

# House Bill 2746

Sponsored by Representative NELSON, Senator JAMA; Senator PHAM K (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes new laws regarding pay transparency. The Act takes effect 91 days after sine die. (Flesch Readability Score: 73.7).

Requires employers and employment agencies to include certain wage and benefit information in job postings for job, promotion and transfer opportunities. Requires employers to maintain certain employment records for each employee. Makes a violation an unlawful practice and permits the Commissioner of the Bureau of Labor and Industries to assess civil penalties for a violation. Establishes circumstances under which the commissioner may dismiss a complaint about a violation.

Makes employment agencies subject to the prohibition against inquiries regarding salary history and past criminal convictions.

Takes effect on the 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to disclosures of certain information concerning employment-related matters; creating new  
3 provisions; amending ORS 659A.357, 659A.360 and 659A.830; and prescribing an effective date.

4 Whereas despite progress in countering pay inequity, unacceptable pay gaps persist in Oregon,  
5 particularly for women, people of color, individuals with disabilities and LGBTQ+ workers; and

6 Whereas pay secrecy remains a key contributing factor to these disparities; and

7 Whereas the lack of transparency in employer pay practices perpetuates discriminatory hiring  
8 and pay practices disproportionately harming workers who are women and people of color by paying  
9 lower wages to these workers; and

10 Whereas the lack of transparency in salary decision-making processes deprives workers of in-  
11 formation that is necessary to provide workers an opportunity to fairly negotiate salaries and con-  
12 front discriminatory practices; and

13 Whereas the lack of transparent pay practices results in ambiguous information causing an  
14 overreliance on an individual worker's pay history to serve as the primary consideration informing  
15 salary negotiations rather than other factors that provide fair comparisons such as performance,  
16 market rates and compensation information of other employees who perform substantially similar  
17 work; and

18 Whereas it is in the public interest for employees to have trust and confidence that employers  
19 are implementing equitable pay practices in compliance with federal and state law; and

20 Whereas pay transparency is an effective tool to promote pay equity by providing verifiable in-  
21 formation that applicants and employees can use to determine whether employers are adhering to  
22 equal pay practices; and

23 Whereas pay transparency promotes proactive employer review and evaluation of employer pay  
24 practices which, in turn, may reveal potentially discriminatory pay practices of the employer; now,  
25 therefore,

26 **Be It Enacted by the People of the State of Oregon:**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1       **SECTION 1.** It is the purpose of section 2 of this 2025 Act to require employers and em-  
2       ployment agencies to disclose information relating to wage ranges in hiring and employment  
3       processes to:

- 4       (1) Safeguard against implicit and explicit biases that may exist in salary negotiations;
- 5       (2) Provide reassurance that employees are not discriminated against in payment of  
6       compensation for a particular employment position;
- 7       (3) Reduce discriminatory wage-setting and hiring practices;
- 8       (4) Ensure equitable pay for employees in this state; and
- 9       (5) Allow job applicants and employees to base employment decisions on complete infor-  
10      mation.

11      **SECTION 2.** (1) As used in this section:

12      (a) “Employee” means an individual performing services for an employer for  
13      remuneration or under any contract for hire, written or oral, express or implied.

14      (b) “Employer” has the meaning given that term in ORS 652.210.

15      (c) “Employment agency” has the meaning given that term in ORS 659A.001.

16      (d) “Employment benefits” includes, but is not limited to, health benefits, paid time off,  
17      retirement benefits and any other taxable benefits.

18      (e)(A) “Job posting” means any solicitation intended to recruit applicants for an em-  
19      ployment, promotion or transfer opportunity.

20      (B) “Job posting” does not mean solicitations that exclude any reference to a specific  
21      employment, promotion or transfer opportunity or to specific qualifications for desired ap-  
22      plicants.

23      (f) “Wage range” means a range from the lowest to the highest salary or hourly wage  
24      that an employer sets in good faith as compensation for a particular employment position  
25      by referencing:

26      (A) A predetermined compensation schedule;

27      (B) A predetermined range of wages for the position;

28      (C) The actual range of wages paid to other employees who hold equivalent positions; or

29      (D) An allocated budget.

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

31      (a) Fail or refuse to disclose in any internal or external job posting for an employment,  
32      promotion or transfer opportunity the wage or wage range, a general description of the em-  
33      ployment benefits and any other compensation associated with the employment, promotion  
34      or transfer opportunity.

35      (b) If an employment, promotion or transfer opportunity has not been made available to  
36      the applicant applying for the opportunity, fail or refuse to provide to an applicant who is  
37      applying for the opportunity the wage or wage range, a general description of the employ-  
38      ment benefits and any other compensation associated with the opportunity:

39      (A) Upon the request of the applicant; and

40      (B) Prior to extending an offer or engaging in any discussion regarding compensation.

