

**HB 2818 STAFF MEASURE SUMMARY**

**House Committee On Business and Labor**

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**Prepared By:** Jan Nordlund, LPRO Analyst

**Meeting Dates:** 3/13

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**WHAT THE MEASURE DOES:**

Establishes that it is an unlawful employment practice for employer to seek age of applicant prior to making a conditional offer of employment or to include certain words or phrases in recruitment that suggests or implies age preference. Provides private right of action for such claims of unlawful employment practice.

Establishes that employer may seek age of applicant if age is bona fide occupational qualification and may require applicant to affirm that they meet age and education requirements when such requirements are bona fide occupational qualification.

Provides that person filing an action may bring claim under disparate treatment theory of proof or disparate treatment theory of proof. Directs court to award prevailing plaintiff in age discrimination suit liquidated damages equal to twice the economic compensatory damages awarded or \$25,000, whichever is greater.

Permits employer or labor organization to observe seniority system as long as it does not require employee to retire at certain age. Permits employer to offer voluntary early retirement as an incentive in seniority system or employee benefit plan.

Clarifies what "because of age" mean in employment discrimination law.

**ISSUES DISCUSSED:**

**EFFECT OF AMENDMENT:**

No amendment.

**BACKGROUND:**

A person claiming employment discrimination because of age under 659A.030 may file a complaint with the Bureau of Labor and Industries or may file an action in court. In addition to two-years back pay, costs, and reasonable attorney fees, a prevailing plaintiff may be awarded compensatory damages or \$200, whichever is greater, and punitive damages.