

HB 2248-1
(LC 1765)
2/18/25 (JAS/ps)

Requested by HOUSE COMMITTEE ON LABOR AND WORKPLACE STANDARDS (at the request of Representative Dacia Grayber)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2248**

1 In line 2 of the printed bill, before the period insert “; creating new pro-
2 visions; amending ORS 190.255, 659A.003, 659A.840, 659A.845 and 659A.850;
3 and prescribing an effective date”.

4 Delete lines 4 through 9 and insert:

5

6 **“EMPLOYER ASSISTANCE DIVISION**

7

8 **“SECTION 1. Sections 2, 3 and 4 of this 2025 Act are added to and**
9 **made a part of ORS chapter 651.**

10 **“SECTION 2. The Employer Assistance Division is established**
11 **within the Bureau of Labor and Industries. The purpose of the division**
12 **is to provide education, training and interpretive guidance, including**
13 **advisory opinions, to employers to assist employers in complying with**
14 **laws that are enforced by the bureau.**

15 **“SECTION 3. (1) As used in this section:**

16 **“(a) ‘Advisory opinion’ has the meaning given that term in section**
17 **4 of this 2025 Act.**

18 **“(b)(A) ‘Discussion communications’ means:**

19 **“(i) All communications, written and oral, that are made in the**
20 **course of or in connection with a discussion between an employer and**
21 **the Employer Assistance Division of the Bureau of Labor and Indus-**

1 **tries.**

2 **“(ii) All memoranda, work products, documents and other materials**
3 **that are prepared for or submitted in the course of or in connection**
4 **with a discussion between an employer and the division.**

5 **“(B) ‘Discussion communications’ does not mean written or oral**
6 **communications that occur after an employer has requested an advi-**
7 **sory opinion.**

8 **“(c)(A) ‘Penalty’ includes but is not limited to:**

9 **“(i) A financial sanction imposed by the Bureau of Labor and In-**
10 **dustries for a violation of law and due and owing to the bureau or the**
11 **State of Oregon; and**

12 **“(ii) Civil penalties described in ORS 652.035, 652.100, 652.710, 652.900,**
13 **653.256, 653.261, 653.370, 653.432, 659A.370, 659A.390, 659A.419, 659A.550**
14 **and 659A.855.**

15 **“(B) ‘Penalty’ does not include moneys owing to an employee, in-**
16 **cluding, but not limited to:**

17 **“(i) Wages described in ORS 652.150 or 653.055;**

18 **“(ii) The civil penalty for issuing a dishonored check for payment**
19 **of wages as described in ORS 652.195;**

20 **“(iii) Liquidated damages described under ORS 279C.855 or 653.258;**

21 **“(iv) The remedies described in ORS 659A.850.**

22 **“(d) ‘Requesting employer’ means an employer that requests as-**
23 **sistance from the division.**

24 **“(2) Discussion communications made under this section:**

25 **“(a) Are not subject to disclosure under ORS 192.311 to 192.478.**

26 **“(b) Except as provided in subsection (4) of this section, are not**
27 **admissible as evidence in any subsequent adjudicatory proceeding**
28 **conducted by the bureau and may not be disclosed in any subsequent**
29 **adjudicatory proceeding conducted by the bureau.**

30 **“(3) Unless otherwise required by law, the division may not disclose**

1 the identity of a requesting employer as a requesting employer to any
2 other regulatory body or any other division within the bureau.

3 “(4)(a) The prohibitions against disclosure under subsection (2) or
4 (3) do not apply to this subsection.

5 “(b) Discussion communications may be disclosed and admitted as
6 evidence in a subsequent adjudicatory proceeding conducted by the
7 bureau when offered by the requesting employer who participated in
8 the discussion to show that the employer acted in good faith and in
9 reliance on the communications.

