workers;**

19 **“(b) Women;**

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

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

1 “(e) Workers under 20 years of age;

2 “(f) Disabled workers; and

3 “(g) Workers of color.

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

6 “(5) Grant recipients must have experience serving the populations
7 they propose serving with grant funds.

8 “SECTION 2. In addition to and not in lieu of any other appropri-
9 ation, there is appropriated to the Bureau of Labor and Industries, for
10 the biennium beginning July 1, 2017, out of the General Fund, the
11 amount of \$_____, for grants described in section 1 of this 2017 Act.

12 “SECTION 3. ORS 659A.885, as amended by section 5, chapter 73, Oregon
13 Laws 2016, is amended to read:

14 “659A.885. (1) Any person claiming to be aggrieved by an unlawful prac-
15 tice specified in subsection (2) of this section may file a civil action in cir-
16 cuit court. In any action under this subsection, the court may order
17 injunctive relief and any other equitable relief that may be appropriate, in-
18 cluding but not limited to reinstatement or the hiring of employees with or
19 without back pay. A court may order back pay in an action under this sub-
20 section only for the two-year period immediately preceding the filing of a
21 complaint under ORS 659A.820 with the Commissioner of the Bureau of La-
22 bor and Industries, or if a complaint was not filed before the action was
23 commenced, the two-year period immediately preceding the filing of the
24 action. In any action under this subsection, the court may allow the pre-
25 vailing party costs and reasonable attorney fees at trial and on appeal. Ex-
26 cept as provided in subsection (3) of this section:

27 “(a) The judge shall determine the facts in an action under this sub-
28 section; and

29 “(b) Upon any appeal of a judgment in an action under this subsection,
30 the appellate court shall review the judgment pursuant to the standard es-

1 tablished by ORS 19.415 (3).

2 “(2) An action may be brought under subsection (1) of this section alleg-
3 ing a violation of ORS 10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237
4 (2), 475B.233, 476.574, 652.355, 653.060, 653.601 to 653.661, 659.852, 659A.030,
5 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103
6 to 659A.145, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218,
7 659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277,
8 659A.290, 659A.300, 659A.306, 659A.309, 659A.315, 659A.318, 659A.320,
9 659A.355, 659A.421, 653.547 or 653.549.

10 “(3) In any action under subsection (1) of this section alleging a violation
11 of ORS 25.337, 25.424, **652.355, 653.060, 653.601 to 653.661**, 659.852, 659A.030,
12 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145,
13 **659A.150 to 659A.186, 659A.194**, 659A.199, 659A.203, 659A.228, 659A.230,
14 659A.250 to 659A.262, **659A.277**, 659A.290, 659A.318, **659A.355**, 659A.421,
15 653.547 or 653.549:

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

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

20 “(c) Upon appeal of any judgment finding a violation, the appellate court
21 shall review the judgment pursuant to the standard established by ORS
22 19.415 (1); and

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

24 “[4] *In any action under subsection (1) of this section alleging a violation*
25 *of ORS 652.355 or 653.060, the court may award, in addition to the relief au-*
26 *thorized under subsection (1) of this section, compensatory damages or \$200,*
27 *whichever is greater.]*

28 “[5] (4) In any action under subsection (1) of this section alleging a vi-
29 olation of ORS 171.120, 476.574 or 659A.218, the court may award, in addition
30 to the relief authorized under subsection (1) of this section, compensatory

1 damages or \$250, whichever is greater.

2 “[6] (5) In any action under subsection (1) of this section alleging a vi-
3 olation of ORS 10.090 or 10.092, the court may award, in addition to the relief
4 authorized under subsection (1) of this section, a civil penalty in the amount
5 of \$720.

6 “[7] (6) Any individual against whom any distinction, discrimination or
7 restriction on account of race, color, religion, sex, sexual orientation, na-
8 tional origin, marital status or age, if the individual is 18 years of age or
9 older, has been made by any place of public accommodation, as defined in
10 ORS 659A.400, by any employee or person acting on behalf of the place or
11 by any person aiding or abetting the place or person in violation of ORS
12 659A.406 may bring an action against the operator or manager of the place,
13 the employee or person acting on behalf of the place or the aider or abettor
14 of the place or person. Notwithstanding subsection (1) of this section, in an
15 action under this subsection:

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

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

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

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

24 “(e) The court may award reasonable attorney fees and expert witness fees
25 incurred by a defendant who prevails only if the court determines that the
26 plaintiff had no objectively reasonable basis for asserting a claim or no
27 reasonable basis for appealing an adverse decision of a trial court; and

28 “(f) Upon any appeal of a judgment under this subsection, the appellate
29 court shall review the judgment pursuant to the standard established by ORS
30 19.415 (1).

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

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

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

13 “[9] (8) In any action under subsection (1) of this section alleging a vi-
14 olation of ORS 659A.145 or 659A.421 or alleging discrimination under federal
15 housing law, when the commissioner is pursuing the action on behalf of an
16 aggrieved complainant, the court shall award reasonable attorney fees to the
17 commissioner if the commissioner prevails in the action. The court may
18 award reasonable attorney fees and expert witness fees incurred by a de-
19 fendant that prevails in the action if the court determines that the commis-
20 sioner had no objectively reasonable basis for asserting the claim or for
21 appealing an adverse decision of the trial court.

22 “[10] (9) In an action under subsection (1) or [(8)] (7) of this section
23 alleging a violation of ORS 659A.145 or 659A.421 or discrimination under
24 federal housing law:

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

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

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

30 “(b) An aggrieved person in regard to issues to be determined in an action

1 may intervene as of right in the action. The Attorney General may intervene
2 in the action if the Attorney General certifies that the case is of general
3 public importance. The court may allow an intervenor prevailing party costs
4 and reasonable attorney fees at trial and on appeal.

5 **“SECTION 4. Section 1 of this 2017 Act and the amendments to ORS**
6 **659A.885 by section 3 of this 2017 Act become operative January 1, 2018.**

7 **“SECTION 5. The Commissioner of the Bureau of Labor and In-**
8 **dustries may take any action before the operative date specified in**
9 **section 4 of this 2017 Act that is necessary to enable the commissioner**
10 **to carry out, on and after the operative date specified in section 4 of**
11 **this 2017 Act, the duties imposed by section 1 of this 2017 Act and the**
12 **amendments to ORS 659A.885 by section 3 of this 2017 Act.**

13 **“SECTION 6. This 2017 Act being necessary for the immediate**
14 **preservation of the public peace, health and safety, an emergency is**
15 **declared to exist, and this 2017 Act takes effect July 1, 2017.”.**

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