

House Bill 2976

Sponsored by COMMITTEE ON BUSINESS AND LABOR (at the request of Northwest Workers' Justice Project)

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 **as introduced**.

Regulates entity that procures employment for others as employment agency when entity's services are paid for by anyone other than job applicant. Increases amount of bond or other security employment agency must maintain. Prohibits employment agencies from charging applicants for certain items or services and from taking certain actions against applicants.

Prohibits employers from discriminating in compensation against part-time employees and employees in contingent jobs. Provides exception. Prohibits person from entering into contract for labor or services with certain contractors when person knows or should know that contract does not include sufficient funds to allow contractor to comply with laws governing labor or services to be provided.

Requires employment agencies to register with Commissioner of Bureau of Labor and Industries. Requires employer to provide information about work, employer, wages and deductions and to provide certain special attire, accessories, tools or safety equipment to day laborers. Prohibits employers from retaliating or taking certain other actions against workers. Authorizes imposition of penalty for violation.

Requires commissioner to adopt rules to implement and enforce law. Authorizes commissioner to assess civil penalties and to deny, suspend or revoke registration of employment agency.

Creates cause of action for violations.

A BILL FOR AN ACT

1
2 Relating to regulation of employment; creating new provisions; and amending ORS 658.005, 658.075
3 and 658.210.

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

5 **SECTION 1.** ORS 658.005 is amended to read:

6 658.005. As used in ORS 658.005 to 658.245, unless the context requires otherwise:

7 (1) "Applicant for employment" or "applicant" means an individual who is seeking or who has
8 obtained employment through the services of an employment agency.

9 (2) "**Casual employment**" means work scheduled on an occasional or intermittent basis,
10 without a regular schedule.

11 [(2)] (3) "Charge for services" means any money or other consideration paid or promised to be
12 paid by an applicant for employment for services rendered by an employment agency.

13 (4) "**Client**" means a person that receives services or functions by contract with an em-
14 ployment agency or other person.

15 (5) "**Client employer**" means a client that is an employer or joint employer of workers
16 provided, referred or facilitated by an employment agency.

17 (6) "**Client work site**" means a place of work owned, operated or controlled by a client
18 employer.

19 [(3)] (7) "Commissioner" means the Commissioner of the Bureau of Labor and Industries.

20 (8) "**Contingent employment**" means a job in which an individual does not have an explicit
21 or implicit contract for long-term, full-time employment, including casual employment, con-
22 tractor employment, day labor, home-based employment, leased employment, on-call em-

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 **ployment, part-time employment, seasonal employment, temporary agency employment or**
 2 **temporary direct-hire employment.**

3 **(9) “Contractor employment” means employment in which a worker is employed by a**
 4 **person that has contracted with a client to provide services to the client.**

5 **(10) “Cost of health benefits” means the total cost of health insurance premiums and**
 6 **out-of-pocket health care expenses.**

7 **(11) “Day labor” includes labor or employment that is occasional or irregular, in which**
 8 **an individual is employed for not longer than the period of time required to complete the**
 9 **assignment for which the individual is hired, or that is for a period of one week or less. “Day**
 10 **labor” does not include labor or employment of a professional nature.**

11 **(12) “Day labor employer” includes:**

12 **(a) Any person that directly or indirectly through an agent, day labor service agency or**
 13 **other person acting in the day labor employer’s interests, suffers or permits a day laborer**
 14 **to work or otherwise exercises control over the wages, hours or working conditions of a day**
 15 **laborer;**

16 **(b) A day labor service agency; and**

17 **(c) A client employer of day laborers.**

18 **(13) “Day labor service agency” includes any person that recruits, dispatches or other-**
 19 **wise facilitates the employment of day laborers for a client. “Day labor service agency” does**
 20 **not include a nonprofit organization described in section 501(c)(3) of the Internal Revenue**
 21 **Code.**

22 **(14) “Day laborer” means an individual solicited or employed to engage in day labor.**

