

HB 3205 A STAFF MEASURE SUMMARY

Carrier: Rep. Bynum

House Committee On Business and Labor**Action Date:** 04/03/23**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 9-2-0-0**Yeas:** 9 - Boshart Davis, Grayber, Holvey, Hudson, Nelson, Nosse, Osborne, Scharf, Sosa**Nays:** 2 - Elmer, Owens**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Erin Seiler, LPRO Analyst**Meeting Dates:** 3/13, 4/3**WHAT THE MEASURE DOES:**

Permits employer to pay employees for work of comparable character at different compensation levels pursuant to retention bonus, provided that employer does not discriminate between employees on basis of protected class and retention bonus accounts for entire compensation differential. Permits employer to condition receipt of retention bonus on requirement that employee work for employer at least 30 days. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Pay equity law
- Economic impact of inability of employers to maintain competitiveness in labor market
- Industries experiencing workforce shortages: health care and education sectors
- Ability of employer to provide bonus enables employers to attract workers and compete with other states
- Impact of work force shortages in health care: lack of access to care, burnout issues, and poaching by out-of-state employers
- Permitting bonuses diminishes protection of equal pay law because it increases pay gaps
- Current ability to pay bonuses using bona fide factors as reason for differentials in pay
- Cannot discriminate on basis of protected class
- Risk mitigation

EFFECT OF AMENDMENT:

Permits employer to pay employees for work of comparable character at different compensation levels pursuant to retention bonus, provided that employer does not discriminate between employees on basis of protected class and retention bonus accounts for entire compensation differential. Permits employer to condition receipt of retention bonus on requirement that employee work for employer at least 30 days.

BACKGROUND:

Oregon's pay equity law makes it an unlawful employment practice for an employer to pay wages or other compensation to any employee at a rate greater than other employees of a protected class for work of a comparable character. Employers may not reduce compensation to comply, and are liable for unpaid wages if they violate the pay equity law.

In 2021, the Legislative Assembly passed House Bill 2818, temporarily exempting hiring and retention bonuses from the definition of "compensation" for purposes of the pay equity law. The exemption applied only to complaints filed with the Bureau of Labor and Industries (BOLI) and to claims filed in circuit court on or after May 25, 2021 until the exemption expired on March 1, 2022. In 2022, the Legislative Assembly passed Senate Bill 1514, temporarily reestablishing the exemption for hiring and retention bonuses from the definition of "compensation" for purposes of the pay equity law. The exemption applied to complaints filed with BOLI and to claims filed in a

This summary has not been adopted or officially endorsed by action of the committee.

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circuit court beginning on or after March 1, 2022, until 180 days following the expiration of the state of emergency that was first declared by the Governor on March 8, 2020. The state of emergency declared by the Governor expired on April 1, 2022 and the exemption expired on September 28, 2022.

House Bill 3205 A allows an employer to pay employees for work of comparable character at different compensation levels pursuant to retention bonus, if the employer does not discriminate between employees on basis of protected class and the retention bonus accounts for the entire compensation differential.