

HB 2248 A STAFF MEASURE SUMMARY

Senate Committee On Labor and Business

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Meeting Dates: 4/10, 4/15

WHAT THE MEASURE DOES:

The measure establishes the Employer Assistance Division (EAD) within the Bureau of Labor and Industries (BOLI). The measure clarifies ability of BOLI to enter into a settlement with respect to any violation of law for which BOLI has jurisdiction and seek settlement through alternative resolution processes. Takes effect on 91st day following adjournment sine die.

Detailed Summary:

Establishes the Employer Assistance Division (EAD) within Bureau of Labor and Industries (BOLI). EAD provides education, training, and interpretive guidance, including advisory opinions, to employers to assist employers in complying with laws that are enforced by BOLI.

Discussion communications made in course of or in connection with discussion between employer and EAD are confidential. Discussion communications may be disclosed and admitted as evidence in subsequent adjudicatory proceeding conducted by BOLI when offered by employer who participated in discussion to show that employer acted in good faith and in reliance on communications. BOLI may not impose civil penalty on employer for any good faith action taken in reliance on discussion communications in which employer has participated.

Specifies an employer must provide evidence that proves:

- discussion communications applied same law that was in effect at time that employer took good faith actions; and
- discussion communications involved same or substantially similar facts such that it was reasonable for employer to have relied on discussion communications in taking good faith actions.

The EAD can issue and publish advisory opinions. Advisory opinions may be issued and published on BOLI's website at the request of any person or at EAD's own discretion.

Permits BOLI to enter into settlement with respect to any violation of provision of law over which BOLI has jurisdiction. Commissioner may take steps to settle matter through conference, mediation, conciliation, persuasion, or other alternative dispute resolution processes, to otherwise carry out duties of commissioner.

Makes communications and settlement discussions held through BOLI's alternative dispute resolution processes confidential.

Permits BOLI to enter into an interagency agreement with a state agency, as defined in ORS 190.255, to receive from the state agency a business name, address, electronic mail address, telephone number or state-generated common identification number or the nature of a business or type of entity conducting the business.

Takes effect on 91st day following adjournment sine die.

REVENUE: No revenue impact

FISCAL: Has minimal fiscal impact

ISSUES DISCUSSED:

- Fiscal impact of measure

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- Capacity within the Bureau of Labor and Industries
- Impetus for the measure

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Oregon Bureau of Labor and Industries (BOLI) investigates worker claims and complaints regarding laws related to wages, hours, terms and conditions of employment; enforces civil rights in public spaces and housing, investigates discrimination, harassment, and retaliation complaints; and oversees registered apprenticeship programs.

In addition, BOLI provides employers assistance in understanding, navigating, and complying with wage and hour and civil rights laws through Employer Assistance (EA). EA provides access to relevant information, best practices, and guidance on BOLI's application of Oregon employment laws; provide confidential consultation directly with employers providing access to compliance experts; conducts training for thousands of attendees each year; creates factsheets, FAQs, and online toolkits; and publishes workplace notices and employer handbooks.

The role and responsibilities of EA are not codified in statute. House Bill 2248 A establishes the Employer Assistance Division (EAD) in statute and provides EAD authority to provide education, training, and interpretive guidance, including advisory opinions, to employers to assist them in complying with laws that are enforced by BOLI. Further, HB 2248 A establishes that discussion communications made in course of or in connection with discussion between employer and EAD are confidential and that BOLI may not impose a civil penalty on an employer for any good faith action taken when relying on discussion communications with EAD.

HB 2248 A also clarifies BOLI's ability to pursue resolution of any complaint or claim through settlement. It permits BOLI to take steps to settle any matter, for which it has jurisdiction, through conference, mediation, conciliation, persuasion, or other alternative dispute resolution.