

Requested by Representative EVANS

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 332**

1 On page 1 of the printed A-engrossed bill, delete line 3 and insert “408.225
2 and 659A.885; and repealing ORS 408.230, 408.235 and 408.237.”.

3 Delete lines 5 through 23 and delete page 2 and insert:

4 **“SECTION 1.** ORS 408.225 is amended to read:

5 “408.225. (1) As used in [*ORS 408.225 to 408.237*] **this section and section**
6 **4 of this 2019 Act:**

7 **“(a) ‘Application examination’ means the selection process utilized**
8 **by a public employer after the initial application screening of an ap-**
9 **plicant. An application examination may be scored or unscored and**
10 **includes, but is not limited to, formal testing, assessments resulting**
11 **in a score and unscored examinations or assessments such as inter-**
12 **views and reference checks.**

13 “[*(a)(A)*] **(b)(A)** ‘Civil service position’ means any position for which a
14 hiring or promotion decision is made or required to be made based on the
15 results of a merit based, competitive process that includes, but is not limited
16 to, consideration of an applicant’s or employee’s relative ability, knowledge,
17 experience and other skills.

18 **“(B)** A ‘civil service position’ need not be labeled a ‘civil service
19 position.’

20 “[*(b)*] **(c)** ‘Combat zone’ means an area designated by the President of the
21 United States by executive order in which, on the dates designated by exec-

1 utive order, the Armed Forces of the United States are or have engaged in
2 combat.

3 “[*(c)*] **(d)** ‘Disabled veteran’ means a veteran who has a disability rating
4 from the United States Department of Veterans Affairs, a veteran whose
5 discharge or release from active duty was for a disability incurred or ag-
6 gravated in the line of duty or a veteran who was awarded the Purple Heart
7 for wounds received in combat.

8 “[*(d)*] **(e)** ‘Honorable conditions’ has the meaning given that term in rules
9 adopted by the Department of Veterans’ Affairs.

10 **“(f) ‘Initial application screening’ means a public employer’s pro-**
11 **cess to determine whether a veteran or disabled veteran applicant for**
12 **a civil service position meets the minimum and special qualifications**
13 **for the position. ‘Initial application screening’ includes an evaluation**
14 **of skills or assessment of responses to supplemental test questions if**
15 **required in the recruitment announcement for the position.**

16 **“(g) ‘Minimum qualifications’ means baseline education, experience**
17 **or other requirements that an applicant must have in order to be**
18 **considered for a civil service position by a public employer as set forth**
19 **in rules adopted by the public employer or in the recruitment an-**
20 **ouncement for the position.**

21 “[*(e)*] **(h)** ‘Public employer’ means a public body, as that term is defined
22 in ORS 174.109, and any person authorized to act on behalf of the public
23 body, with respect to control, management or supervision of any employee.

24 **“(i) ‘Special qualifications’ means attributes desired by a public**
25 **employer in an applicant for a civil service position that make an ap-**
26 **plicant more competitive for a position when compared to other ap-**
27 **plicants for the same position who do not possess the special**
28 **qualifications at all or to the same degree. Special qualifications may**
29 **be unique to each position and may, but are not required to, be set**
30 **forth in rules adopted by the public employer or in the recruitment**

1 **announcement for the position.**

2 “[~~(f)~~] (j) ‘Veteran’ means a person who:

3 “(A) Served on active duty with the Armed Forces of the United States:

4 “(i) For a period of more than 90 consecutive days beginning on or before
5 January 31, 1955, and was discharged or released under honorable conditions;

6 “(ii) For a period of more than 178 consecutive days beginning after
7 January 31, 1955, and was discharged or released from active duty under
8 honorable conditions;

9 “(iii) For 178 days or less and was discharged or released from active duty
10 under honorable conditions because of a service-connected disability;

11 “(iv) For 178 days or less and was discharged or released from active duty
12 under honorable conditions and has a disability rating from the United
13 States Department of Veterans Affairs; or

14 “(v) For at least one day in a combat zone and was discharged or released
15 from active duty under honorable conditions;

16 “(B) Received a combat or campaign ribbon or an expeditionary medal for
17 service in the Armed Forces of the United States and was discharged or re-
18 leased from active duty under honorable conditions; or

19 “(C) Is receiving a nonservice-connected pension from the United States
20 Department of Veterans Affairs.

