

Pay equity analyses shake up state government

Unequal pay for similar work

By **CONNOR RADNOVICH**
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SALEM — Pay equity analyses in all three branches of state government have exposed instances of unequal pay for similar work and created growing confusion among legislative staff and members.

Intermittently during legislative hearings last week, lawmakers and staff have emailed and met to discuss the implementation of pay equity and the corresponding analysis as required by a law passed in 2017.

There is some concern the analysis has lacked adequate communication or is moving too fast with what will directly impact state workers' pay.

Any changes to meet pay equity standards can only come from an increase in salary. The law states that a person's salary cannot be reduced to meet pay equity.

An analysis is being completed for every department individually. The section of the law dealing with the pay equity analysis and safe harbor provision goes into effect in January.

The legislative and executive branch analyses are in the information gathering stages. Staff said even the documents sent out to help clarify the process are subject to change.

That's led to speculation throughout the Capitol.

"There's a lot of misinformation and not a lot of understanding," said state Sen. Floyd Prozanski, D-Eugene, a member of the legislative work group.

Expanded protections

The Oregon Equal Pay Act of 2017 expanded protections against pay discrimination. It added several protected classes beyond gender to the law, required that differences in compensation be based on job-related reasons and banned screening job applicants based on salary history.

The law passed out of the state House after hours of debate and a split vote, but went to the governor's desk with unanimous approval after several changes were made in the Senate.

The safe harbor provision was one of those upper chamber additions. If an organization completes a pay equity analysis and fixes any problems it finds, then the law protects them from paying compensatory and punitive damages in related lawsuits for the next three years. The law does not require businesses to complete an analysis.

The internal deadline for the analysis in the legislative branch is Nov. 1. Any employees seeing a pay increase will get back pay to June 1.

The legislative branch has about 350 employees and consists of the legislative assembly and six support agencies. An analysis is being completed for every department individually, but it's the assembly that's proven the most challenging.

A work group consisting of four Democrats, four Republicans, and various staff have met twice to discuss implementation of the law. A third meeting is scheduled for early October.

The six chiefs of staff of the caucuses and presiding offices also have met separately.

In the past week, letters and emails were sent to legislative assembly employees asking them to make sure their experience and education information was complete.

But to some, this is a premature step — gath-



AP Photo/Andrew Selsky

Pay equity is an issue at the state Capitol.

ering information to put into a calculator, when that calculator isn't yet complete.

"If (the work group) haven't approved it, then how the hell are you implementing it?" said Sen. Brian Boquist, R-Dallas.

Alleged violations

These analyses come as an employee in the Legislative Policy and Research Office is alleging Equal Pay Act violations.

In a Tuesday federal court filing, Cheyenne Ross said she is paid less than her male co-workers, giving one example of a colleague of comparable skills, experience and responsibility with an annual salary more than \$30,000 higher.

Ross filed a similar suit in state court several months ago.

Loren Collins, Ross' lawyer, said the claim is not based on the law passed in 2017 and the pay differences were not discovered as a result of the analysis.

"Changes in the 2017 law expanded coverage of the Equal Pay Act, but the Equal Pay Act, as it related to gender, was a law already on the books for the state of Oregon and a federal law," Collins said.

But the lawsuit does show one example of what legislative leaders believe is the existence of pay inequity in the Legislature.

How much is still unclear, and what the analyses hope to eventually show.

"I am sure it's going to cost us more money than we're paying right now," said Senate President Peter Courtney, D-Salem. "We're going to have to find the money ... I believe we should pay people what they're worth."

The Department of Administrative Services is responsible for analyzing about 35,000 employees in the state's executive branch.

Each employee has received a survey asking them to make sure their resume on file is complete and up-to-date.

The same questions were also posed to employees in the legislative and judicial branches.

From there, an analysis is done of each employee's experience, education, seniority and additional training, to determine what their monthly salary should be on a step and range

salary scale.

A back-of-the-envelope calculation earlier this year from a preliminary analysis and conversations with lawyers showed a potential budget impact of \$400 million in the executive branch.

Mark Rasmussen, manager of classification and compensation within the Department of Administrative Services, said that number was a "worst-case scenario" based on an interpretation of how the new law might intersect with collective bargaining agreements.

Rasmussen said they now expect the fiscal impact to be much less because of evolving interpretations of the law. He considers the \$400 million estimate to be "irrelevant."

But there is not a current estimate because "we've been too busy trying to get the actual work done," he said.

