

HB 4050 -1, -3 STAFF MEASURE SUMMARY

House Committee On Business and Labor

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Meeting Dates: 2/12, 2/14

WHAT THE MEASURE DOES:

Adds to the list of factors that an employer may use to legally pay employees who perform work of comparable character at different compensation levels. Declares emergency, effective upon passage.

ISSUES DISCUSSED:

- Tight labor market makes it difficult to recruit and retain workers
- Worker shortage can be barrier to economic growth
- Role of bonuses in worker recruitment and retention
- Potential impact of measure on pay equity

EFFECT OF AMENDMENT:

-1 Specifies an employer may not rely on bona fide factor to justify compensation differential if an employee demonstrates the existence of **reasonable** alternative business policies and practices that would equally fulfill the same business purposes as those fulfilled by the bona fide factor, without producing a compensation differential.

-3 Replaces the original measure. Specifies that an employer may pay employees for comparable work at different compensation levels by means of a retention bonus, provided that the employer does not discriminate between employees on the basis of a protected class in so doing, and that the retention bonus accounts for the entire compensation differential. Stipulates that an employer may condition eligibility for a retention bonus on a requirement that the employee work for the employer for a specified time of at least 30 days. Directs the Bureau of Labor and Industries (BOLI) to conduct a study to determine the impact of implementation of House Bill 2005 (2017) on identified compensation differentials between employees who perform work of comparable character in Oregon. Requires BOLI to submit findings in a report to interim committees related to business and Labor by December 1, 2024. Sunsets study and reporting requirement on January 2, 2025. Declares emergency, effective on passage.

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.

Currently, an employer may pay employees for work of comparable character at different compensation levels if the entire difference between employees compensation level is based on any combination of bona fide factor related to the employee's position. The bona fide factors are: seniority system, merit system, piece-rate work, workplace locations, regular and necessary travel, education, training, and experience.

House Bill 4050 expands the list of bona fide factors that permits an employer to pay employees for work of comparable character at different compensation levels. An employer may pay employees for work of comparable character at different compensation levels if there is a bona fide factor, not based on an employee's protected class, that is consistent with business necessity and fulfills the underlying business purpose of the business necessity. For purposes of measure, "business necessity" means an overriding legitimate business purpose.