21 “(2) As used in subsection [~~(1)(f)~~] (1)(j) of this section, ‘active duty’ does
22 not include attendance at a school under military orders, except schooling
23 incident to an active enlistment or a regular tour of duty, or normal military
24 training as a reserve officer or member of an organized reserve or a National
25 Guard unit.

26 **“SECTION 2. ORS 408.230, 408.235 and 408.237 are repealed.**

27 **“SECTION 3. Section 4 of this 2019 Act is added to and made a part
28 of ORS chapter 408.**

29 **“SECTION 4. (1) For purposes of this section:**

30 **“(a) ‘Certification of service’ means a letter that:**

1 **“(A) Is on letterhead of a military branch in which a veteran**
2 **served;**

3 **“(B) Specifies the veteran’s military service dates;**

4 **“(C) Specifies the veteran’s expected date of discharge or release**
5 **from active duty service; and**

6 **“(D) Specifies that the veteran’s expected character of service or**
7 **discharge is honorable.**

8 **“(b) ‘Disabled veteran’ means:**

9 **“(A) A disabled veteran as defined in ORS 408.225;**

10 **“(B) A person who is receiving service-connected compensation**
11 **from the United States Department of Veterans Affairs under 38**
12 **U.S.C. 1110 or 1131; or**

13 **“(C) A person who was a reserve officer or member of an organized**
14 **reserve or a National Guard unit whose discharge or release from ac-**
15 **tive duty as defined in ORS 408.225 (2) or active duty for attendance**
16 **at a school under military orders or normal military training was for**
17 **a disability incurred or aggravated in the line of duty.**

18 **“(c) ‘Veteran’ means:**

19 **“(A) A veteran as defined in ORS 408.225; or**

20 **“(B) A person whose periods of service with an organized reserve**
21 **or National Guard unit totals 20 years or more and who, if discharged**
22 **or released, was discharged or released under honorable conditions.**

23 **“(2)(a) A veteran or disabled veteran is eligible to use the preference**
24 **provided for in this section for a civil service position for which the**
25 **veteran or disabled veteran makes application.**

26 **“(b) A veteran shall provide evidence of eligibility for the preference**
27 **at the time the veteran makes application for the position. Evidence**
28 **may include federal DD Form 214 or 215, NGB Form 22 or 22A or other**
29 **documentation demonstrating preference eligibility. When a veteran**
30 **is currently serving on active duty and is in the process of discharging**

1 or releasing from active duty under honorable conditions, the veteran
2 may provide as evidence a certification of service showing expected
3 discharge or release within 120 days from the submission of the certi-
4 fication, or a preseparation draft of federal DD Form 214 or 215. Fail-
5 ure to provide evidence at the time of application will disqualify the
6 veteran from requesting use of the preference in the public employer's
7 consideration of the veteran's application for the position.

8 “(c) A disabled veteran shall provide evidence of disability from the
9 United States Department of Veterans Affairs at the time the disabled
10 veteran makes application for the position. Failure to provide evidence
11 of disability at the time of application will disqualify the disabled vet-
12 eran from requesting use of the preference in the public employer's
13 consideration of the disabled veteran's application for the position.

14 “(3) A public employer shall grant a preference to a veteran or dis-
15 abled veteran who applies for a vacant civil service position or seeks
16 promotion to a civil service position with a higher maximum salary
17 rate in the manner set forth in this section. The public employer shall
18 grant a preference at each stage of the application process.

19 “(4)(a) Initial application screenings done by public employers must
20 result in a score on a 100-point scale.

21 “(b) Upon completion of an initial application screening and deter-
22 mination that a veteran or disabled veteran applicant meets the min-
23 imum and special qualifications for the position and, if applicable, is
24 evaluated to have the necessary skills for the position and adequately
25 responds to any supplemental questions, the public employer shall
26 grant preference as follows:

27 “(A) The employer shall add five preference points to a nondisabled
28 veteran's score; or

29 “(B) The employer shall add 10 preference points to a disabled
30 veteran's score.

1 “(c) After application of preference points under paragraph (b) of
2 this subsection, the public employer shall generate a list of qualified
3 veteran and disabled veteran applicants to consider for appointment.

4 “(5)(a) Following the initial application screening under subsection
5 (4) of this section, the public employer shall conduct the employer’s
6 application examination process with all qualified veteran and disabled
7 veteran applicants on the list and shall apply preferences as described
8 in subsection (6) of this section.