23 **(15)(a) “Employ” includes to suffer or permit to work.**

24 **(b) “Employ” does not include:**

25 **(A) Voluntary or donated services performed for no compensation or without expectation**
 26 **or contemplation of compensation for services provided to a public body, as defined in ORS**
 27 **174.109, or to a religious, charitable, educational, public service or similar nonprofit corpo-**
 28 **ration, organization or institution for community service, religious or humanitarian reasons;**
 29 **and**

30 **(B) Services performed by general or public assistance recipients as part of a work**
 31 **training program administered under state or federal assistance laws.**

32 **(16) ‘Employee’ means an individual employed by an employer in this state. An individual**
 33 **who performs services that are an integral part of the business of another person for**
 34 **remuneration is presumed to be an employee unless the individual who performs the services**
 35 **for another person is customarily engaged in an independently established business of the**
 36 **same nature as the business of the person for whom the services are performed.**

37 **(17)(a) “Employer” means:**

38 **(A) Any person, including a public body as defined in ORS 174.109,that employs an indi-**
 39 **vidual and any other person acting directly or indirectly in the interests of an employer in**
 40 **relation to an employee; and**

41 **(B) To the extent that an employer has not paid employees in full, any successor to the**
 42 **business of the employer or a purchaser of the employer’s property for the continuance of**
 43 **the same business.**

44 **(b) “Employer” does not include the United States Government.**

45 **[(4)(a)] (18)(a) “Employment agency” or “agency” means a business, service, bureau or club op-**

1 erated by a person, firm, organization, limited liability company or corporation engaged in procuring
 2 for a fee, employment for others [and] or employees for employers.

3 (b) "Employment agency" or "agency" does not [include] **mean**:

4 (A) A nursing school, business school or career school that does not charge a fee for placement.

5 (B) [Any] **A** business, person, service, bureau, organization or club that by advertisement or
 6 otherwise offers as its main object or purpose to counsel, teach or prepare individuals to obtain
 7 employment, and [which] **that** charges for its services, whether in the form of dues, tuition, mem-
 8 bership fees, registration fees or any other valuable service.

9 [(C) *Any business, service, bureau or club operated by a person engaged in procuring employment*
 10 *for others when the charges for services are paid, directly or indirectly, by anyone other than the ap-*
 11 *plicant for employment.*]

12 [(D)] (C) An employment listing service, as defined in ORS 658.250.

13 **(19) "Full-time employment" means a job with regularly scheduled work of more than 32**
 14 **hours per week or more than 64 hours in a two-week period.**

15 **(20) "Home-based employment" means employment in which an individual produces goods**
 16 **or delivers services in or about a home, apartment, tenement or room in a residential es-**
 17 **tablishment for an employer that suffers or permits the production or service delivery, re-**
 18 **gardless of the source, whether obtained from an employer or elsewhere, of the materials**
 19 **used by the individual in the production.**

20 **(21) "Joint employer" includes a contractor and a client that are in a relationship in**
 21 **which the employees of the contractor perform work that is an integral component of the**
 22 **client's enterprise and in which one or more of the following exists:**

23 **(a) The contractor's employees are required to follow the client's instructions concerning**
 24 **the specifics of how and when the services are to be performed;**

25 **(b) The contractor's employees perform the services on a regular basis on premises**
 26 **owned or managed by the client; or**

27 **(c) The capital goods used by the contractor's employees in performing the services in**
 28 **question are provided, or substantially financed, directly or indirectly by the client.**

29 **(22) "Knows" includes the knowledge, arising from familiarity with the normal facts and**
 30 **circumstances of the business activity engaged in, that a contract or agreement does not**
 31 **include funds sufficient to allow the contractor to comply with applicable laws.**

32 **(23) "Leased employment" means employment in which an individual performs services**
 33 **for a client through a leasing organization pursuant to an agreement between the client and**
 34 **the leasing organization.**

35 **(24) "On-call employment" means employment in which a worker reports to work only**
 36 **when asked by the worker's employer to do so and the worker does not have a regular**
 37 **schedule.**

38 **(25) "Part-time employment" means regularly scheduled work that is less than the full-**
 39 **time work schedule customary for the individual's occupation.**

40 **(26) "Seasonal employment" means employment that regularly provides no work for at**
 41 **least 90 days during a year.**

42 **(27) "Should know" includes the knowledge of any additional facts or information that**
 43 **would make a reasonably prudent person inquire as to whether a contract or agreement**
 44 **contains sufficient funds to allow the contractor to comply with applicable laws.**

45 **(28) "Temporary agency employment" means work performed by an individual who is**

1 hired and remunerated by an employment agency that provides the individual to a client,
 2 where there is no implicit or explicit contract for long-term employment.

