



OREGON
BUSINESS
& INDUSTRY



SUPPORT SB 123 w/ Amendments

Important Technical Changes to Oregon's Pay Equity Law

In 2017 Oregon passed one of the most progressive Pay Equity Laws in the Country. Not surprisingly, after 6+ months in rulemaking implementing HB 2005 (2017), several technical changes were identified that needed to be made to the underlying statute.

SB 123, w/ the amendments, reflect a heavily negotiated product between the employer lobby community and OTLA, Family Forward and the American Association of University Women. The amendments seek to address these needed technical changes and provide clarity and direction as Oregon's employers and employees adjust to the new law.

Specifically, the amendments:

- **Simplifies the definition of a system for determining pay rates.** Provide a simplified definition of "system" as used ORS 652.220(2)(a-c) and OAR 839-008-0015(2). This undefined statutory definition took on a broad and ambiguous definition in rules. The proposed definition in statute will provide a simple definition that is easy for everyone to understand.
 - Current Definition: "System" means a devised coherent, consistent, and verifiable and reasonable method that was in use at the time of the alleged violation to identify, measure and apply appropriate variables in an orderly, logical and effective manner.
 - Proposed Definition: "System" means a consistent and verifiable method in use at the time that a violation is alleged under ORS 652.220.
- **Establishes provisions for modified or light duty assignments.** Inserts an allowance for employees to stay on the job, in a modified duty capacity, and maintain their salary, while not forcing the employer to violate the Pay Equity Law.
- **Adds guidance for employers when redlining of freezing pay.** Requires an employer, who utilizes redlining or pay freezes to comply with the pay equity law while bringing other salaries up, to review these processes as part of their Equal Pay Analysis. In addition, the amendments clarify that this process is not an admission of liability.
- **Makes necessary changes to the Equal Pay Analysis so employers aren't forced to ask about private and sensitive status' as it relates to the protected classes.** Also clarifies that an employer, if found at fault during a civil action, is required to cure the Plaintiff going forward, not as part of the Equal Pay Analysis.

Amanda Dalton amanda@daltonadvocacy.com

Jenny Dresler jenny@pacounsel.org

Kirsten Adams kirstena@agc-oregon.org

Paloma Sparks palomasparks@oregonbusinessindustry.com