9 “(b) Application examination processes may be scored or unscored.
10 If scored, applicants must be ranked on a 100-point scale. If unscored,
11 applicants must be sorted into hierarchical levels based on the degree
12 to which applicants possess or demonstrate desired attributes or meet
13 other criteria for the position.

14 “(c) If the application examination process includes one or more
15 interviews, the public employer shall interview all veteran and disabled
16 veteran applicants on the list.

17 “(6) After the application examination process is completed, the
18 preference shall be applied as follows:

19 “(a) For scored application examinations, the public employer shall
20 add five points to a nondisabled veteran’s score or 10 points to a disa-
21 bled veteran’s score.

22 “(b) For unscored application examinations, the public employer
23 shall advance a nondisabled veteran one level or advance a disabled
24 veteran two levels.

25 “(7) The application of preferences in the manner described in this
26 section is not a requirement that the public employer appoint a vet-
27 eran or disabled veteran to a civil service position.

28 “(8)(a) A public employer shall appoint an otherwise qualified vet-
29 eran or disabled veteran to a vacant civil service position if the results
30 of a veteran’s or disabled veteran’s application examination, when

1 combined with the veteran's or disabled veteran's preferences, are
2 equal to or higher than the results of an application examination for
3 an applicant who is not a veteran or disabled veteran.

4 “(b) Notwithstanding paragraph (a) of this subsection, a public
5 employer may, at the time of making a final hiring or promotion de-
6 cision in the selection process, exercise discretion not to appoint an
7 otherwise qualified veteran or disabled veteran described in paragraph
8 (a) of this subsection based solely on the veteran's or disabled
9 veteran's merits or qualifications with respect to the vacant civil ser-
10 vice position. A public employer that exercises discretion under this
11 paragraph shall provide to the veteran or disabled veteran written
12 reasons for the employer's decision not to appoint the veteran or dis-
13 abled veteran to the position within a reasonable time after making
14 the decision.

15 “(9) Except as otherwise provided in subsection (8)(b) of this sec-
16 tion, if a public employer does not appoint a veteran or disabled vet-
17 eran to a vacant civil service position, upon written request of the
18 veteran or disabled veteran, the employer, in writing, shall provide the
19 employer's reasons for the decision not to appoint the veteran or dis-
20 abled veteran to the position.

21 “(10) Violation of this section is an unlawful employment practice.

22 “(11) A veteran or disabled veteran claiming to be aggrieved by a
23 violation of this section may file a verified written complaint with the
24 Commissioner of the Bureau of Labor and Industries in accordance
25 with ORS 659A.820.

26 “SECTION 5. ORS 659A.885, as amended by section 9, chapter 197,
27 Oregon Laws 2017, and section 13, chapter 691, Oregon Laws 2017, is
28 amended to read:

29 “659A.885. (1) Any person claiming to be aggrieved by an unlawful prac-
30 tice specified in subsection (2) of this section may file a civil action in cir-

1 cuit court. In any action under this subsection, the court may order
2 injunctive relief and any other equitable relief that may be appropriate, in-
3 cluding but not limited to reinstatement or the hiring of employees with or
4 without back pay. A court may order back pay in an action under this sub-
5 section only for the two-year period immediately preceding the filing of a
6 complaint under ORS 659A.820 with the Commissioner of the Bureau of La-
7 bor and Industries, or if a complaint was not filed before the action was
8 commenced, the two-year period immediately preceding the filing of the
9 action. In any action under this subsection, the court may allow the pre-
10 vailing party costs and reasonable attorney fees at trial and on appeal. Ex-
11 cept as provided in subsection (3) of this section:

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

14 “(b) Upon any appeal of a judgment in an action under this subsection,
15 the appellate court shall review the judgment pursuant to the standard es-
16 tablished by ORS 19.415 (3).

