



Legislative Fiscal Office
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Bill Title: Relating to compensation differentials under pay equity requirements; declaring an emergency.

Government Unit(s) Affected: Legislative Administration, Judicial Department, Bureau of Labor and Industries, Statewide, Special Districts Association of Oregon, Counties, Cities, School Districts, Metro

Summary of Fiscal Impact

The measure is expected to have an indeterminate impact on the Bureau of Labor and Industries, Department of Administrative Services, and cities. The measure has a minimal fiscal impact or no fiscal impact on other state agencies and non-state organizations consulted as part of this analysis.

Measure Description

This measure expands the reasons employers may pay different compensation levels to employees doing comparable work, to include a bona fide factor that is unrelated to protected class but is consistent with a business necessity and fulfills a business purpose.

Fiscal Analysis

The fiscal impact of this measure is currently indeterminate due to the unknown impact its provisions may have on the number of pay equity complaints filed by employees and employers who will apply this new option when determining employee pay. The Bureau of Labor and Industries (BOLI) could potentially experience an increase the number of complaints it must investigate depending on how employees interpret and respond to employers’ application of a bona fide factor, consistent with a “business necessity”, when determining employee pay. BOLI has indicated its pay equity complaint investigations could increase by 50 cases per year, and likewise increase in the average length of time to resolve. If this occurs, the agency could need at least two additional Civil Rights Investigator positions. However, any potential increase in the number of cases and time to resolve will not be known until implementation of this provision takes effect. In addition, the number of employers who use “business necessity” to determinate employee pay cannot be predicted at this time, which leads to further uncertainty regarding the impact on the number of case investigations.

Similarly, the measure’s fiscal impact for the Department of Administrative Services (DAS) and cities is indeterminate due to uncertainty regarding what qualifies as a “business necessity.” Upon clarification, DAS would be able to determine the extent of changes to the equal pay analysis process and potentially estimate the number of employee challenges it might receive. Cities would also be able to determine how the definition could impact job offer negotiations.

The measure is anticipated to have no fiscal impact on the Judicial Department and a minimal fiscal impact for most other Executive, Legislative, agencies, and non-state entities consulted as part of this measure.

Relevant Dates

The measure declares an emergency and takes effect on passage.