

HB 4050 -1 STAFF MEASURE SUMMARY

House Committee On Business and Labor

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Meeting Dates: 2/12, 2/14

WHAT THE MEASURE DOES:

Adds to the list of factors that an employer may use to legally pay employees who perform work of comparable character at different compensation levels. Declares emergency, effective upon passage.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Specifies an employer may not rely on bona fide factor to justify compensation differential if an employee demonstrates the existence of *reasonable* alternative business policies and practices that would equally fulfill the same business purposes as those fulfilled by the bona fide factor, without producing a compensation differential.

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.

Currently, an employer may pay employees for work of comparable character at different compensation levels if the entire difference between employees compensation level is based on any combination of bona fide factor related to the employee's position. The bona fide factors are: seniority system, merit system, piece-rate work, workplace locations, regular and necessary travel, education, training, and experience.

House Bill 4050 expands the list of bona fide factors that permits an employer to pay employees for work of comparable character at different compensation levels. An employer may pay employees for work of comparable character at different compensation levels if there is a bona fide factor, not based on an employee's protected class, that is consistent with business necessity and fulfills the underlying business purpose of the business necessity. For purposes of measure, "business necessity" means an overriding legitimate business purpose.