Requested by Senator JAMA

PROPOSED AMENDMENTS TO
SENATE BILL 925

1   On page 1 of the printed bill, delete lines 5 through 26 and delete page

2   2.

3   On page 3, delete lines 1 and 2 and insert:

4   **"SECTION 1. (1) As used in this section:**

5   **"(a) 'Employee' means an individual performing services for an**

6   **employer for remuneration or under any contract for hire, written or**

7   **oral, express or implied.**

8   **"(b) 'Employer' has the meaning given that term in ORS 652.210.**

9   **"(c) 'Employment agency' has the meaning given that term in ORS**

10 **659A.001.**

11 **"(d) 'Employment benefits' includes, but is not limited to, health**

12 **benefits, paid time off, retirement benefits and any other taxable**

13 **benefits.**

14 **"(e) 'Job posting' means any solicitation intended to recruit appli-**

15 **cants for an employment, promotion or transfer opportunity.**

16 **"(f) 'Wage range' means a range from the lowest to the highest**

17 **salary or hourly wage that an employer sets in good faith as compen-**

18 **sation for a particular employment position by referencing:**

19 **"(A) A predetermined compensation schedule;**

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

21 **"(C) The actual range of wages paid to other employees who hold**

1 equivalent positions; or

2 "(D) An allocated budget.

3 "(2) An employer or an employment agency may not:

4 "(a) Fail or refuse to disclose in any internal or external job posting

5 for an employment, promotion or transfer opportunity, the wage or

6 wage range, a general description of the employment benefits and any

7 other compensation associated with the employment, promotion or

8 transfer opportunity.

9 "(b) If an employment, promotion or transfer opportunity is not

10 advertised in a job posting, fail or refuse to provide to an applicant

11 who is applying for the opportunity, the wage or wage range, a general

12 description of the employment benefits and any other compensation

13 associated with the opportunity:

14 "(A) Upon the request of the applicant; and

15 "(B) Prior to extending an offer or engaging in any discussion re-

16 garding compensation.

17 "(c) Fail or refuse to provide each employee with the current wage

18 or wage range, a general description of the employment benefits and

19 any other compensation associated with the employment position held

20 by the employee as follows:

21 "(A) At least once per year throughout the duration of the

22 employee's employment with the employer;

23 "(B) At the time of hire;

24 "(C) Upon the transfer or promotion of the employee; and

25 "(D) Upon the request of the employee.

26 "(d) Retaliate or in any way discriminate against an individual with

27 respect to hire or tenure or any other term or condition of employ-

28 ment because the individual has exercised a right protected under this

29 section.

30 "(3)(a) An employer shall keep and maintain records for each em-

ployee of the employer that include information sufficient for an employer to comply with the disclosure requirements of this section, including but not limited to:

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

"(B) The wage rate history of each employee employed by the employer.

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

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

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

"(6) A violation of this section is an unlawful practice under ORS chapter 659A. An individual alleging a violation of this section may file a complaint under ORS 659A.820 with the Commissioner of the Bureau of Labor and Industries. The commissioner shall enforce the provisions of this section in the manner provided in ORS chapter 659A regarding other unlawful practices.

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

"(A) $1,000 for a first violation.

"(B) For each subsequent violation, the penalty amount shall in-

1 crease by $1,000, but at no time shall the total amount of a penalty

2 assessed against an employer or employment agency under this para-

3 graph exceed $10,000.

4 "(b) Any monetary civil penalty under this subsection shall be im-

5 posed in the manner provided by ORS 183.745.

6 "(c) The commissioner shall deposit a civil penalty assessed under

7 this subsection in the Bureau of Labor and Industries Account under

8 ORS 651.160.

9 "(8)(a) An applicant or employee claiming to be aggrieved by a vio-

10 lation of this section may:

11 "(A) Bring an action against an employer or employment agency

12 alleging a violation of this section.

13 "(B) Bring an action against an employer or employment agency

14 alleging a violation of this section on behalf of other similarly situated

15 applicants or employees.

16 "(b) A civil action brought under this subsection is in addition to

17 any other remedy provided by law.

18 "(c) If the individual prevails in an action brought under this sub-

19 section, the court may enter a judgment against the employer or em-

20 ployment agency for the greater of the following amounts, per claim:

21 "(A) Actual damages; or

22 "(B) An amount between $1,000 and $10,000.

23 "(d) In an action brought under this subsection, the prevailing

24 plaintiff may recover reasonable attorney fees and injunctive relief.

25 "(e) An action under this subsection must be commenced not later

26 than one year after the conduct that gives rise to the claim for relief

27 occurred.".

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