

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 380**

1 On page 1 of the printed A-engrossed bill, line 3, after “bureau;” insert
2 “creating new provisions;”.

3 On page 2, after line 32, insert:

4 **“SECTION 3. No later than February 1, 2017, the Commissioner of**
5 **the Bureau of Labor and Industries shall submit to the appropriate**
6 **legislative committees a written report on the resolution of complaints**
7 **before the commissioner in the two-year period prior to the effective**
8 **date of this 2015 Act and on the resolution of those complaints after**
9 **the implementation of the amendments to ORS 659A.845 and 659A.870**
10 **by sections 1 and 2 of this 2015 Act.**

11 **“SECTION 4. ORS 659A.845, as amended by section 1 of this 2015 Act,**
12 **is amended to read:**

13 “659A.845. (1) If the Commissioner of the Bureau of Labor and Industries
14 issues a finding of substantial evidence under ORS 659A.835 and the matter
15 cannot be settled through conference, conciliation and persuasion, or if the
16 commissioner determines that the interest of justice requires that a hearing
17 be held without first seeking settlement, the commissioner [*may*] **shall** pre-
18 pare formal charges. Formal charges must contain all information required
19 for a notice under ORS 183.415 and must specify the allegations of the com-
20 plaint to which the respondent will be required to make response. Formal
21 charges shall also set the time and place for hearing the formal charges.

22 “(2)(a) The commissioner shall serve the formal charges on all respond-

1 ents found to have engaged in the unlawful practice.

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

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

12 **“SECTION 5.** ORS 659A.870, as amended by section 2 of this 2015 Act,
13 is amended to read:

14 “659A.870. (1) Except as provided in this section, the filing of a civil
15 action by a person in circuit court pursuant to ORS 659A.885, or in federal
16 district court under applicable federal law, waives the right of the person to
17 file a complaint with the Commissioner of the Bureau of Labor and Indus-
18 tries under ORS 659A.820 with respect to the matters alleged in the civil
19 action.

20 “(2) The filing of a complaint under ORS 659A.820 is not a condition
21 precedent to the filing of any civil action.

22 “(3) If a person files a civil action alleging an unlawful practice under
23 ORS 659A.145 or 659A.421 or discrimination under federal housing law, the
24 filing does not constitute an election of remedies or a waiver of the right
25 of the person to file a complaint with the commissioner under ORS 659A.820,
26 but the commissioner shall dismiss the complaint upon the commencement
27 of a trial in the civil action.

28 “(4)(a) The filing of a complaint under ORS 659A.820 by a person alleging
29 an unlawful practice under ORS 659A.145 or 659A.421 or discrimination un-
30 der federal housing law does not constitute an election of remedies or a

1 waiver of the right of the person to file a civil action with respect to the
2 same matters, but a civil action may not be filed after a hearing officer has
3 commenced a hearing on the record under this chapter with respect to the
4 allegations of the complaint.

5 “(b) A respondent or complainant named in a complaint filed under ORS
6 659A.820 or 659A.825 alleging an unlawful practice under ORS 659A.145 or
7 659A.421 or discrimination under federal housing law may elect to have the
8 matter heard in circuit court under ORS 659A.885. The election must be made
9 in writing and received by the commissioner within 20 days after service of
10 formal charges under ORS 659A.845. If the respondent or the complainant
11 makes the election, the commissioner [*may*] **shall** pursue the matter in court
12 on behalf of the complainant at no cost to the complainant.

13 “(c) If the Attorney General or the commissioner files a complaint under
14 ORS 659A.825, the Attorney General or the commissioner may elect to have
15 the matter heard in circuit court under ORS 659A.885.

16 “(d) If the respondent, the complainant, the Attorney General or the
17 commissioner do not elect to have the matter heard in circuit court, the
18 commissioner may conduct a hearing on the formal charges under ORS
19 659A.850.

20 “(5) A person who has filed a complaint under ORS 659A.820 need not
21 receive a 90-day notice under ORS 659A.880 before commencing a civil action
22 that is based on the same matters alleged in the complaint filed with the
23 commissioner.

24 “(6) Except as provided in subsections (3) and (4) of this section, this
25 section does not limit or alter in any way the authority or power of the
26 commissioner, or limit or alter in any way any of the rights of an individual
27 complainant, until and unless the complainant commences a civil action.

28 **“SECTION 6. The amendments to ORS 659A.845 and 659A.870 by
29 sections 4 and 5 of this 2015 Act become operative on October 1, 2017.**

30 **“SECTION 7. Section 3 of this 2015 Act is repealed on October 1,**

1 **2017.”.**

2 In line 33, delete “3” and insert “8”.

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