

A-Engrossed House Bill 2248

Ordered by the House March 25
Including House Amendments dated March 25

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Labor and Workplace Standards for Representative Dacia Grayber)

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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes new laws with respect to BOLI. The Act takes effect 91 days after adjournment sine die. (Flesch Readability Score: 81.4).

[Digest: The Act tells BOLI to study matters related to the laws that BOLI enforces. A report will be submitted by September 15 of next year. (Flesch Readability Score: 65.5).]

[Requires the Bureau of Labor and Industries to study matters relating to laws over which the bureau has enforcement authority. Directs the bureau to submit findings to the interim committees of the Legislative Assembly related to business and labor not later than September 15, 2026.]

[Sunsets on January 2, 2027.]

Establishes the Employer Assistance Division within the Bureau of Labor and Industries.

Provides that discussion communications made in the course of or in connection with a discussion between an employer and the Employer Assistance Division are confidential. Provides exceptions to the confidentiality requirement.

Prohibits the bureau from imposing a penalty on an employer that proves the employer's reliance on discussion communications in taking any good faith action.

Permits the bureau to issue advisory opinions in certain circumstances.

Permits the bureau to enter into interagency agreements with state agencies to receive certain business information.

Permits the bureau to enter into a settlement with respect to any violation of a provision of law over which the bureau has jurisdiction.

Provides that the bureau may settle a matter through conference, mediation, conciliation, persuasion or other alternative dispute resolution processes.

Establishes confidentiality requirements for communications made during the course of or in connection with settlement discussions held through the bureau's alternative dispute resolution processes.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to the Bureau of Labor and Industries; creating new provisions; amending ORS 659A.003,
3 659A.840, 659A.845 and 659A.850; and prescribing an effective date.

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

EMPLOYER ASSISTANCE DIVISION

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8 **SECTION 1. Sections 2, 3 and 4 of this 2025 Act are added to and made a part of ORS**
9 **chapter 651.**

10 **SECTION 2. The Employer Assistance Division is established within the Bureau of Labor**
11 **and Industries. The purpose of the division is to provide education, training and interpretive**
12 **guidance, including advisory opinions, to employers to assist employers in complying with**
13 **laws that are enforced by the bureau.**

14 **SECTION 3. (1) As used in this section:**

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 (a) "Advisory opinion" has the meaning given that term in section 4 of this 2025 Act.

2 (b)(A) "Discussion communications" means:

3 (i) All communications, written and oral, that are made in the course of or in connection
4 with a discussion between an employer and the Employer Assistance Division of the Bureau
5 of Labor and Industries.

6 (ii) All memoranda, work products, documents and other materials that are prepared for
7 or submitted in the course of or in connection with a discussion between an employer and
8 the division.

9 (B) "Discussion communications" does not mean written or oral communications that
10 occur after an employer has requested an advisory opinion.

11 (c)(A) "Penalty" includes but is not limited to:

12 (i) A financial sanction imposed by the Bureau of Labor and Industries for a violation of
13 law and due and owing to the bureau or the State of Oregon; and

14 (ii) Civil penalties described in ORS 652.035, 652.100, 652.710, 652.900, 653.256, 653.261,
15 653.370, 653.432, 659A.370, 659A.390, 659A.419, 659A.550 and 659A.855.

16 (B) "Penalty" does not include moneys owing to an employee, including, but not limited
17 to:

18 (i) Wages described in ORS 652.150 or 653.055;

19 (ii) The civil penalty for issuing a dishonored check for payment of wages as described
20 in ORS 652.195;

21 (iii) Liquidated damages described under ORS 279C.855 or 653.258; or

22 (iv) The remedies described in ORS 659A.850.

23 (d) "Requesting employer" means an employer that requests assistance from the division.

24 (2) Discussion communications made under this section:

25 (a) Are not subject to disclosure under ORS 192.311 to 192.478.

26 (b) Except as provided in subsection (4) of this section, are not admissible as evidence in
27 any subsequent adjudicatory proceeding conducted by the bureau and may not be disclosed
28 in any subsequent adjudicatory proceeding conducted by the bureau.

29 (3) Unless otherwise required by law, the division may not disclose the identity of a re-
30 questing employer as a requesting employer to any other regulatory body or any other divi-
31 sion within the bureau.

32 (4)(a) The prohibitions against disclosure under subsection (2) or (3) of this section do
33 not apply to this subsection.

34 (b) Discussion communications may be disclosed and admitted as evidence in a subse-
35 quent adjudicatory proceeding conducted by the bureau when offered by the requesting em-
36 ployer who participated in the discussion to show that the employer acted in good faith and
37 in reliance on the communications.

