

## HB 3205 A -A6 STAFF MEASURE SUMMARY

### Senate Committee On Labor and Business

---

**Prepared By:** Whitney Perez, LPRO Analyst

**Meeting Dates:** 5/9, 5/11

---

#### WHAT THE MEASURE DOES:

Permits employer to pay employees for work of comparable character at different compensation levels pursuant to retention bonus, provided that employer does not discriminate between employees on basis of protected class and retention bonus accounts for entire compensation differential. Permits employer to condition receipt of retention bonus on requirement that employee work for employer at least 30 days. Declares emergency, effective on passage.

FISCAL: Minimal fiscal impact

REVENUE: No revenue impact

HOUSE VOTE: Ayes, 41; Nays, 0

#### ISSUES DISCUSSED:

- Past legislation temporarily exempting bonuses from pay equity law
- Definition of "compensation"
- Mechanics of existing law for allowing pay differentials
- Workforce shortages and recruitment challenges

#### EFFECT OF AMENDMENT:

-A6 Replaces the measure. Directs the Commissioner of the Bureau of Labor and Industries to adopt rules regarding Oregon's pay equity laws, including clarification around the payment of bonuses based on bona fide factors. Directs BOLI to update the business and labor committees of the Legislative Assembly by February 1, 2024. Takes effect on the 91st day following adjournment sine die.

#### BACKGROUND:

Oregon's pay equity law makes it an unlawful employment practice for an employer to pay wages or other compensation to any employee at a rate greater than other employees of a protected class for work of a comparable character. Employers may not reduce compensation to comply, and are liable for unpaid wages if they violate the pay equity law.

In 2021, the Legislative Assembly passed House 2818, temporarily exempting hiring and retention bonuses from the definition of "compensation" for purposes of the pay equity law. The exemption applied only to complaints filed with the Bureau of Labor and Industries (BOLI) and to claims filed in circuit court on or after May 25, 2021 until the exemption expired on March 1, 2022. In 2022, the Legislative Assembly passed Senate Bill 1514, temporarily reestablishing the exemption for hiring and retention bonuses from the definition of "compensation" for purposes of the pay equity law. The exemption applied to complaints filed with BOLI and to claims filed in a circuit court beginning on or after March 1, 2022, until 180 days following the expiration of the state of emergency that was first declared by the Governor on March 8, 2020. The state of emergency declared by the Governor expired on April 1, 2022 and the exemption expired on September 28, 2022.

House Bill 3205 A allows an employer to pay employees for work of comparable character at different compensation levels pursuant to a retention bonus, if the employer does not discriminate between employees on the basis of a protected class and the retention bonus accounts for the entire compensation differential.