3 (29) "Temporary direct-hire employment" means work performed by an individual who is
 4 hired and remunerated by the person for whom the individual provides services, where there
 5 is no implicit or explicit contract for long-term employment or there is an established em-
 6 ployment period of one year or less.

7 (30) "Wages" means all compensation for performance of service by an employee for an
 8 employer, including penalty wages owed under ORS 652.150, whether paid by the employer
 9 or another person, payable in legal tender of the United States or check on banks convertible
 10 into cash on demand at full face value, subject to deductions, charges or allowances permit-
 11 ted in ORS 653.035.

12 **SECTION 2.** ORS 658.075 is amended to read:

13 658.075. (1) Each employment agency shall maintain a corporate surety bond or irrevocable let-
 14 ter of credit issued by an insured institution as defined in ORS 706.008 of [\$5,000] **\$20,000**, payable
 15 to the people of the State of Oregon, conditioned that the employment agency will comply with ORS
 16 658.005 to 658.245 and will pay:

17 (a) All sums legally owing to any person when the employment agency or its agents have re-
 18 ceived such sums;

19 (b) All damages occasioned to any person by reason of any willful misrepresentation, fraud,
 20 deceit or other unlawful act or omission by the employment agency, or its agents or employees
 21 acting within the scope of their employment; and

22 (c) All sums legally owing to any employee of the employment agency.

23 (2) For the purposes of this section, each general partner shall furnish the required bond or
 24 letter of credit. When an employment agency is operated by a limited liability company or corpo-
 25 ration, the bond or letter of credit shall be in the name of the limited liability company or corpo-
 26 ration.

27 **SECTION 3.** Sections 4 to 15 of this 2013 Act are added to and made a part of ORS 658.005
 28 to 658.245.

29 **SECTION 4.** (1) An employment agency may not, directly or indirectly, charge for any
 30 special attire, accessories, tools, safety equipment or other items required by law or custom
 31 to perform the work assignment. For any other attire, accessories, tools, safety equipment
 32 or items the employment agency makes available for purchase, the employment agency may
 33 not charge the applicant more than the actual cost or reasonable market value, whichever
 34 is less, for the item.

35 (2) An employment agency may not:

36 (a) Charge an applicant for transportation to and from a work site or between work sites;
 37 or

38 (b) Directly or indirectly charge an applicant for cashing a pay-check.

39 (3) An employment agency may not restrict the right of an applicant to accept permanent
 40 employment with a client employer to whom the applicant has been referred for temporary
 41 work or restrict the right of a client employer to offer permanent employment to the appli-
 42 cant. The employment agency may not charge an applicant a fee or fine for accepting an
 43 offer of permanent employment from a client employer or charge a client employer additional
 44 amounts for offering permanent employment to an applicant, except as otherwise provided
 45 in ORS 658.005 to 658.245.

1 **SECTION 5.** (1) An employment agency shall register as an employment agency with the
 2 Commissioner of the Bureau of Labor and Industries in accordance with rules adopted by the
 3 commissioner.

4 (2) The commissioner shall establish by rule an annual employment agency registration
 5 fee sufficient to cover the costs incurred by the Bureau of Labor and Industries in adminis-
 6 tering ORS 658.005 to 658.245. All fees received pursuant to this section shall be credited to
 7 the Bureau of Labor and Industries Account established under ORS 651.160 and may be used
 8 only for the administration of ORS 658.005 to 658.245.