38 (5)(a) Except as provided in paragraph (b) of this subsection, the bureau may not impose
39 a penalty on a requesting employer for any good faith action taken in reliance on discussion
40 communications in which the employer has participated. A requesting employer seeking ap-
41 plication of this paragraph bears the burden of proving that:

42 (A) The discussion communications applied the same law that was in effect at the time
43 that the employer took the good faith actions; and

44 (B) The discussion communications involved the same or substantially similar facts such
45 that it was reasonable for the employer to have relied on the discussion communications in

1 taking good faith actions.

2 (b) Paragraph (a) of this subsection does not apply if the bureau determines that the
3 requesting employer omitted or misstated material facts during the course of or in con-
4 nection with the discussion.

5 (6) The Bureau of Labor and Industries may adopt rules to implement and enforce this
6 section.

7 **SECTION 4.** (1) As used in this section and section 2 of this 2025 Act, “advisory
8 opinion” means written guidance:

9 (a) On the interpretation or application of a provision of law over which the Bureau of
10 Labor and Industries has enforcement authority to an actual or hypothetical circumstance.

11 (b) Concerning topics over which the bureau has enforcement authority and that the
12 Employer Assistance Division of the Bureau of Labor and Industries determines may be
13 beneficial to employers, employees and members of the public.

14 (2) The division may, upon the request of any person, or in its own discretion, issue and
15 publish, on a publicly accessible website operated by the bureau, written advisory opinions.
16 Advisory opinions issued by the division under this section must be published on the bureau’s
17 website as soon as is practicable following the issuance of the opinion.

18 (3) Advisory opinions issued and made publicly available under this section, and any re-
19 lated communications that occur after the employer has requested the advisory opinion, are:

20 (a) Not confidential;

21 (b) Subject to disclosure under ORS 192.311 to 192.478; and

22 (c) Admissible as evidence in any subsequent adjudicatory proceeding conducted by the
23 bureau.

24 (4) Unless an advisory opinion is revised or revoked, an administrative law judge of the
25 bureau shall consider whether an action that may be subject to penalty was taken in good
26 faith reliance on an advisory opinion issued under this section.

27
28 **MISCELLANEOUS PROVISIONS**

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30 **SECTION 5.** (1) Notwithstanding any provision of law governing the confidentiality or
31 disclosure of information, the Bureau of Labor and Industries may enter into an interagency
32 agreement with a state agency to receive from the state agency a business name, address,
33 electronic mail address, telephone number or state-generated common identification number
34 or the nature of a business or type of entity conducting the business.

35 (2) Public records or information described in subsection (1) of this section remain ex-
36 empt from disclosure under ORS 192.311 to 192.478 if the records or information are fur-
37 nished to the bureau in connection with the performance of duties under an interagency
38 agreement by the state agency that originally compiled, prepared or received the records or
39 information and if the considerations originally giving rise to the confidential or exempt na-
40 ture of the public records or information remain applicable.

41 (3) As used in this section, “state agency” has the meaning given that term in ORS
42 190.255.

43 **SECTION 6.** ORS 659A.840 is amended to read:

44 659A.840. (1) The Commissioner of the Bureau of Labor and Industries and any respondent
45 named in a complaint may enter into a settlement at any time after the filing of a complaint[. Upon

1 *issuing a finding of substantial evidence under ORS 659A.835,]* **and** the commissioner may take im-
2 mediate steps to settle the matter through conference, **mediation**, conciliation [*and persuasion*],
3 **persuasion or other alternative dispute resolution processes**, to eliminate the effects of the
4 unlawful practice and to otherwise carry out the purposes of this chapter.

5 (2) The terms of any settlement agreement entered into under this chapter must be contained
6 in a written settlement agreement signed by the complainant, the respondent and a representative
7 of the commissioner. Such agreement may include any or all terms and conditions that may be in-
8 cluded in a cease and desist order issued by the commissioner after a hearing under ORS 659A.850.

9 (3) A complainant may file a complaint with the commissioner at any time after a settlement
10 agreement has been entered into under this chapter to seek enforcement of the terms of the agree-
11 ment. A complaint under this subsection must be filed within one year after the act or omission al-
12 leged to be a violation of the terms of the agreement. The commissioner shall investigate and resolve
13 the complaint in the same manner as provided in this chapter for a complaint filed under ORS
14 659A.820.

15 (4) In addition to the remedy provided under subsection (3) of this section, a complainant may
16 seek to enforce a settlement agreement entered into under this chapter by writ of mandamus or a
17 civil action seeking injunctive relief or specific performance of the agreement.

18 (5) The commissioner shall enter an order based on the terms of a settlement agreement that is
19 signed by a representative of the commissioner and that is entered into after the issuance of formal
20 charges under ORS 659A.845. In addition to enforcement in the manner provided by subsection (3)
21 or (4) of this section, the order may be recorded in the County Clerk Lien Record in the manner
22 provided by ORS 205.125 and enforced in the manner provided by ORS 205.126.

