

A-Engrossed
House Bill 2746

Ordered by the House April 3
Including House Amendments dated April 3

Sponsored by Representative NELSON, Senator JAMA; Senator PHAM K (Presession filed.)

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 regarding pay transparency. The Act takes effect 91 days after sine die. (Flesch Readability Score: 73.7).

Requires employers and employment agencies to include certain wage and benefit information in job postings for job, promotion and transfer opportunities. Requires employers to maintain certain employment records for each employee. **Directs the Commissioner of the Bureau of Labor and Industries to conduct proactive outreach and ongoing training to educate employers and employment agencies about the requirements.** Makes a violation an unlawful practice and permits the commissioner [*of the Bureau of Labor and Industries*] to assess civil penalties for a violation. [*Establishes circumstances under which the commissioner may dismiss a complaint about a violation.*] **Permits the commissioner to issue a letter of explanation or education to an employer or employment agency instead of a civil penalty for a first violation. Requires the remainder of sums collected as penalties, after application toward reimbursement of costs, to be paid into the State Treasury and credited to the General Fund.**

Makes it an unlawful employment practice for an employer or an employment agency to retaliate or discriminate against an employee for invoking or exercising certain rights.

Makes employment agencies subject to the prohibition against inquiries regarding salary history and past criminal convictions.

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

A BILL FOR AN ACT

1
2 Relating to disclosures of certain information concerning employment-related matters; creating new
3 provisions; amending ORS 659A.357 and 659A.360; and prescribing an effective date.

4 Whereas despite progress in countering pay inequity, unacceptable pay gaps persist in Oregon,
5 particularly for women, people of color, individuals with disabilities and LGBTQ+ workers; and

6 Whereas pay secrecy remains a key contributing factor to these disparities; and

7 Whereas the lack of transparency in employer pay practices perpetuates discriminatory hiring
8 and pay practices disproportionately harming workers who are women and people of color by paying
9 lower wages to these workers; and

10 Whereas the lack of transparency in salary decision-making processes deprives workers of in-
11 formation that is necessary to provide workers an opportunity to fairly negotiate salaries and con-
12 front discriminatory practices; and

13 Whereas the lack of transparent pay practices results in ambiguous information causing an
14 overreliance on an individual worker's pay history to serve as the primary consideration informing
15 salary negotiations rather than other factors that provide fair comparisons such as performance,
16 market rates and compensation information of other employees who perform substantially similar
17 work; and

18 Whereas it is in the public interest for employees to have trust and confidence that employers
19 are implementing equitable pay practices in compliance with federal and state law; and

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 Whereas pay transparency is an effective tool to promote pay equity by providing verifiable in-
2 formation that applicants and employees can use to determine whether employers are adhering to
3 equal pay practices; and

4 Whereas pay transparency promotes proactive employer review and evaluation of employer pay
5 practices which, in turn, may reveal potentially discriminatory pay practices of the employer; now,
6 therefore,

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

8 **SECTION 1. Sections 2 and 3 of this 2025 Act are added to and made a part of ORS**
9 **chapter 652.**

10 **SECTION 2. It is the purpose of section 3 of this 2025 Act to require employers and em-**
11 **ployment agencies to disclose information relating to wage ranges in hiring and employment**
12 **processes to:**

13 (1) **Safeguard against implicit and explicit biases that may exist in salary negotiations;**

14 (2) **Provide reassurance that employees are not discriminated against in payment of**
15 **compensation for a particular employment position;**

16 (3) **Reduce discriminatory wage-setting and hiring practices;**

17 (4) **Ensure equitable pay for employees in this state; and**

18 (5) **Allow job applicants and employees to base employment decisions on complete infor-**
19 **mation.**

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

21 (a) **“Employee” means an individual performing services for an employer for**
22 **remuneration or under any contract for hire, written or oral, express or implied.**

23 (b)(A) **“Employer” means any person employing one or more employees, including the**
24 **State of Oregon or any political subdivision thereof or any county, city, district, authority,**
25 **public corporation or entity and any of their instrumentalities organized and existing under**
26 **law or charter.**

27 (B) **“Employer” does not include the federal government.**

28 (c) **“Employment agency” has the meaning given that term in ORS 659A.001, except that**
29 **“employment agency” does not include the Employment Department.**