10 “(5)(a) Except as provided in paragraph (b) of this subsection, the
11 bureau may not impose a penalty on a requesting employer for any
12 good faith action taken in reliance on discussion communications in
13 which the employer has participated. A requesting employer seeking
14 application of this paragraph bears the burden of proving that:

15 “(A) The discussion communications applied the same law that was
16 in effect at the time that the employer took the good faith actions;
17 and

18 “(B) The discussion communications involved the same or substan-
19 tially similar facts such that it was reasonable for the employer to
20 have relied on the discussion communications in taking good faith
21 actions.

22 “(b) Paragraph (a) of this subsection does not apply if the bureau
23 determines that the requesting employer omitted or misstated mate-
24 rial facts during the course of or in connection with the discussion.

25 “(6) The Bureau of Labor and Industries may adopt rules to imple-
26 ment and enforce this section.

27 “SECTION 4. (1) As used in this section, ‘advisory opinion’ means
28 written guidance:

29 “(a) On the interpretation or application of a provision of law over
30 which the Bureau of Labor and Industries has enforcement authority

1 to an actual or hypothetical circumstance.

2 “(b) Concerning topics over which the bureau has enforcement au-
3 thority and that the Employer Assistance Division of the Bureau of
4 Labor and Industries determines may be beneficial to employers, em-
5 ployees and members of the public.

6 “(2) The division may, upon the request of any person, or in its own
7 discretion, issue and publish, on a publicly accessible website operated
8 by the bureau, written advisory opinions. Advisory opinions issued
9 by the division under this section must be published on the bureau’s
10 website as soon as is practicable following the issuance of the opinion.

11 “(3) Advisory opinions issued and made publicly available under this
12 section, and any related communications that occur after the em-
13 ployer has requested the advisory opinion, are:

14 “(a) Not confidential;

15 “(b) Subject to disclosure under ORS 192.311 to 192.478; and

16 “(c) Admissible as evidence in any subsequent adjudicatory pro-
17 ceeding conducted by the bureau.

18 “(4) Unless an advisory opinion is revised or revoked, an adminis-
19 trative law judge of the bureau shall consider whether an action that
20 may be subject to penalty was taken in good faith reliance on an ad-
21 visory opinion issued under this section.

22

23 “MISCELLANEOUS PROVISIONS

24

25 “**SECTION 5.** ORS 190.255 is amended to read:

26 “190.255. (1) Notwithstanding any provision of law governing the
27 confidentiality or disclosure of information, a state agency may enter into
28 an interagency agreement with another state agency to disclose to the other
29 state agency a business name, address, telephone number or state-generated
30 common identification number or the nature of a business or type of entity

1 conducting the business, for the purposes of registering businesses or updat-
2 ing business registration records.

3 “(2) Notwithstanding any provision of law governing the confidentiality
4 or disclosure of information, a state agency receiving information described
5 in subsection (1) of this section from another state agency pursuant to an
6 interagency agreement with the other state agency may use the information
7 to maintain and update its records, including posting the information on
8 databases that are accessible by the public, provided the original source of
9 the information is not publicly disclosed.

10 “(3) As used in this section, ‘state agency’ means **the Bureau of Labor**
11 **and Industries**, the Employment Department, the Department of Consumer
12 and Business Services, the Department of Justice, the Oregon Business De-
13 velopment Department, the Department of Revenue and the Corporation Di-
14 vision of the Office of the Secretary of State.

15 “**SECTION 6.** ORS 659A.840 is amended to read:

16 “659A.840. (1) The Commissioner of the Bureau of Labor and Industries
17 and any respondent named in a complaint may enter into a settlement at any
18 time after the filing of a complaint[. *Upon issuing a finding of substantial*
19 *evidence under ORS 659A.835,*] **and** the commissioner may take immediate
20 steps to settle the matter through conference, **mediation**, conciliation [*and*
21 *persuasion*], **persuasion or other alternative dispute resolution pro-**
22 **cesses**, to eliminate the effects of the unlawful practice and to otherwise
23 carry out the purposes of this chapter.

