

B-Engrossed
House Bill 3471

Ordered by the Senate May 8
Including House Amendments dated April 7 and Senate Amendments
dated May 8

Sponsored by Representatives ANDERSEN, GRAYBER, Senator TAYLOR; Representatives BYNUM, CHAICHI, HOLVEY, NELSON, NOSSE, RUIZ, Senators MEEK, PATTERSON

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Makes unlawful employment practice for employer to [*request or require worker to enter into settlement or agreement disposing of workers' compensation claim that bars worker from seeking further employment with employer unless such provision is first requested by worker*] **make offer to negotiate settlement agreement conditional upon worker also entering into agreement that includes no-rehire provision. Makes unlawful employment practice for employer to make offer for settlement agreement conditional upon worker also entering into agreement that includes no-rehire provision unless certain criteria are met.**

Specifies actions that would not constitute violation.

Makes violation enforceable by Commissioner of Bureau of Labor and Industries or by civil action.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to employment provisions in agreements disposing of workers' compensation claims; and
3 declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS chapter 659A.**

6 **SECTION 2. (1) As used in this section:**

7 (a) "No-rehire provision" means any provision in an agreement barring a worker from
8 seeking further employment, reemployment or reinstatement with an employer.

9 (b) "Settlement agreement" means a settlement agreement disposing of all or part of a
10 worker's claim for workers' compensation under ORS chapter 656.

11 (c) "Worker" means a worker who has applied for benefits or invoked or utilized the
12 procedures provided for in ORS chapter 656.

13 (2) With respect to offers to enter into a settlement agreement, it is an unlawful em-
14 ployment practice for an employer to:

15 (a) Make an offer to negotiate a settlement agreement conditional upon a worker also
16 entering into an agreement that includes a no-rehire provision.

17 (b) Make an offer for a settlement agreement conditional upon the worker also entering
18 into an agreement that includes a no-rehire provision unless:

19 (A) Prior to the offer, the worker has provided the employer with written confirmation
20 of the worker's willingness to enter into an agreement that includes a no-rehire provision
21 as a condition of entering into the settlement agreement; and

22 (B) The settlement offer affirmatively states that entering into the settlement agreement

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 is conditional upon the worker also entering into an agreement that includes a no-rehire
2 provision.

3 (3) Provided that the requirements under subsection (2)(b) of this section are met, it is
4 not a violation of this section:

5 (a) For any party participating in negotiations for a settlement agreement to make or
6 reject an offer for a settlement agreement that includes a no-rehire provision.

7 (b) For an employer to require a worker, as a condition of a settlement agreement, to
8 also enter into an agreement that includes a no-rehire provision.

9 (4) It is not a violation of this section for an employer to make an offer to enter into a
10 settlement agreement that includes a no-rehire provision when the following circumstances
11 exist:

12 (a) The worker has not provided the written confirmation described in subsection
13 (2)(b)(A) of this section; and

14 (b) The offer affirmatively states that the offer is not conditional upon the worker also
15 entering in an agreement that includes a no-rehire provision.

16 (5) A worker may file a complaint under ORS 659A.820 for a violation of this section and
17 may bring a civil action under ORS 659A.885 and recover a civil penalty of up to \$5,000 and
18 relief as provided by ORS 659A.885 (1) to (3).

19 **SECTION 3.** Section 2 of this 2023 Act applies to settlement agreements entered into on
20 or after the effective date of this 2023 Act.

21 **SECTION 4.** This 2023 Act being necessary for the immediate preservation of the public
22 peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect
23 on its passage.
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