30 (d) **“Employment benefits” includes, but is not limited to, health benefits, paid time off,**
31 **retirement benefits and any other taxable benefits.**

32 (e)(A) **“Job posting” means any written solicitation intended to recruit applicants for an**
33 **employment, promotion or transfer opportunity.**

34 (B) **“Job posting” does not mean solicitations that exclude any reference to a specific**
35 **employment, promotion or transfer opportunity or to specific qualifications for desired ap-**
36 **plicants.**

37 (f) **“Wage range” means a range from the lowest to the highest salary or hourly wage**
38 **that an employer sets in good faith as compensation for a particular employment position**
39 **by referencing:**

40 (A) **A predetermined compensation schedule;**

41 (B) **A predetermined range of wages for the position;**

42 (C) **The actual range of wages paid to other employees who hold equivalent positions; or**

43 (D) **An allocated budget.**

44 (2) **An employer or an employment agency may not:**

45 (a) **Fail or refuse to disclose in any internal or external job posting for an employment,**

1 promotion or transfer opportunity the wage or wage range, a general description of the em-
2 ployment benefits and any other compensation associated with the employment, promotion
3 or transfer opportunity.

4 (b) If an employment, promotion or transfer opportunity has not been made available to
5 the applicant applying for the opportunity, fail or refuse to provide to an applicant who is
6 applying for the opportunity the wage or wage range, a general description of the employ-
7 ment benefits and any other compensation associated with the opportunity:

8 (A) Upon the request of the applicant; and

9 (B) Prior to extending an offer or engaging in any discussion regarding compensation.

10 (c) Fail or refuse to provide each employee with the current wage or wage range, a gen-
11 eral description of the employment benefits and any other compensation associated with the
12 same or equivalent employment positions held by other employees as follows:

13 (A) At the time of hire;

14 (B) Upon the transfer or promotion of the employee; and

15 (C) Once per calendar year, upon the request of the employee.

16 (3)(a) An employer shall keep and maintain records for each employee of the employer
17 that include information sufficient for an employer to comply with the disclosure require-
18 ments of this section, including but not limited to:

19 (A) The wage or wage range, a general description of the employment benefits and any
20 other compensation associated with each employment, promotion and transfer opportunity
21 made available by the employer.

22 (B) The wage rate history.

23 (b) An employer shall retain a record described in paragraph (a) of this subsection
24 throughout the duration of the employee's employment with the employer and for at least
25 two years following the date on which the employee ceases to be employed by the employer.

26 (4) This section applies to positions that will be performed or are able to be performed
27 in whole or in part in this state.

28 (5) In determining whether a wage range was set by an employer in good faith, a trier
29 of fact in administrative action brought under this section may consider, in addition to any
30 other relevant factors, the breadth of the wage range.

31 (6) An individual who alleges a violation of this section must file a complaint with the
32 Commissioner of the Bureau of Labor and Industries within one year of the occurrence of
33 the conduct that gave rise to the complaint.

34 (7)(a) In addition to any other relief provided by law, the commissioner may assess a civil
35 penalty against an employer or employment agency that violates subsection (2) or (3) of this
36 section as follows:

37 (A) \$1,000 for a first violation. In lieu of imposing a civil penalty for a first violation, the
38 commissioner may issue a letter of explanation or education to the employer or employment
39 agency.

40 (B) \$1,000 for a second violation.

41 (C) \$1,000 for a third and subsequent violation, except that the maximum civil penalty
42 amount may not exceed \$10,000 for any related series of violations occurring within one year
43 of the first violation.

44 (b) For purposes of assessing a violation under this subsection, a separate violation oc-
45 curs:

1 (A) After the employer or employment agency has been found to have violated this sec-
2 tion or section 5 of this 2025 Act; and

3 (B) With respect to each job posting that fails to comply with the requirements under
4 subsection (2) of this section.

5 (c) Any monetary civil penalty assessed under this subsection shall be imposed in the
6 manner provided by ORS 183.745.

7 (d) All sums collected as civil penalties under this section must first be applied toward
8 reimbursement of the costs incurred in determining the violations, conducting hearings and
9 assessing and collecting the penalty. The remainder, if any, of the sums collected as penalties
10 under this section must be paid into the State Treasury and credited to the General Fund
11 and are available for general governmental purposes.