24 “(2) The terms of any settlement agreement entered into under this
25 chapter must be contained in a written settlement agreement signed by the
26 complainant, the respondent and a representative of the commissioner. Such
27 agreement may include any or all terms and conditions that may be included
28 in a cease and desist order issued by the commissioner after a hearing under
29 ORS 659A.850.

30 “(3) A complainant may file a complaint with the commissioner at any

1 time after a settlement agreement has been entered into under this chapter
2 to seek enforcement of the terms of the agreement. A complaint under this
3 subsection must be filed within one year after the act or omission alleged
4 to be a violation of the terms of the agreement. The commissioner shall in-
5 vestigate and resolve the complaint in the same manner as provided in this
6 chapter for a complaint filed under ORS 659A.820.

7 “(4) In addition to the remedy provided under subsection (3) of this sec-
8 tion, a complainant may seek to enforce a settlement agreement entered into
9 under this chapter by writ of mandamus or a civil action seeking injunctive
10 relief or specific performance of the agreement.

11 “(5) The commissioner shall enter an order based on the terms of a
12 settlement agreement that is signed by a representative of the commissioner
13 and that is entered into after the issuance of formal charges under ORS
14 659A.845. In addition to enforcement in the manner provided by subsection
15 (3) or (4) of this section, the order may be recorded in the County Clerk Lien
16 Record in the manner provided by ORS 205.125 and enforced in the manner
17 provided by ORS 205.126.

18 “(6) Nothing said or done in the course of settlement discussions con-
19 cerning a complaint alleging an unlawful practice under ORS 659A.145 or
20 659A.421 or discrimination under federal housing law may be disclosed in any
21 manner, including but not limited to disclosure under ORS 192.311 to 192.478,
22 or be used as evidence in a subsequent proceeding under this chapter or
23 under federal housing law, without the written consent of the persons con-
24 cerned.

25 “(7) **All communications, oral or written, made during the course**
26 **of or in connection with settlement discussions held through the**
27 **bureau’s alternative dispute resolution process under this section are**
28 **confidential, are not subject to disclosure under ORS 192.311 to 192.478**
29 **and may not be disclosed or admitted as evidence in subsequent**
30 **adjudicatory proceedings except as allowed under ORS 36.222.**

1 **“(8) A settlement agreement and the order based on the terms of**
2 **the settlement agreement:**

3 **“(a) Are not subject to the provisions of subsection (6) or (7) of this**
4 **section;**

5 **“(b) Are subject to public disclosure under ORS 192.311 to 192.478;**
6 **and**

7 **“(c) May be admitted into evidence in any proceeding.**

8 **“SECTION 7. (1) The Commissioner of the Bureau of Labor and**
9 **Industries may enter into a settlement with respect to any violation**
10 **of a provision of law over which the Bureau of Labor and Industries**
11 **has jurisdiction. The commissioner may take steps to settle the matter**
12 **through conference, mediation, conciliation, persuasion or other al-**
13 **ternative dispute resolution processes, to otherwise carry out the du-**
14 **ties of the commissioner.**

15 **“(2) The terms of any settlement entered into under this section**
16 **must be contained in a written settlement agreement. The settlement**
17 **agreement may include any or all terms and conditions that may be**
18 **included in a final order issued by the commissioner.**

19 **“(3) A party to a settlement agreement entered into under this**
20 **section may seek to enforce the agreement by writ of mandamus or a**
21 **civil action seeking injunctive relief or specific performance of the**
22 **agreement.**

23 **“(4) The commissioner shall enter an order based on the terms of**
24 **a settlement agreement that is signed by a representative of the**
25 **commissioner. In addition to enforcement in the manner provided by**
26 **subsection (3) of this section, the order may be recorded in the County**
27 **Clerk Lien Record in the manner provided by ORS 205.125 and enforced**
28 **in the manner provided by ORS 205.126.**

29 **“(5) All communications, oral or written, made during the course**
30 **of or in connection with settlement discussions held through the**

1 bureau's alternative dispute resolution process under this section are
2 confidential, are not subject to disclosure under ORS 192.311 to 192.478
3 and may not be disclosed or admitted as evidence in subsequent
4 adjudicatory proceedings except as allowed under ORS 36.222. A
5 settlement agreement and the order based on the terms of the settle-
6 ment agreement:

7 “(a) Are not subject to the provisions of this subsection;

8 “(b) Are subject to public disclosure under ORS 192.311 to 192.478;
9 and

10 “(c) May be admitted into evidence in any proceeding.