17 “(2) An action may be brought under subsection (1) of this section alleg-
18 ing a violation of:

19 “(a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, [408.230, 408.237 (2),]
20 475B.281, 476.574, 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547,
21 653.549, 653.601 to 653.661, 659.852, 659A.030, 659A.040, 659A.043, 659A.046,
22 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.150 to
23 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230,
24 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300,
25 659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.355 or 659A.421; [or]

26 “(b) ORS 653.470, except an action may not be brought for a claim relating
27 to ORS 653.450; or

28 **“(c) Section 4 of this 2019 Act, except that a person must first ex-**
29 **haust all available nonjudicial remedies under ORS 659A.820 to**
30 **659A.865.**

1 “(3) In any action under subsection (1) of this section alleging a violation
2 of ORS 25.337, 25.424, 652.220, 652.355, 653.547, 653.549, 659.852, 659A.030,
3 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145,
4 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262, 659A.290,
5 659A.318, 659A.355 or 659A.421:

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

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

10 “(c) Upon appeal of any judgment finding a violation, the appellate court
11 shall review the judgment pursuant to the standard established by ORS
12 19.415 (1); and

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

14 “(4) Notwithstanding ORS 31.730, in an action under subsection (1) of this
15 section alleging a violation of ORS 652.220, the court may award punitive
16 damages if:

17 “(a) It is proved by clear and convincing evidence that an employer has
18 engaged in fraud, acted with malice or acted with willful and wanton mis-
19 conduct; or

20 “(b) An employer was previously adjudicated in a proceeding under this
21 section or under ORS 659A.850 for a violation of ORS 652.220.

22 “(5) In any action under subsection (1) of this section alleging a violation
23 of ORS 653.060, the court may award, in addition to the relief authorized
24 under subsection (1) of this section, compensatory damages or \$200, which-
25 ever is greater.

26 “(6) In any action under subsection (1) of this section alleging a violation
27 of ORS 171.120, 476.574 or 659A.218, the court may award, in addition to the
28 relief authorized under subsection (1) of this section, compensatory damages
29 or \$250, whichever is greater.

30 “(7) In any action under subsection (1) of this section alleging a violation

1 of ORS 10.090 or 10.092, the court may award, in addition to the relief au-
2 thorized under subsection (1) of this section, a civil penalty in the amount
3 of \$720.

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

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

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

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

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

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

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

29 “(9) When the commissioner or the Attorney General has reasonable cause
30 to believe that a person or group of persons is engaged in a pattern or

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

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

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

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

20 “(11) In an action under subsection (1) or (9) of this section alleging a
21 violation of ORS 659A.145 or 659A.421 or discrimination under federal hous-
22 ing law:

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

24 “(A) Has been injured by an unlawful practice or discriminatory housing
25 practice; or

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

28 “(b) An aggrieved person in regard to issues to be determined in an action
29 may intervene as of right in the action. The Attorney General may intervene
30 in the action if the Attorney General certifies that the case is of general

1 public importance. The court may allow an intervenor prevailing party costs
2 and reasonable attorney fees at trial and on appeal.

3 **“SECTION 6.** ORS 659A.885, as amended by sections 9 and 10, chapter
4 197, Oregon Laws 2017, and section 13, chapter 691, Oregon Laws 2017, is
5 amended to read:

6 “659A.885. (1) Any person claiming to be aggrieved by an unlawful prac-
7 tice specified in subsection (2) of this section may file a civil action in cir-
8 cuit court. In any action under this subsection, the court may order
9 injunctive relief and any other equitable relief that may be appropriate, in-
10 cluding but not limited to reinstatement or the hiring of employees with or
11 without back pay. A court may order back pay in an action under this sub-
12 section only for the two-year period immediately preceding the filing of a
13 complaint under ORS 659A.820 with the Commissioner of the Bureau of La-
14 bor and Industries, or if a complaint was not filed before the action was
15 commenced, the two-year period immediately preceding the filing of the
16 action. In any action under this subsection, the court may allow the pre-
17 vailing party costs and reasonable attorney fees at trial and on appeal. Ex-
18 cept as provided in subsection (3) of this section:

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

21 “(b) Upon any appeal of a judgment in an action under this subsection,
22 the appellate court shall review the judgment pursuant to the standard es-
23 tablished by ORS 19.415 (3).

