

Enrolled
House Bill 2248

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)

CHAPTER

AN ACT

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

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

EMPLOYER ASSISTANCE DIVISION

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

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

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

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

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

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

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

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

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

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

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

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

(i) Wages described in ORS 652.150 or 653.055;

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

(iii) Liquidated damages described under ORS 279C.855 or 653.258; or
(iv) The remedies described in ORS 659A.850.

(d) “Requesting employer” means an employer that requests assistance from the division.

(2) Discussion communications made under this section:

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

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

(3) Unless otherwise required by law, the division may not disclose the identity of a requesting employer as a requesting employer to any other regulatory body or any other division within the bureau.

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

(b) Discussion communications may be disclosed and admitted as evidence in a subsequent adjudicatory proceeding conducted by the bureau when offered by the requesting employer who participated in the discussion to show that the employer acted in good faith and in reliance on the communications.

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

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

(B) The discussion communications involved the same or substantially similar facts such that it was reasonable for the employer to have relied on the discussion communications in taking good faith actions.

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

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

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

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

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

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

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

(a) Not confidential;

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

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

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

MISCELLANEOUS PROVISIONS

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

(2) Public records or information described in subsection (1) of this section remain exempt from disclosure under ORS 192.311 to 192.478 if the records or information are furnished to the bureau in connection with the performance of duties under an interagency agreement by the state agency that originally compiled, prepared or received the records or information and if the considerations originally giving rise to the confidential or exempt nature of the public records or information remain applicable.

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

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

659A.840. (1) The Commissioner of the Bureau of Labor and Industries and any respondent named in a complaint may enter into a settlement at any time after the filing of a complaint[. *Upon issuing a finding of substantial evidence under ORS 659A.835,*] **and** the commissioner may take immediate steps to settle the matter through conference, **mediation**, conciliation [*and persuasion*], **persuasion or other alternative dispute resolution processes**, to eliminate the effects of the unlawful practice and to otherwise carry out the purposes of this chapter.

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

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

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

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

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

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

(8) A settlement agreement and the order based on the terms of the settlement agreement:

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

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

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

(3) A party to a settlement agreement entered into under this section may seek to enforce the agreement by writ of mandamus or a civil action seeking injunctive relief or specific performance of the agreement.

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

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

- (a) Are not subject to the provisions of this subsection;
 - (b) Are subject to public disclosure under ORS 192.311 to 192.478; and
 - (c) May be admitted into evidence in any proceeding.
- (6) This section does not apply to complaints filed under ORS 659A.820 or 659A.825.

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

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

(1) A program of public education calculated to eliminate attitudes upon which practices of unlawful discrimination because of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age, disability or familial status are based.

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

(3) An adequate administrative machinery for the orderly resolution of complaints of unlawful discrimination through a procedure involving investigation[,] **and** conference, **mediation**, conciliation [*and persuasion*], **persuasion or other alternative dispute resolution processes**, to encourage the use in good faith of the machinery by all parties to a complaint of unlawful discrimination and to discourage unilateral action that makes moot the outcome of final administrative or judicial determination on the merits of the complaint.

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

659A.845. (1) If the Commissioner of the Bureau of Labor and Industries issues a finding of substantial evidence under ORS 659A.835 and the matter cannot be settled through conference, **mediation**, conciliation [*and persuasion*], **persuasion or other alternative dispute resolution processes**, or if the commissioner determines that the interest of justice requires that a hearing be held without first seeking settlement, the commissioner shall prepare formal charges. Formal charges must contain all information required for a notice under ORS 183.415 and must specify the allegations of the complaint to which the respondent will be required to make response. Formal charges shall also set the time and place for hearing the formal charges.

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

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

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

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

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

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

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

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

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

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

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

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

(A) Carry out the purposes of this chapter;

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

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

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

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

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

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

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

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

Passed by House March 31, 2025

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Timothy G. Sekerak, Chief Clerk of House

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Julie Fahey, Speaker of House

Passed by Senate April 29, 2025

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Rob Wagner, President of Senate

Received by Governor:

.....M.,....., 2025

Approved:

.....M.,....., 2025

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2025

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Tobias Read, Secretary of State