41      (c) Fail or refuse to provide each employee with the current wage or wage range, a gen-  
42      eral description of the employment benefits and any other compensation associated with the  
43      same or equivalent employment positions held by other employees as follows:

44      (A) At the time of hire;

45      (B) Upon the transfer or promotion of the employee; and

1 (C) Once per calendar year, upon the request of the employee.

2 (d) Retaliate or in any way discriminate against an individual with respect to hire or  
3 tenure or any other term or condition of employment because the individual has exercised  
4 a right protected under this section.

5 (3)(a) An employer shall keep and maintain records for each employee of the employer  
6 that include information sufficient for an employer to comply with the disclosure require-  
7 ments of this section, including but not limited to:

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

11 (B) The wage rate history.

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

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

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

20 (6)(a) A violation of subsection (2) or (3) of this section is an unlawful practice under ORS  
21 chapter 659A. An individual alleging a violation of subsection (2) or (3) of this section may  
22 file a complaint under ORS 659A.820 with the Commissioner of the Bureau of Labor and In-  
23 dustries. An individual must file the complaint with the commissioner within one year of the  
24 occurrence of the conduct that gave rise to the complaint. The commissioner shall enforce  
25 the provisions of this section in the manner provided in ORS chapter 659A regarding other  
26 unlawful practices.

27 (b) For a first violation, the commissioner shall issue a letter of explanation or education  
28 to the employer or employment agency in accordance with ORS 659A.830.

29 (7)(a) In addition to any other relief provided by law, the commissioner may assess a civil  
30 penalty against an employer or employment agency that violates subsection (2) or (3) of this  
31 section as follows:

32 (A) \$1,000 for a second violation.

33 (B) \$1,000 for a third and subsequent violation, except that the maximum civil penalty  
34 amount may not exceed \$10,000 for any related series of violations occurring within one year  
35 of the first violation.

36 (b) For purposes of assessing a violation under this subsection, a separate violation oc-  
37 curs:

38 (A) After the commissioner has issued a letter of explanation or education to the em-  
39 ployer or employment agency under subsection (6)(b) of this section; and

40 (B) With respect to each job posting that fails to comply with the requirements under  
41 subsection (2) of this section.

42 (c) Any monetary civil penalty assessed under this subsection shall be imposed in the  
43 manner provided by ORS 183.745.

44 (d) All sums collected as civil penalties under this section must first be applied toward  
45 reimbursement of the costs incurred in determining the violations, conducting hearings and

1 **assessing and collecting the penalty. The remainder, if any, shall be deposited in the Wage**  
 2 **Security Fund under ORS 652.409.**

3 **SECTION 3.** ORS 659A.357 is amended to read:

4 659A.357. (1) It is an unlawful practice under ORS chapter 659A for an employer [*or*], prospec-  
 5 tive employer **or employment agency** to seek the salary history of an applicant or employee from  
 6 the applicant or employee or a current or former employer of the applicant or employee. This sec-  
 7 tion is not intended to prevent an employer **or employment agency** from requesting from a pro-  
 8 spective employee written authorization to confirm prior compensation after the employer **or**  
 9 **employment agency** makes an offer of employment to the prospective employee that includes an  
 10 amount of compensation.

11 **(2) As used in this section, “employment agency” has the meaning given that term in**  
 12 **ORS 659A.001.**

13 **SECTION 4.** ORS 659A.360 is amended to read:

14 659A.360. (1) It is an unlawful practice for an employer **or employment agency** to exclude an  
 15 applicant from an initial interview solely because of a past criminal conviction.

16 (2) An employer **or employment agency** excludes an applicant from an initial interview if the  
 17 employer **or employment agency**:

- 18 (a) Requires an applicant to disclose on an employment application a criminal conviction;
- 19 (b) Requires an applicant to disclose, prior to an initial interview, a criminal conviction; or
- 20 (c) If no interview is conducted, requires an applicant to disclose, prior to making a conditional  
 21 offer of employment, a criminal conviction.

22 (3) Subject to subsections (1) and (2) of this section, nothing in this section prevents an employer  
 23 **or employment agency** from considering an applicant’s conviction history when making a hiring  
 24 decision.

25 (4) Subsections (1) and (2) of this section do not apply:

- 26 (a) If federal, state or local law, including corresponding rules and regulations, requires the  
 27 consideration of an applicant’s criminal history;
- 28 (b) To an employer that is a law enforcement agency;
- 29 (c) To an employer in the criminal justice system; [*or*]
- 30 (d) To an employer seeking a nonemployee volunteer[.]; **or**
- 31 **(e) To an employment agency that undertakes to procure employees for an employer de-**  
 32 **scribed in paragraph (b), (c) or (d) of this subsection.**

33 **(5) As used in this section, “employment agency” has the meaning given that term in**  
 34 **ORS 659A.001.**

35 **SECTION 5.** ORS 659A.830 is amended to read:

36 659A.830. (1) Except as provided in subsection (5) of this section, all authority of the Commis-  
 37 sioner of the Bureau of Labor and Industries to conduct investigations or other proceedings to re-  
 38 solve a complaint filed under ORS 659A.820 ceases upon the filing of a civil action by the  
 39 complainant alleging the same matters that are the basis of the complaint under ORS 659A.820.