24 “(2) An action may be brought under subsection (1) of this section alleg-
25 ing a violation of:

26 “(a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, [408.230, 408.237 (2),]
27 475B.281, 476.574, 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547,
28 653.549, 653.601 to 653.661, 659.852, 659A.030, 659A.040, 659A.043, 659A.046,
29 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.150 to
30 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230,

1 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300,
2 659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.355, 659A.357 or
3 659A.421; [or]

4 “(b) ORS 653.470, except an action may not be brought for a claim relating
5 to ORS 653.450; or

6 **“(c) Section 4 of this 2019 Act, except that a person must first ex-**
7 **haust all available nonjudicial remedies under ORS 659A.820 to**
8 **659A.865.**

9 “(3) In any action under subsection (1) of this section alleging a violation
10 of ORS 25.337, 25.424, 652.220, 652.355, 653.547, 653.549, 659.852, 659A.030,
11 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145,
12 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262, 659A.290,
13 659A.318, 659A.355, 659A.357 or 659A.421:

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

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

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

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

22 “(4) Notwithstanding ORS 31.730, in an action under subsection (1) of this
23 section alleging a violation of ORS 652.220, the court may award punitive
24 damages if:

25 “(a) It is proved by clear and convincing evidence that an employer has
26 engaged in fraud, acted with malice or acted with willful and wanton mis-
27 conduct; or

28 “(b) An employer was previously adjudicated in a proceeding under this
29 section or under ORS 659A.850 for a violation of ORS 652.220.

30 “(5) In any action under subsection (1) of this section alleging a violation

1 of ORS 653.060, the court may award, in addition to the relief authorized
2 under subsection (1) of this section, compensatory damages or \$200, which-
3 ever is greater.

4 “(6) In any action under subsection (1) of this section alleging a violation
5 of ORS 171.120, 476.574 or 659A.218, the court may award, in addition to the
6 relief authorized under subsection (1) of this section, compensatory damages
7 or \$250, whichever is greater.

8 “(7) In any action under subsection (1) of this section alleging a violation
9 of ORS 10.090 or 10.092, the court may award, in addition to the relief au-
10 thorized under subsection (1) of this section, a civil penalty in the amount
11 of \$720.

12 “(8) Any individual against whom any distinction, discrimination or re-
13 striction on account of race, color, religion, sex, sexual orientation, national
14 origin, marital status or age, if the individual is 18 years of age or older,
15 has been made by any place of public accommodation, as defined in ORS
16 659A.400, by any employee or person acting on behalf of the place or by any
17 person aiding or abetting the place or person in violation of ORS 659A.406
18 may bring an action against the operator or manager of the place, the em-
19 ployee or person acting on behalf of the place or the aider or abettor of the
20 place or person. Notwithstanding subsection (1) of this section, in an action
21 under this subsection:

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

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

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

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

30 “(e) The court may award reasonable attorney fees and expert witness fees

1 incurred by a defendant who prevails only if the court determines that the
2 plaintiff had no objectively reasonable basis for asserting a claim or no
3 reasonable basis for appealing an adverse decision of a trial court; and

4 “(f) Upon any appeal of a judgment under this subsection, the appellate
5 court shall review the judgment pursuant to the standard established by ORS
6 19.415 (1).

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

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

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

19 “(10) In any action under subsection (1) of this section alleging a vio-
20 lation of ORS 659A.145 or 659A.421 or alleging discrimination under federal
21 housing law, when the commissioner is pursuing the action on behalf of an
22 aggrieved complainant, the court shall award reasonable attorney fees to the
23 commissioner if the commissioner prevails in the action. The court may
24 award reasonable attorney fees and expert witness fees incurred by a de-
25 fendant that prevails in the action if the court determines that the commis-
26 sioner had no objectively reasonable basis for asserting the claim or for
27 appealing an adverse decision of the trial court.

28 “(11) In an action under subsection (1) or (9) of this section alleging a
29 violation of ORS 659A.145 or 659A.421 or discrimination under federal hous-
30 ing law:

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

2 “(A) Has been injured by an unlawful practice or discriminatory housing
3 practice; or

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

6 “(b) An aggrieved person in regard to issues to be determined in an action
7 may intervene as of right in the action. The Attorney General may intervene
8 in the action if the Attorney General certifies that the case is of general
9 public importance. The court may allow an intervenor prevailing party costs
10 and reasonable attorney fees at trial and on appeal.

11 “**SECTION 7. Section 4 of this 2019 Act, the amendments to ORS**
12 **408.225 and 659A.885 by sections 1, 5 and 6 of this 2019 Act and the re-**
13 **peal of ORS 408.230, 408.235 and 408.237 by section 2 of this 2019 Act**
14 **apply to selection processes for civil service positions and eligibility**
15 **lists for civil service positions undertaken by public employers on or**
16 **after the effective date of this 2019 Act.”.**

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