

## **HB 4093 -1 STAFF MEASURE SUMMARY**

### **House Committee On Labor and Workforce Development**

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**Sub-Referral To:** Joint Committee On Ways and Means

**Meeting Dates:** 2/2, 2/11

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#### **WHAT THE MEASURE DOES:**

The measure establishes new laws and protections for people with disabilities.

##### **Detailed Summary:**

###### **Section 2**

Requires the Bureau of Labor and Industries (BOLI) to create guidance and informational materials to assist employers in complying with the laws regarding reasonable accommodation. BOLI must make the materials available on their website.

###### **Section 3**

Employers are prohibited from using minimum physical requirements in a job posting to screen out individuals with disabilities without connecting how the physical requirements are essential functions of the job.

###### **Section 4**

Employers are prohibited from denying a request by a represented employee to have an authorized representative from the labor organization accompany the employee in any discussion over matters concerning reasonable accommodation. Defines “authorized representative.”

###### **Section 5**

Extends prohibition against discrimination in government services, programs and activities to local governments.

Fiscal impact: *May have fiscal impact, but statement not yet issued*

Revenue impact: *May have revenue impact, but statement not yet issued*

#### **ISSUES DISCUSSED:**

- Experience of people with disabilities in work environments
- Reasonable accommodations
- Local government compliance with disability laws
- Information included in job posting
- Third-party participation in the interactive process

#### **EFFECT OF AMENDMENT:**

-1 The amendment clarifies prohibition against using minimum physical requirements in a job posting by removing language “to screen out individuals with disabilities.” It permits an employee to have a support person accompany them in any discussion over matters related to reasonable accommodation. The amendment stipulates that support person will not disrupt or inhibit discussions and agrees, in writing if employers requires it, to comply with confidentiality requirements related to the employee’s health information.

Fiscal impact: *May have fiscal impact, but statement not yet issued*

Revenue impact: No revenue impact

#### **BACKGROUND:**

Federal and state laws protect individuals with disabilities from discrimination in the terms, conditions, or privileges of employment. These protections include the federal Americans with Disabilities Act (ADA) and Oregon's disability law, ORS 659A.112. Under ORS 659A.112, it is an unlawful employment practice for an employer to refuse to hire, employ, or promote; to bar or discharge from employment; or to discriminate in compensation or in the terms, conditions, or privileges of employment on the basis of disability.

ORS 659A.112 applies to employers with six or more employees and prohibits them from engaging in the following practices:

- Limiting, segregating, or classifying a job applicant or employee in a manner that adversely affects employment opportunities or status because of a disability.
- Participating in a contractual or other arrangement or relationship that results in discrimination against a qualified applicant or employee with a disability.
- Using standards, criteria, or methods of administration that have the effect of discriminating on the basis of disability or that perpetuate the discrimination of others subject to common administrative control.
- Excluding or denying equal jobs or benefits to a qualified individual because of a known relationship or association with an individual with a disability.
- Failing to provide reasonable accommodation for the known physical or mental limitations of a qualified job applicant or employee with a disability, unless doing so would impose an undue hardship on the employer's business operations.
- Denying employment opportunities to an applicant or employee with a disability based on the need to provide reasonable accommodation.
- Using qualification standards, employment tests, or other selection criteria that screen out or tend to screen out individuals with disabilities, unless such standards or criteria are job-related and consistent with business necessity.

A reasonable accommodation is a modification or adjustment that enables a person with a disability to apply for a job, perform the essential functions of a position, or enjoy the same benefits and privileges of employment as other employees. When an applicant or employee requests a reasonable accommodation, the employer is required to engage in a meaningful interactive process to determine whether a reasonable accommodation would allow the individual to perform the essential functions of the position. This interactive process is a mandatory component of the reasonable accommodation obligation.