11 “(6) This section does not apply to complaints filed under ORS
12 659A.820 or 659A.825.

13 **“SECTION 8.** ORS 659A.003 is amended to read:

14 “659A.003. The purpose of this chapter is to encourage the fullest utili-
15 zation of the available workforce by removing arbitrary standards of race,
16 color, religion, sex, sexual orientation, gender identity, national origin,
17 marital status, age or disability as a barrier to employment of the inhabit-
18 ants of this state, and to ensure the human dignity of all people within this
19 state and protect their health, safety and morals from the consequences of
20 intergroup hostility, tensions and practices of unlawful discrimination of any
21 kind based on race, color, religion, sex, sexual orientation, gender identity,
22 national origin, marital status, age, disability or familial status. To accom-
23 plish this purpose, the Legislative Assembly intends by this chapter to pro-
24 vide:

25 “(1) A program of public education calculated to eliminate attitudes upon
26 which practices of unlawful discrimination because of race, color, religion,
27 sex, sexual orientation, gender identity, national origin, marital status, age,
28 disability or familial status are based.

29 “(2) An adequate remedy for persons aggrieved by certain acts of unlawful
30 discrimination because of race, color, religion, sex, sexual orientation, gender

1 identity, national origin, marital status, disability or familial status, or un-
2 reasonable acts of discrimination in employment based upon age.

3 “(3) An adequate administrative machinery for the orderly resolution of
4 complaints of unlawful discrimination through a procedure involving
5 investigation[,] **and** conference, **mediation**, conciliation [*and persuasion*],
6 **persuasion or other alternative dispute resolution processes**, to en-
7 courage the use in good faith of the machinery by all parties to a complaint
8 of unlawful discrimination and to discourage unilateral action that makes
9 moot the outcome of final administrative or judicial determination on the
10 merits of the complaint.

11 **“SECTION 9.** ORS 659A.845 is amended to read:

12 “659A.845. (1) If the Commissioner of the Bureau of Labor and Industries
13 issues a finding of substantial evidence under ORS 659A.835 and the matter
14 cannot be settled through conference, **mediation**, conciliation [*and persua-*
15 *sion*], **persuasion or other alternative dispute resolution processes**, or
16 if the commissioner determines that the interest of justice requires that a
17 hearing be held without first seeking settlement, the commissioner shall
18 prepare formal charges. Formal charges must contain all information re-
19 quired for a notice under ORS 183.415 and must specify the allegations of the
20 complaint to which the respondent will be required to make response. Formal
21 charges shall also set the time and place for hearing the formal charges.

22 “(2)(a) The commissioner shall serve the formal charges on all respond-
23 ents found to have engaged in the unlawful practice.

24 “(b) If the formal charges allege a violation of ORS 659A.145 or 659A.421
25 or discrimination under federal housing law, the commissioner shall serve
26 on the named respondents and complainants the formal charges and a notice
27 of the right of the respondents and complainants under ORS 659A.870 to opt
28 for a court trial instead of a hearing under ORS 659A.850.

29 “(3) The commissioner may not prepare formal charges alleging an un-
30 lawful practice under ORS 659A.145 or 659A.421 or discrimination under

1 federal housing law after trial has begun in a civil action that the
2 complainant commenced under state or federal law and that seeks relief with
3 respect to that unlawful or discriminatory practice.