40 (2)(a) Except as provided in [*paragraph (b)*] **paragraphs (b) and (c)** of this subsection, the  
 41 commissioner may dismiss a complaint at any time after the complaint is filed. Upon the written  
 42 request of the person who filed the complaint under ORS 659A.820, the commissioner shall dismiss  
 43 the complaint. Upon dismissal of the complaint, the commissioner shall issue a 90-day notice if no-  
 44 tice is required under ORS 659A.880.

45 (b) Paragraph (a) of this subsection does not apply to a complaint alleging an unlawful practice

1 under ORS 659A.145 or 659A.421 or discrimination under federal housing law. The commissioner  
2 shall dismiss a complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or dis-  
3 crimination under federal housing law if the commissioner finds no substantial evidence that an  
4 unlawful practice or discriminatory housing practice has occurred or is about to occur.

5 **(c) Upon receipt of a complaint against an employer or an employment agency alleging**  
6 **a violation of section 2 of this 2025 Act, the commissioner shall review the past complaint**  
7 **history of the employer or employment agency to determine whether the employer or em-**  
8 **ployment agency has any prior violations of section 2 of this 2025 Act. If the commissioner**  
9 **determines that the employer or employment agency does not have any prior violations of**  
10 **section 2 of this 2025 Act, the commissioner shall dismiss the complaint. Upon dismissal of**  
11 **the complaint, the commissioner shall issue a letter of explanation or education to the em-**  
12 **ployer or the employment agency.**

13 (3) Except as provided in this section, all authority of the commissioner to conduct investi-  
14 gations or other proceedings to resolve a complaint filed under ORS 659A.820 ceases one year after  
15 the complaint is filed unless the commissioner has issued a finding of substantial evidence under  
16 ORS 659A.835 during the one-year period. Unless it is impracticable to do so, the commissioner shall  
17 make a final administrative disposition of a complaint alleging an unlawful practice under ORS  
18 659A.145 or 659A.421 or discrimination under federal housing law no later than one year after re-  
19 ceipt of the complaint.

20 (4) The authority of the commissioner to conduct investigations or other proceedings to resolve  
21 a complaint filed under ORS 659A.820 alleging an unlawful practice under ORS 659A.403 or 659A.406  
22 continues until the filing of a civil action by the complainant or until the commissioner dismisses  
23 the proceedings, enters into a settlement agreement or enters a final order in the matter after a  
24 hearing under ORS 659A.850.

25 (5) The authority of the commissioner to conduct investigations or other proceedings to resolve  
26 a complaint filed under ORS 659A.820 alleging an unlawful practice under ORS 659A.145 or 659A.421  
27 or discrimination under federal housing law does not cease upon the filing of a civil action by the  
28 complainant, but ceases upon the commencement of a trial in the civil action.

29 (6) The authority of the commissioner to conduct investigations or other proceedings to resolve  
30 a complaint filed under ORS 659A.820 alleging a violation of ORS 659A.145 or 659A.421 or 659A.406  
31 does not cease under subsection (3) of this section if the issuance of a finding of substantial evidence  
32 under ORS 659A.835 within the time allowed under subsection (3) of this section is not practicable.  
33 The commissioner shall notify the parties in writing of the reasons that the issuance of substantial  
34 evidence cannot be made within the time allowed.

35 (7) Nothing in this section affects the ability of the commissioner to enforce any order entered  
36 by the commissioner or to enforce any settlement agreement signed by a representative of the  
37 commissioner.

38 **SECTION 6. (1) Section 2 of this 2025 Act and the amendments to ORS 659A.357, 659A.360**  
39 **and 659A.830 by sections 3 to 5 of this 2025 Act become operative on January 1, 2026.**

40 **(2) The Commissioner of the Bureau of Labor and Industries may adopt rules and take**  
41 **any other action before the operative date specified in subsection (1) of this section that is**  
42 **necessary to enable the commissioner, on and after the operative date specified in subsection**  
43 **(1) of this section, to undertake and exercise all of the duties, functions and powers con-**  
44 **ferred on the commissioner under section 2 of this 2025 Act and the amendments to ORS**  
45 **659A.357, 659A.360 and 659A.830 by sections 3 to 5 of this 2025 Act.**

1        **SECTION 7.** This 2025 Act takes effect on the 91st day after the date on which the 2025  
2 regular session of the Eighty-third Legislative Assembly adjourns sine die.  
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