23 (6) Nothing said or done in the course of settlement discussions concerning a complaint alleging
24 an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law
25 may be disclosed in any manner, including but not limited to disclosure under ORS 192.311 to
26 192.478, or be used as evidence in a subsequent proceeding under this chapter or under federal
27 housing law, without the written consent of the persons concerned.

28 **(7) All communications, oral or written, made during the course of or in connection with**
29 **settlement discussions held through the bureau's alternative dispute resolution process un-**
30 **der this section are confidential, are not subject to disclosure under ORS 192.311 to 192.478**
31 **and may not be disclosed or admitted as evidence in subsequent adjudicatory proceedings**
32 **except as allowed under ORS 36.222.**

33 **(8) A settlement agreement and the order based on the terms of the settlement agree-**
34 **ment:**

- 35 **(a) Are not subject to the provisions of subsection (6) or (7) of this section;**
- 36 **(b) Are subject to public disclosure under ORS 192.311 to 192.478; and**
- 37 **(c) May be admitted into evidence in any proceeding.**

38 **SECTION 7. (1) The Commissioner of the Bureau of Labor and Industries may enter into**
39 **a settlement with respect to any violation of a provision of law over which the Bureau of**
40 **Labor and Industries has jurisdiction. The commissioner may take steps to settle the matter**
41 **through conference, mediation, conciliation, persuasion or other alternative dispute resol-**
42 **ution processes, to otherwise carry out the duties of the commissioner.**

43 **(2) The terms of any settlement entered into under this section must be contained in a**
44 **written settlement agreement. The settlement agreement may include any or all terms and**
45 **conditions that may be included in a final order issued by the commissioner.**

1 (3) A party to a settlement agreement entered into under this section may seek to en-
2 force the agreement by writ of mandamus or a civil action seeking injunctive relief or spe-
3 cific performance of the agreement.

4 (4) The commissioner shall enter an order based on the terms of a settlement agreement
5 that is signed by a representative of the commissioner. In addition to enforcement in the
6 manner provided by subsection (3) of this section, the order may be recorded in the County
7 Clerk Lien Record in the manner provided by ORS 205.125 and enforced in the manner pro-
8 vided by ORS 205.126.

9 (5) All communications, oral or written, made during the course of or in connection with
10 settlement discussions held through the bureau's alternative dispute resolution process un-
11 der this section are confidential, are not subject to disclosure under ORS 192.311 to 192.478
12 and may not be disclosed or admitted as evidence in subsequent adjudicatory proceedings
13 except as allowed under ORS 36.222. A settlement agreement and the order based on the
14 terms of the settlement agreement:

15 (a) Are not subject to the provisions of this subsection;

16 (b) Are subject to public disclosure under ORS 192.311 to 192.478; and

17 (c) May be admitted into evidence in any proceeding.

18 (6) This section does not apply to complaints filed under ORS 659A.820 or 659A.825.

19 **SECTION 8.** ORS 659A.003 is amended to read:

20 659A.003. The purpose of this chapter is to encourage the fullest utilization of the available
21 workforce by removing arbitrary standards of race, color, religion, sex, sexual orientation, gender
22 identity, national origin, marital status, age or disability as a barrier to employment of the inhabit-
23 ants of this state, and to ensure the human dignity of all people within this state and protect their
24 health, safety and morals from the consequences of intergroup hostility, tensions and practices of
25 unlawful discrimination of any kind based on race, color, religion, sex, sexual orientation, gender
26 identity, national origin, marital status, age, disability or familial status. To accomplish this purpose,
27 the Legislative Assembly intends by this chapter to provide:

28 (1) A program of public education calculated to eliminate attitudes upon which practices of un-
29 lawful discrimination because of race, color, religion, sex, sexual orientation, gender identity, na-
30 tional origin, marital status, age, disability or familial status are based.

31 (2) An adequate remedy for persons aggrieved by certain acts of unlawful discrimination because
32 of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, dis-
33 ability or familial status, or unreasonable acts of discrimination in employment based upon age.

34 (3) An adequate administrative machinery for the orderly resolution of complaints of unlawful
35 discrimination through a procedure involving investigation[,] **and** conference, **mediation**, concil-
36 iation [*and persuasion*], **persuasion or other alternative dispute resolution processes**, to en-
37 courage the use in good faith of the machinery by all parties to a complaint of unlawful
38 discrimination and to discourage unilateral action that makes moot the outcome of final adminis-
39 trative or judicial determination on the merits of the complaint.