4 **“SECTION 10.** ORS 659A.850 is amended to read:

5 “659A.850. (1)(a) All proceedings before the Commissioner of the Bureau
6 of Labor and Industries under this section shall be conducted as contested
7 case proceedings under the provisions of ORS chapter 183. Except as pro-
8 vided in paragraph (b) of this subsection, the commissioner may appoint a
9 special tribunal or hearing officer to hear the matter. The commissioner may
10 affirm, reverse, modify or supplement the determinations, conclusions or or-
11 der of any special tribunal or hearing officer appointed under this sub-
12 section. The scheduling of a hearing under this section does not affect the
13 ability of the commissioner and any respondent to thereafter settle the mat-
14 ters alleged in the complaint through conference, **mediation**, conciliation
15 [*and persuasion*], **persuasion or other alternative dispute resolution**
16 **processes**.

17 “(b) In a proceeding under this section alleging an unlawful practice un-
18 der ORS 659A.145 or 659A.421 or discrimination under federal housing law:

19 “(A) Only an employee of the Bureau of Labor and Industries may be a
20 member of a special tribunal or a hearing officer appointed to hear the
21 matter.

22 “(B) An aggrieved person may intervene as a party in the proceeding. The
23 commissioner may award prevailing party costs and reasonable attorney fees
24 to a person who intervenes.

25 “(2) After considering all the evidence, the commissioner shall cause to
26 be issued findings of facts and conclusions of law.

27 “(3) The commissioner shall issue an order dismissing the formal charges
28 against any respondent not found to have engaged in any unlawful practice
29 alleged in the complaint.

30 “(4) After a hearing under this section, the commissioner shall issue an

1 appropriate cease and desist order against any respondent found to have en-
2 gaged in any unlawful practice alleged in the complaint. The order must be
3 signed by the commissioner and must take into account the need to supervise
4 compliance with the terms of order. The order may require that the re-
5 spondent:

6 “(a) Perform an act or series of acts designated in the order that are
7 reasonably calculated to:

8 “(A) Carry out the purposes of this chapter;

9 “(B) Eliminate the effects of the unlawful practice that the respondent is
10 found to have engaged in, including but not limited to paying an award of
11 actual damages suffered by the complainant and complying with injunctive
12 or other equitable relief; and

13 “(C) Protect the rights of the complainant and other persons similarly
14 situated;

15 “(b) Submit reports to the commissioner on the manner of compliance
16 with other terms and conditions specified in the commissioner’s order, and
17 take other action as may be required to ensure compliance with the
18 commissioner’s order; and

19 “(c) Refrain from any action specified in the order that would jeopardize
20 the rights of the complainant or other persons similarly situated, or that
21 would otherwise frustrate the purposes of this chapter.

22 “(5) A cease and desist order issued under subsection (4) of this section
23 may be recorded in the County Clerk Lien Record in the manner provided
24 by ORS 205.125 and enforced in the manner provided by ORS 205.126. In ad-
25 dition to enforcement under ORS 205.126, the order may be enforced by writ
26 of mandamus or a civil action to compel specific performance of the order.

27 “(6) The commissioner may charge a respondent on a cease and desist
28 order the actual collection fees charged to the bureau by any other govern-
29 mental agency or any private collection agency assisting in the collection
30 of the judgment.

1 **SECTION 11.** In addition to and not in lieu of any other appropri-
2 ation, there is appropriated to the Bureau of Labor and Industries, for
3 the biennium beginning July 1, 2025, out of the General Fund, the
4 amount of \$981,684, which may be expended for carrying out the pro-
5 visions of section 2 of this 2025 Act.

6 **SECTION 12.** The unit captions used in this 2025 Act are provided
7 only for the convenience of the reader and do not become part of the
8 statutory law of this state or express any legislative intent in the
9 enactment of this 2025 Act.

10 **SECTION 13.** This 2025 Act takes effect on the 91st day after the
11 date on which the 2025 regular session of the Eighty-third Legislative
12 Assembly adjourns sine die.”.

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