12 (8) The commissioner shall conduct proactive outreach and ongoing training to educate
13 employers and employment agencies about the requirements of this section and section 5 of
14 this 2025 Act.

15 **SECTION 4.** Section 5 of this 2025 Act and ORS 659A.357 and 659A.360 are added to and
16 made a part of ORS chapter 659A.

17 **SECTION 5.** (1) It is an unlawful employment practice for an employer or an employment
18 agency to retaliate or in any way discriminate against an individual with respect to hire or
19 tenure or any other term or condition of employment because the individual has invoked
20 section 3 of this 2025 Act, exercised a right protected under section 3 of this 2025 Act or at-
21 tempted to do so.

22 (2) A person asserting a violation of subsection (1) of this section may file a complaint
23 with the Commissioner of the Bureau of Labor and Industries under ORS 659A.820.

24 (3) As used in this section, “employment agency” has the meaning given that term in
25 ORS 659A.001, except that “employment agency” does not include the Employment Depart-
26 ment.

27 **SECTION 6.** ORS 659A.357 is amended to read:

28 659A.357. (1) It is an unlawful practice under ORS chapter 659A for an employer [*or*], prospec-
29 tive employer **or employment agency** to seek the salary history of an applicant or employee from
30 the applicant or employee or a current or former employer of the applicant or employee. This sec-
31 tion is not intended to prevent an employer **or employment agency** from requesting from a pro-
32 spective employee written authorization to confirm prior compensation after the employer **or**
33 **employment agency** makes an offer of employment to the prospective employee that includes an
34 amount of compensation.

35 (2) As used in this section, “employment agency” has the meaning given that term in
36 ORS 659A.001.

37 **SECTION 7.** ORS 659A.360 is amended to read:

38 659A.360. (1) It is an unlawful practice for an employer **or employment agency** to exclude an
39 applicant from an initial interview solely because of a past criminal conviction.

40 (2) An employer **or employment agency** excludes an applicant from an initial interview if the
41 employer **or employment agency**:

42 (a) Requires an applicant to disclose on an employment application a criminal conviction;

43 (b) Requires an applicant to disclose, prior to an initial interview, a criminal conviction; or

44 (c) If no interview is conducted, requires an applicant to disclose, prior to making a conditional
45 offer of employment, a criminal conviction.

1 (3) Subject to subsections (1) and (2) of this section, nothing in this section prevents an employer
2 **or employment agency** from considering an applicant's conviction history when making a hiring
3 decision.

4 (4) Subsections (1) and (2) of this section do not apply:

5 (a) If federal, state or local law, including corresponding rules and regulations, requires the
6 consideration of an applicant's criminal history;

7 (b) To an employer that is a law enforcement agency;

8 (c) To an employer in the criminal justice system; [or]

9 (d) To an employer seeking a nonemployee volunteer[.]; **or**

10 (e) **To an employment agency that undertakes to procure employees for an employer de-**
11 **scribed in paragraph (b), (c) or (d) of this subsection.**

12 (5) As used in this section, "employment agency" has the meaning given that term in
13 **ORS 659A.001.**

14 **SECTION 8. (1) Sections 3 and 5 of this 2025 Act and the amendments to ORS 659A.357**
15 **and 659A.360 by sections 6 and 7 of this 2025 Act become operative on January 1, 2026.**

16 (2) **The Commissioner of the Bureau of Labor and Industries may adopt rules and take**
17 **any other action before the operative date specified in subsection (1) of this section that is**
18 **necessary to enable the commissioner, on and after the operative date specified in subsection**
19 **(1) of this section, to undertake and exercise all of the duties, functions and powers con-**
20 **ferred on the commissioner under sections 3 and 5 of this 2025 Act.**

21 **SECTION 9. Section 3 of this 2025 Act does not require an employer to keep and maintain**
22 **records that were created before the operative date specified in section 8 of this 2025 Act and**
23 **that are no longer available on the operative date specified in section 8 of this 2025 Act.**

24 **SECTION 10. This 2025 Act takes effect on the 91st day after the date on which the 2025**
25 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**

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