40 **SECTION 9.** ORS 659A.845 is amended to read:

41 659A.845. (1) If the Commissioner of the Bureau of Labor and Industries issues a finding of
42 substantial evidence under ORS 659A.835 and the matter cannot be settled through conference,
43 **mediation**, conciliation [*and persuasion*], **persuasion or other alternative dispute resolution**
44 **processes**, or if the commissioner determines that the interest of justice requires that a hearing be
45 held without first seeking settlement, the commissioner shall prepare formal charges. Formal

1 charges must contain all information required for a notice under ORS 183.415 and must specify the
2 allegations of the complaint to which the respondent will be required to make response. Formal
3 charges shall also set the time and place for hearing the formal charges.

4 (2)(a) The commissioner shall serve the formal charges on all respondents found to have engaged
5 in the unlawful practice.

6 (b) If the formal charges allege a violation of ORS 659A.145 or 659A.421 or discrimination under
7 federal housing law, the commissioner shall serve on the named respondents and complainants the
8 formal charges and a notice of the right of the respondents and complainants under ORS 659A.870
9 to opt for a court trial instead of a hearing under ORS 659A.850.

10 (3) The commissioner may not prepare formal charges alleging an unlawful practice under ORS
11 659A.145 or 659A.421 or discrimination under federal housing law after trial has begun in a civil
12 action that the complainant commenced under state or federal law and that seeks relief with respect
13 to that unlawful or discriminatory practice.

14 **SECTION 10.** ORS 659A.850 is amended to read:

15 659A.850. (1)(a) All proceedings before the Commissioner of the Bureau of Labor and Industries
16 under this section shall be conducted as contested case proceedings under the provisions of ORS
17 chapter 183. Except as provided in paragraph (b) of this subsection, the commissioner may appoint
18 a special tribunal or hearing officer to hear the matter. The commissioner may affirm, reverse,
19 modify or supplement the determinations, conclusions or order of any special tribunal or hearing
20 officer appointed under this subsection. The scheduling of a hearing under this section does not af-
21 fect the ability of the commissioner and any respondent to thereafter settle the matters alleged in
22 the complaint through conference, **mediation**, conciliation [*and persuasion*], **persuasion or other**
23 **alternative dispute resolution processes**.

24 (b) In a proceeding under this section alleging an unlawful practice under ORS 659A.145 or
25 659A.421 or discrimination under federal housing law:

26 (A) Only an employee of the Bureau of Labor and Industries may be a member of a special
27 tribunal or a hearing officer appointed to hear the matter.

28 (B) An aggrieved person may intervene as a party in the proceeding. The commissioner may
29 award prevailing party costs and reasonable attorney fees to a person who intervenes.

30 (2) After considering all the evidence, the commissioner shall cause to be issued findings of facts
31 and conclusions of law.

32 (3) The commissioner shall issue an order dismissing the formal charges against any respondent
33 not found to have engaged in any unlawful practice alleged in the complaint.

34 (4) After a hearing under this section, the commissioner shall issue an appropriate cease and
35 desist order against any respondent found to have engaged in any unlawful practice alleged in the
36 complaint. The order must be signed by the commissioner and must take into account the need to
37 supervise compliance with the terms of order. The order may require that the respondent:

38 (a) Perform an act or series of acts designated in the order that are reasonably calculated to:

39 (A) Carry out the purposes of this chapter;

40 (B) Eliminate the effects of the unlawful practice that the respondent is found to have engaged
41 in, including but not limited to paying an award of actual damages suffered by the complainant and
42 complying with injunctive or other equitable relief; and

43 (C) Protect the rights of the complainant and other persons similarly situated;

44 (b) Submit reports to the commissioner on the manner of compliance with other terms and con-
45 ditions specified in the commissioner's order, and take other action as may be required to ensure

1 compliance with the commissioner's order; and

2 (c) Refrain from any action specified in the order that would jeopardize the rights of the
3 complainant or other persons similarly situated, or that would otherwise frustrate the purposes of
4 this chapter.

5 (5) A cease and desist order issued under subsection (4) of this section may be recorded in the
6 County Clerk Lien Record in the manner provided by ORS 205.125 and enforced in the manner
7 provided by ORS 205.126. In addition to enforcement under ORS 205.126, the order may be enforced
8 by writ of mandamus or a civil action to compel specific performance of the order.

9 (6) The commissioner may charge a respondent on a cease and desist order the actual collection
10 fees charged to the bureau by any other governmental agency or any private collection agency as-
11 sisting in the collection of the judgment.

12 **SECTION 11. The unit captions used in this 2025 Act are provided only for the conven-**
13 **ience of the reader and do not become part of the statutory law of this state or express any**
14 **legislative intent in the enactment of this 2025 Act.**

15 **SECTION 12. This 2025 Act takes effect on the 91st day after the date on which the 2025**
16 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**

17