

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2005 - B

79th Oregon Legislative Assembly – 2017 Regular Session
Legislative Fiscal Office

*Only Impacts on Original or Engrossed
Versions are Considered Official*

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Measure Description:

Provides definitions relating to comparable work for purposes of pay equity provisions.

Government Unit(s) Affected:

Cities, Counties, Special Districts, School Districts, Bureau of Labor and Industries (BOLI)

Analysis:

The bill would expand statute to make it an unlawful employment practice to discriminate between employees or applicants in the payment of compensation based on race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability, or age in the payment of wages or other forms of compensation. Furthermore, the bill makes it an unlawful employment practice to screen job applicants for new jobs based on current or past compensation, or to determine compensation for a new position based on current or past compensation. Employers would only be permitted to provide pay differentials that are based on seniority, merit, piece-rate, location, travel, education, training, or experience.

Employees who assert a violation, or experience retaliation related to a complaint or proceeding of these anti-discrimination compensation laws, may file a complaint with the Commissioner of the Bureau of Labor and Industries (BOLI). If BOLI issues a final order in favor of a complainant, the employer must pay the lesser of back pay for the two years immediately preceding filing a complaint or back pay for the period the complainant was subject to an unlawful wage differential. Employers are required to post a notice of these compensation equity rights in every establishment where employers work and BOLI must create a template for this notice. It is a violation of the law each time compensation is paid under a discriminatory compensation decision or other practice. The bill creates a one-year statute of limitation for filing a civil suit for violation of the law and creates a 300-day tort claim notice for public employers.

In a civil action, a court may only award punitive damages for violations of this law if the employer engaged in fraud, acted with malice or acted with willful and wanton misconduct or an employer previously violated this section of law. In a civil action, a court may disallow compensatory and punitive damages if the employer, within three years before the date that an employee files a complaint, complete an equal-pay analysis and demonstrate reasonable progress toward eliminating wage differential based on discrimination.

There are over 140,000 employers in Oregon, employing more than 1.7 million employees, that could potentially be subject to the provisions in this bill. The Bureau of Labor and Industries may experience an impact to the workload within the Civil Rights division, related to a potential increase in the number of complaints associated with this bill. While the potential increase in the number of complaints to BOLI is indeterminate, BOLI anticipates that any increase in workload will be minimal and absorbable within existing budgetary parameters.

Local governments and school districts have fiscal concerns regarding the potential impacts of the bill, particularly related to costs of conducting and documenting an equal-pay analyses; however cost estimates are indeterminate at this time.