

## **SB 123 A -A7 STAFF MEASURE SUMMARY**

### **House Committee On Rules**

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**Prepared By:** Josh Nasbe, Counsel

**Meeting Dates:** 6/11, 6/13

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#### **WHAT THE MEASURE DOES:**

Amends Equal Pay Act of 2017. Modifies standard applicable to award of compensatory and punitive damages. Prohibits use of employer's implementation of equal pay analysis as admission of liability. Describes circumstances under which employer may pay compensation to employee who is performing modified work as result of medical condition.

#### **ISSUES DISCUSSED:**

##### **EFFECT OF AMENDMENT:**

-A7 Expressly recognizes that bona fide factors supporting a pay differential may be contained in a collective bargaining agreement. Modifies the defense against compensatory and punitive damages by eliminating obligation of the employer to review pay freezes.

##### **BACKGROUND:**

In 2011, the Commissioner of the Bureau of Labor and Industries (BOLI) directed the Oregon Council on Civil Rights (an advisory body appointed by the Commissioner) to create a formal set of policy recommendations regarding equal pay in Oregon. Two years later, the Legislative Assembly passed Senate Bill 744 (2013), directing the Council to study wage inequality and the factors that contribute to it. In January 2014, the Council issued its formal recommendations to address pay inequality in Oregon. In 2017, the Oregon Legislative Assembly passed the Equal Pay Act (HB 2005) incorporating many of the Council's recommendations.

The 2017 Equal Pay Act expanded existing equal pay laws based on sex to make it an unlawful employment practice to discriminate between employees or applicants in the payment of compensation based on race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability, or age. The Act prohibited an employer or prospective employer from using salary history to screen applicants or to determine compensation, or from acquiring the salary history of an applicant or employee from a current or former employer unless the applicant chose to disclose salary history when negotiating compensation. The Act was silent regarding employment agencies. Senate Bill 123 prohibits employment agencies from using or acquiring salary history in the same manner as employers and prospective employers.

Senate Bill 123 A clarifies that violations of the salary inquiry prohibition fall under the jurisdiction of BOLI and that BOLI may issue a 90-day notice of a right to file a civil action only after January 2, 2024.