

SB 123 STAFF MEASURE SUMMARY

Senate Committee On Workforce

Action Date: 04/09/19

Action: Without recommendation as to passage and request referral to Rules.

Vote: 4-0-1-0

Yeas: 4 - Golden, Knopp, Monnes Anderson, Taylor

Exc: 1 - Hansell

Fiscal: Fiscal impact issued

Revenue: No revenue impact

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Meeting Dates: 3/26, 4/9

WHAT THE MEASURE DOES:

Makes it an unlawful employment practice for employment agency to seek the salary history of applicant prior to offer of employment. Clarifies that violation of restrictions on salary history inquiries may be filed with Bureau of Labor and Industries (BOLI). Provides that requirement that BOLI provide notice of complainant's right to file civil action within 90 days of notice does not apply to complaints filed before January 1, 2024. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Conceptual amendments

EFFECT OF AMENDMENT:

No amendment.

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 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.