Creating rules

The Bureau of Labor and Industries is in the process of creating rules for implementation of the law. The majority of the law becomes operative in January, though the provision disallowing businesses from using salary as a job screening method took effect last October.

It's still unclear how those rules could impact state government employees. The Bureau of Labor and Industries recently extended the comment period for rule-making into mid-October.

"BOLI has been very late to the game," said Betsy Imholt, chief of staff in the Senate presi-

dent's office.

The judicial branch, with more than 1,500 full-time equivalents on staff, is far ahead of its legislative and executive counterparts and nearly done with their analysis.

Phil Lemman, acting deputy state court administrator of the Judicial Department, said there are fewer than 100 employees left to analyze, and so far more than 100 people will see a pay increase.

A dollar figure, however, has not been determined yet, because the department is waiting until the analysis is finalized before doing those calculations, Lemman said.

But he said it's clear the judicial branch will need to re-evaluate its personnel hiring rules based on the pay equity law. Those rules are also used in budgetary assumptions.

Another structural change as a result of implementing pay equity will be the loss of some flexibility among lawmakers of how much they can pay staff.

The staffing needs of legislators vary depending on all sort of factors, including committee assignments, legislative focus, and even district location.

Budget wonks tend to look for aides with accounting experience, while knowledge of the medical field might be important for other lawmakers. Some hire family, contending they are the most trustworthy and helpful aides they can find.

Legislators also pay legislative staff out of campaign funds, a subset of employees not addressed by this analysis.

While legislative aides are technically already designated placement on the pay scale, it has not been enforced.

"Basically everybody has been allowed to do whatever they wanted to do," said Robin Maxey, communications director for the Senate president's office.

Ongoing conversations

Conversations are ongoing as to how much influence lawmakers will have in paying their staff.

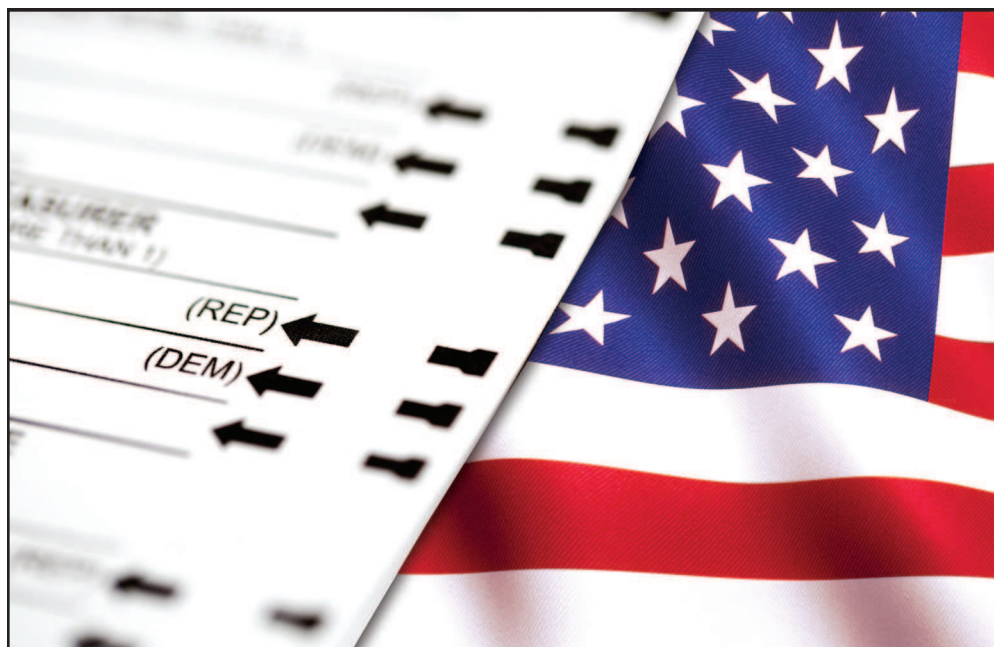
The current, general understanding is that lawmakers will be able to have a discussion with Employee Services about why their aide's experience and education should entitle him or her to a certain salary, if there is a disagreement.

There was a pay snapshot taken in May as a starting point for part of the analysis, but that too is unsettling some in the building.

The 2018 short session ended in March, and some year-round legislative aides get paid less during the interim. The fear is that the lower salary will be used to calculate future pay.

It's one more factor complicating an uncertain process.

"They're all in this range," Imholt said, "but I can't tell if there's any rhyme or reason to it."



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