

HB 2742 STAFF MEASURE SUMMARY

House Committee On Labor and Workplace Standards

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 3/3

WHAT THE MEASURE DOES:

The measure establishes new laws and protections for people with disabilities.

Detailed Summary:

Section 2

Directs the Bureau of Labor and Industries (BOLI) to create guidance and informational materials to assist employers in complying with the laws regarding reasonable accommodation. BOLI must make the materials available on their website.

Section 3

BOLI must establish a program to administer and coordinate low-cost or no-cost mediation services for the resolution of disputes related to reasonable accommodation. BOLI may contract with, or use the services of, a private mediation organization, a community-based program, another state agency or a combination of organizations and agencies to provide the mediation services.

Section 4

Employers are prohibited from using minimum physical requirements in a job posting to screen out individuals with disabilities without connecting how the physical requirements are essential functions of the job.

Section 5

Employers are prohibited from denying a request by a represented employee to have a representative from the labor organization accompany the employee in any discussion concerning reasonable accommodation.

Section 6

Extends prohibition against discrimination in government services, programs and activities, to local governments.

Section 7

Requires state contracting agencies and state agencies, when carrying out an affirmative action goal, policy or program, to establish and execute a plan for outreach, recruitment and retention of persons with disabilities to perform work on public improvement projects.

Section 8

Requires state agencies to include strategies for outreach, recruitment and retention of persons with disabilities, as part of an agencies plan to achieve the public policy of the State of Oregon for persons in the state to attain employment and advancement without discrimination because of race, religion, color, sex, marital status, national origin, age or disability.

Fiscal impact: (info)

Revenue impact: (info)

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

There are federal and state laws that protect people with disabilities against discrimination in terms, conditions or privileges of employment: the federal Americans with Disabilities Act (ADA) and Oregon's disability law, ORS 659A.112, makes it an unlawful employment practice for any employer to refuse to hire, employ or promote, to bar or discharge from employment or to discriminate in compensation or in terms, conditions or privileges of employment on the basis of disability.

ORS 659A.112 prohibits an employer with six or more employees from:

- From limiting, segregating or classifying a job applicant or employee in a way that adversely affects their opportunities or status because they have a disability.
- From participating in a contractual or other arrangement or relationship that has the effect of subjecting a qualified applicant or employee with a disability to discrimination.
- From utilizing standards, criteria or methods of administration that have the effect of discrimination on the basis of disability, or that perpetuate the discrimination of others who are subject to common administrative control.
- From excluding or denying equal jobs or benefits to a qualified individual because they are known to have a relationship or association with an individual with a disability.
- From not making reasonable accommodation to the known physical or mental limitations of an individual with a disability who is a job applicant or employee, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the employer.
- From denying employment opportunities to an applicant or employee with a disability, if the denial is based on the need of the employer to make reasonable accommodation.
- From using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criterion is shown to be job-related for the position in question and is consistent with business necessity.

A reasonable accommodation is a modification or adjustment that enables a person with a disability to apply for a job to perform the essential functions of a position; or to enjoy the same benefits and privileges of employment as other employees. Reasonable accommodation may include: making existing facilities used by employees readily accessible to and usable by individuals with disabilities; job restructuring, part-time or modified work schedules or reassignment to a vacant position; and acquisition or modification of equipment or devices.

Upon request for a reasonable accommodation by an applicant or employee, the employer has a duty to initiate a meaningful interactive process to determine whether reasonable accommodation would allow the employee or applicant to perform the essential functions of a position. A meaningful interactive process is a mandatory step in the reasonable accommodation process, if an employer does not meaningfully engage in an interactive process it is a discrimination on the basis of disability. An employer can deny an accommodation if it causes the employer an undue hardship. An undue hardship is an action that is significantly difficult or expensive in relation to the size of the employer, the resources available and the nature of the business.