9 (3) The commissioner may deny, suspend or revoke the registration of an employment
 10 agency if warranted by public health and safety concerns or any violation of ORS 658.005 to
 11 658.245 or of any rule adopted under ORS 658.005 to 658.245.

12 (4) In addition to any other penalty provided by law, the commissioner may assess a civil
 13 penalty for each violation by an employment agency that fails to register as required by this
 14 section. The civil penalty is \$2,000 for the first violation and \$5,000 for the second and any
 15 subsequent violations.

16 **SECTION 6.** (1) A day labor service agency is an employment agency, unless the day labor
 17 service agency acts only as a farm labor contractor and is licensed under ORS 658.405 to
 18 658.503.

19 (2) A day labor service agency offering to refer day laborers to work shall post in the
 20 public reception area of the day labor service agency a notice to inform the public of em-
 21 ployment rights of day laborers and a toll-free telephone number for filing complaints with
 22 the Commissioner of the Bureau of Labor and Industries about wage disputes and alleged
 23 violations of ORS 658.005 to 658.245 by a day labor employer. The commissioner shall publish
 24 a form of notice to be used by day labor service agencies to meet this requirement.

25 (3) The written description of terms and conditions of the work required by section 7 of
 26 this 2013 Act must, in the case of a day labor employer or a day labor service agency, include:

27 (a) A description of the work to be performed and any requirements for special attire,
 28 accessories, tools, safety equipment or other items required by law or custom to perform the
 29 work assignment.

30 (b) The exact address of the work site and a telephone number at which a day laborer
 31 can be reached for emergency purposes. If the location is in a rural area, the written de-
 32 scription of the work must contain directions to the work site.

33 (c) The time of day the work will begin and the approximate time of day the work will
 34 end.

35 (d) Whether a meal will be provided, either by the day labor service agency or the client
 36 employer, and the cost of the meal, if any, that would be charged to the day laborer.

37 (e) A telephone number and business address of the client employer requesting the day
 38 laborer through the day labor service agency.

39 (4) The postings and the written description of the work required by subsections (2) and
 40 (3) of this section shall be written in English and any other language used by the day labor
 41 employer to communicate with the worker.

42 (5) A day labor employer shall pay a day laborer not less than the prevailing wage rate
 43 paid to permanent employees performing substantially equivalent work, with due consider-
 44 ation given to seniority, experience and skills.

45 (6) When a day labor employer and a day laborer have agreed upon a wage rate, the day

1 labor employer may not reduce the agreed upon wage rate during the term of the employ-
2 ment.

3 (7) A day labor employer shall provide, at no cost to a day laborer, any special attire,
4 accessories, tools, safety equipment or other items required by law or custom to perform the
5 work assignment. For any other attire, accessories, tools, safety equipment or other items
6 the day labor employer makes available for purchase, the day labor employer may not charge
7 the day laborer more than the actual cost or reasonable market value, whichever is less, for
8 the item. If a day laborer willfully fails to return an item provided by the day labor employer,
9 the day labor employer may charge the day laborer for the market value of the item.

10 (8) If a day labor employer fails to appear at a designated time and location after re-
11 questing a day laborer's services, the day labor employer shall compensate the day laborer
12 for four hours of work at the offered or regular rate of pay.

13 (9) Unless the day laborer requests otherwise, when a day laborer has been transported
14 to a work site, the day labor employer shall provide transportation back to the point of hire
15 at the end of each work day.

16 (10) A day labor employer may not:

17 (a) Charge a day laborer for transportation to and from a work site or between work
18 sites.

19 (b) Directly or indirectly charge a day laborer for cashing a paycheck.

20 (c) Send a day laborer to a workplace where a strike, a lockout or other labor trouble
21 exists.

22 (11) Any agreement between a day laborer and a day labor employer to waive any rights
23 or responsibilities under this section is void and unenforceable as violative of public policy.

24 (12) When a day labor employer has not complied with any notification or record keeping
25 provisions required under this section or rules adopted under this section, there is a
26 rebuttable presumption that any reasonable factual presentation by the day laborer and
27 reasonable inferences that can be drawn therefrom are accurate. This presumption may be
28 rebutted only by clear and convincing evidence.

