

HB 2746 -1, -2 STAFF MEASURE SUMMARY

House Committee On Labor and Workplace Standards

Prepared By: Erin Seiler, LPRO Analyst

Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 3/3, 3/5, 3/26

WHAT THE MEASURE DOES:

The measure requires employers and employment agencies to include wage and benefit information in job postings. A violation of the job posting requirement is an unlawful practice subject to civil penalties. Adds employment agencies to the prohibition against inquiries regarding salary history and past criminal convictions. Takes effect on the 91st day following adjournment sine die.

Detailed Summary:

Requires an employer or employment agency to disclose wage or wage range, general description of benefits, and any other compensation associated with employment for any internal or external job posting and transfer or promotion opportunity.

Requires an employer or employment agency to disclose wage or wage range, general description of benefits, and any other compensation associated with employment upon request of an applicant and prior to discussing or extending an offer of compensation, if an employment, promotion or transfer opportunity has not been made available to the applicant.

Requires an employer or employment agency to provide each employee with current wage or wage range, general description of benefits, and any other compensation associated with same or equivalent positions at the time of hire, upon transfer or promotion of employee, and once per calendar year, if requested by employee.

Prohibits an employer or employment agency from discriminating or retaliating against an employee for exercising rights related to wage and benefit information in job postings.

Requires employer to keep and maintain records for each employee throughout the duration of an employee's employment and for at least two years after the date the employee's employment ends.

Requires employer to keep information sufficient to meet the disclosure requirements of this act. Information may include, but is not limited to wage history or wage or wage range, general description of employment benefits, any other compensation associated with employment for any internal or external job posting and transfer or promotion opportunity.

Establishes as an unlawful practice failure to disclose wage and benefit information on a job posting or adhere to recordkeeping requirements. Individual alleging violation must file complaint with Bureau of Labor and Industries (BOLI). Establishes a one-year statute of limitation for filing a complaint. Establishes a progressive penalty structure for violations of job posting and recordkeeping requirements:

- First violation, by employer or employment agency, requires BOLI to issue a letter of education or explanation.
- Second violation, a \$1,000 civil penalty may be assessed by BOLI.
- Third and subsequent violations, a \$1,000 civil penalty may be assessed, except that the maximum civil penalty may not exceed \$10,000 for any related series of violation within one year of the first violation.

Civil penalties collected must first reimburse BOLI for costs associated with enforcement of violations with remainder being deposited in the Wage Security Fund.

HB 2746 -1, -2 STAFF MEASURE SUMMARY

Prohibits employment agencies from asking for salary history of an applicant or employee.

Prohibits employment agencies from excluding an applicant from an initial interview because of past criminal conviction.

Defines terms.

Measure becomes operative January 1, 2026. BOLI may adopt rules and take actions necessary to implement measure prior to the operative date. Takes effect on the 91st day following adjournment sine die.

Fiscal impact: (info)

Revenue impact: (info)

ISSUES DISCUSSED:

- Provides applicant more information about wages and benefits prior to applying
- Impact on pay inequities
- Other states that have enacted wage transparency laws
- Relationship to Oregon Pay Equity law
- 'Good faith' setting of salary range on job posting
- Impact on small business
- Frequency employers post wage range on job posting currently

EFFECT OF AMENDMENT:

-1 Adds job posting and recordkeeping provisions to ORS 652.

Removes Oregon Employment Department from definition of “employment agency.”

Enforcement for violations of job posting and recordkeeping requirements occurs under ORS 652. Establishes a one-year statute of limitation for filing a complaint.

Permits BOLI to issue \$1,000 civil penalty or letter of education or explanation for first violation.

Requires BOLI to conduct proactive outreach and ongoing training to educate employers and employment agencies about requirements of measure.

Establishes an as unlawful employment practice, under 659A, for an employer or employment agency to discriminate or retaliate against an employee for exercising rights related to wage and benefit information in job postings.

Employers are not required to keep and maintain records created prior to the operative date of January 1, 2026 and that are no longer available on the operative date.

Fiscal impact: Statement not yet issued

Revenue impact: No revenue impact

-2 Directs remainder of civil penalties collected, after reimbursement to BOLI, to the General Fund.

BACKGROUND:

ORS Chapter 659A encompasses Oregon laws on unlawful employment discrimination. The Bureau of Labor and Industries (BOLI) is authorized to prevent unlawful discrimination, including the power to conduct investigations, take evidence, and the like. Employees may file complaints with BOLI alleging an unlawful practice or discrimination.

In 2019, Colorado enacted the Equal Pay for Equal Work Act (Act). Effective January 1, 2021, the Colorado Act requires employers to include compensation in job postings and notify employees of promotional opportunities. Several other states and cities now have provisions similar to Colorado requiring employers to disclose salary range in job postings. For example, in 2022 Washington enacted legislation requiring employers to disclose salary range and a general description of benefits in every job posting and in 2023, California enacted legislation requiring employers with 15 or more employees to include a pay scale for job postings, including internal and external postings and job postings through third parties.

House Bill 2746 requires employers and employment agencies to include wage and benefit information in job postings. The measure establishes that a violation is an unlawful practice under ORS 659A.