29 (13) A day labor employer may not discharge, retaliate against or in any other manner
30 discriminate against a day laborer or day labor employee because the day laborer or day la-
31 bor employee:

32 (a) Has complained that the day labor employer has violated any provision of this section.

33 (b) Has discussed, inquired or consulted with an attorney, a state or federal agency, a
34 collective bargaining representative, a worker advocacy organization or a coworker con-
35 cerning rights granted under this section.

36 (c) Has made a statement at or in contemplation of a hearing, grievance or arbitration
37 or to the press in support of a claim or that the provisions of this section or any rule related
38 to this section have been violated.

39 (d) Has caused to be instituted any proceeding under or related to this section.

40 (e) Has testified, is about to testify or has prepared to testify in any proceeding or has
41 participated in an investigation of a claim under or related to this section.

42 (f) Has assisted another employee to make a claim or has opposed any action that is
43 reasonably believed to be a violation of this section.

44 (g) Is believed by the day labor employer to have engaged in any of the actions described
45 in this subsection.

1 **SECTION 7.** (1) At the time of referral for employment or hiring, whichever is first, an
 2 employment agency that refers workers to perform contingent employment in this state or
 3 an employer of anyone in this state who performs contingent employment must provide to
 4 the employee a written statement setting forth the terms and conditions of the employee's
 5 employment, including any specific details required by rule by the Commissioner of the Bu-
 6 reau of Labor and Industries.

7 (2) The statement of terms and conditions of employment required by this section shall:

8 (a) Be provided to the employee prior to the time the employee commences employment
 9 and at least annually thereafter; and

10 (b) Be in English and in the principal language of the person recruited or hired.

11 (3) Except as otherwise provided in ORS 658.005 to 658.245, an employer may modify the
 12 terms and conditions of employment disclosed to an employee under this section to the ex-
 13 tent permitted by other federal, state and local laws. If an employer modifies the terms and
 14 conditions of employment, the employer must provide a statement of the new terms and
 15 conditions to the employee prior to the effective date of the modification.

16 (4) The rights or obligations established under this section may not be waived by the
 17 employer or the employee.

18 (5) There is hereby created a private cause of action for a violation of this section.

19 (6) Upon finding a violation of this section, the court shall award to the employee:

20 (a) Actual damages, including, but not limited to, lost wages and benefits plus interest;

21 (b) Statutory damages of \$50 per day for each working day that violations occurred or
 22 continue to occur;

23 (c) Reasonable attorney fees and costs; and

24 (d) Other appropriate relief, including injunctive and declaratory relief, that the com-
 25 missioner or the court deems necessary or appropriate.

26 **SECTION 8.** (1) All employment agencies that pay wages and all employers of employees
 27 in this state who perform contingent employment shall provide to the employee whenever
 28 wages are paid a written statement sufficiently itemized to show:

29 (a) The dates of work covered by that payment of wages;

30 (b) The name of the employee;

31 (c) The name of the employer;

32 (d) The address and telephone number of the employer;

33 (e) The rate or rates of pay;

34 (f) Whether paid by the hour, shift, day or week or on a salary, piece or commission
 35 basis;

36 (g) Gross wages;

37 (h) The amount and purpose of the deductions made during the respective period of ser-
 38 vice that the payment covers;

39 (i) Allowances, if any claimed as part of minimum wage;

40 (j) Net wages, unless the employee is paid on a salary basis and is exempt from overtime
 41 compensation as established by local, state or federal law, the regular hourly rate or rates
 42 of pay, the overtime rate or rates of pay, the number of regular hours worked and pay for
 43 those hours, and the number of overtime hours worked and pay for those hours; and

44 (k) If the employee is paid a piece rate, the applicable piece rate or rates of pay, the
 45 number of pieces completed at each piece rate and the total pay for each rate.

1 (2) The itemized statement shall be furnished to the employee at the time payment of
2 wages, salary or commission is made, and may be attached to or be a part of the check,
3 draft, voucher or other instrument by which payment is made, or may be delivered sepa-
4 rately from the instrument.

5 (3) The rights or obligations established under this section may not be waived by the
6 employer or employee.

7 (4) There is hereby created a private cause of action for violation of this section.

8 (5) Upon finding a violation of this section, the court shall award to the employee:

9 (a) Actual damages or \$200, whichever is greater, for each violation;

10 (b) Reasonable attorney fees and costs; and

11 (c) Other appropriate relief, including injunctive and declaratory relief, that the court
12 deems necessary or appropriate.

13 (6)(a) In addition to any other penalty provided by law, the commissioner may assess a
14 civil penalty not to exceed \$1,000 against any person who violates this section or any rule
15 adopted under this section.

16 (b) Civil penalties under this subsection shall be imposed as provided in ORS 183.745.

17 (c) All sums collected as penalties under this subsection shall be applied first toward re-
18 imbursement of costs incurred in determining the violations, conducting hearings under this
19 subsection and addressing and collecting penalties. The remainder, if any, of the sums col-
20 lected as penalties under this subsection shall be paid into the State Treasury and credited
21 to the General Fund and is available for general governmental expenses.

22 **SECTION 9.** (1) An employer, including joint employers of employees at a client work
23 site, may not discriminate in any way in the compensation paid to full-time employees and
24 compensation paid to employees employed in contingent employment. However, variations in
25 compensation are not prohibited when the variations are based on differences in job duties.

26 (2) For the purpose of determining the compensation paid to full-time employees that
27 will be used to determine whether the employer is discriminating against contingent em-
28 ployees, full-time compensation is the gross hourly wages of similarly situated full-time em-
29 ployees, plus a 30 percent surcharge. The surcharge is deemed to be paid to the contingent
30 employee if the surcharge is included directly in wages or is offered as part of the cost of
31 health benefits and welfare and retirement benefits.

32 (3) Nothing in subsections (1) and (2) of this section may be construed to diminish or
33 otherwise affect the requirements, guarantees or protections under any bargaining agree-
34 ment, company policy or state or federal law that provides for greater or additional benefits
35 than those required under this section.

36 **SECTION 10.** (1) A person may not enter into a contract or agreement with a con-
37 struction, day labor, farm labor, janitorial or security guard contractor for labor or services
38 provided by workers in contingent employment if the person knows or should know that the
39 contract or agreement does not include funds sufficient to allow the contractor to comply
40 with all applicable local, state and federal laws, rules or regulations governing the labor or
41 services to be provided.

42 (2) The person shall request any information from the contractor that is reasonably
43 necessary to determine whether the contract or agreement between the person and the
44 contractor includes funds sufficient to allow the contractor to comply with all applicable lo-
45 cal, state and federal laws, rules or regulations governing the labor or services to be provided

1 under the contract or agreement. A person is presumed to know the information described
 2 in this section, and a failure to request the information from the contractor is no defense.

3 (3) This section does not apply to:

4 (a) A person that executes a collective bargaining agreement covering the workers em-
 5 ployed under the contract or agreement; or

6 (b) A person that enters into a contract or agreement for labor or services to be per-
 7 formed on the person's home residence if a family member of the person resides for at least
 8 a part of the year in the residence.

9 (4) A person that violates this section is jointly and severally liable with the contractor
 10 to the Commissioner of the Bureau of Labor and Industries or any worker of the contractor
 11 who is aggrieved by the contractor's violation.

12 (5) The commissioner or any worker aggrieved by a violation of this section may file a
 13 civil action for damages to recover the greater of the worker's actual damages or \$250 per
 14 worker per violation for an initial violation or \$1,000 per worker for each subsequent vio-
 15 lation. If the commissioner or aggrieved worker prevails, the court shall award the com-
 16 missioner or worker reasonable attorney fees and costs. An action under this subsection
 17 may not be maintained unless the commissioner or worker pleads and proves that the
 18 worker was damaged as a result of a violation of an applicable local, state or federal law, rule
 19 or regulation governing the labor or services provided under the contract or agreement.

20 (6) The commissioner or worker aggrieved by a violation of this section may also bring
 21 an action for injunctive relief and, upon prevailing, may recover reasonable attorney fees and
 22 costs.

23 **SECTION 11.** Any agreement between an applicant and an employment agency to waive
 24 rights and responsibilities under ORS 658.005 to 658.245 or any rule adopted under ORS
 25 658.005 to 658.245 is void and unenforceable as violative of public policy.

26 **SECTION 12.** If an employment agency has not complied with a notification or record
 27 keeping provision required under ORS 658.005 to 658.245 or any rule adopted under ORS
 28 658.005 to 658.245, there is a rebuttable presumption that any reasonable factual presentation
 29 by the applicant and reasonable inferences that can be drawn therefrom are accurate. This
 30 presumption may be rebutted only by clear and convincing evidence.

31 **SECTION 13.** An employment agency may not discharge, retaliate against or in any other
 32 manner discriminate against an applicant or employee because the applicant or employee:

33 (1) Has complained concerning rights granted under ORS 658.005 to 658.245.

34 (2) Has discussed, inquired or consulted with an attorney, a state or federal agency, a
 35 collective bargaining representative, a worker advocacy organization or a coworker con-
 36 cerning rights granted under ORS 658.005 to 658.245.

37 (3) Has made a statement at or in contemplation of a hearing, grievance or arbitration
 38 proceeding or to the press in support of a claim or that provisions of ORS 658.005 to 658.245
 39 or any rule related to ORS 658.005 to 658.245 have been violated.

40 (4) Has caused to be instituted any proceeding under or related to ORS 658.005 to 658.245.

41 (5) Has testified, is about to testify or has prepared to testify in any proceeding or has
 42 participated in an investigation of a claim under or related to ORS 658.005 to 658.245.

43 (6) Has assisted another applicant or employee to make a claim or has opposed any action
 44 that is reasonably believed to be a violation of ORS 658.005 to 658.245.

45 (7) Is believed by the employment agency to have engaged in any of the actions described

1 in this subsection.

2 **SECTION 14.** Except as provided in section 10 of this 2013 Act, any individual aggrieved
3 by a violation of ORS 658.005 to 658.245, or any rule adopted under ORS 658.005 to 658.245,
4 may file a civil action in circuit court for damages and injunctive relief or as otherwise
5 provided by statute. The filing of a complaint with the Commissioner of the Bureau of Labor
6 and Industries is not a condition precedent to the filing of a civil action or any other proce-
7 dure as provided by statute. The civil action must be brought within three years after the
8 last date of employment with the employer. An action may be brought by one or more indi-
9 viduals for and on behalf of themselves and other individuals similarly situated. In addition
10 to injunctive relief, the commissioner or any individual whose rights have been violated un-
11 der ORS 658.005 to 658.245, or any rule adopted under ORS 658.005 to 658.245, is entitled to
12 collect:

13 (1) Damages incurred, including treble damages for any loss of wages and other benefits,
14 or an amount of \$1,000 for each violation, whichever is greater;

15 (2) In the case of unlawful retaliation, all legal or equitable relief that may be appropri-
16 ate; and

17 (3) Attorney fees and costs.

18 **SECTION 15.** The Commissioner of the Bureau of Labor and Industries shall promptly
19 investigate any complaint filed with the commissioner that alleges a violation of ORS 658.005
20 to 658.245 or any rule adopted under ORS 658.005 to 658.245.

21 **SECTION 16.** ORS 658.210 is amended to read:

22 658.210. The Commissioner of the Bureau of Labor and Industries [*may*] **shall:**

23 (1) Adopt rules reasonably necessary for the administration of ORS 658.005 to 658.245, **including**
24 **rules for hearings and the assessment of civil penalties for violations of ORS 658.005 to**
25 **658.245; and**

26 (2) **Provide information to employment agencies and day labor employers concerning**
27 **their duties under ORS 658.005 to 658.245.**

28 **SECTION 17.** Section 5 of this 2013 Act becomes operative on July 1, 2015.
29