

A-Engrossed House Bill 3686

Ordered by the House February 8
Including House Amendments dated February 8

Sponsored by COMMITTEE ON EDUCATION (at the request of Ecumenical Ministries of Oregon, Oregon Family Council, Northwest Religious Liberty Association and Portland State University Muslim Student Association)

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.

Includes difficulty or expense to maintain religiously neutral work environment among factors to be considered when determining if requested accommodation creates undue hardship for employer that is school district, education service district or public charter school.

Repeals provisions prohibiting teacher in public school from wearing religious dress while engaged in duties as teacher and sanctioning teacher for doing so.

Takes effect July 1, 2011.

A BILL FOR AN ACT

1
2 Relating to unlawful discrimination in employment practices; amending ORS 659A.033; repealing
3 ORS 342.650 and 342.655; and prescribing an effective date.

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

5 **SECTION 1.** ORS 659A.033 is amended to read:

6 659A.033. (1) An employer violates ORS 659A.030 if:

7 (a) The employer does not allow an employee to use vacation leave, or other leave available to
8 the employee, for the purpose of allowing the employee to engage in the religious observance or
9 practices of the employee; and

10 (b) Reasonably accommodating use of the leave by the employee will not impose an undue
11 hardship on the operation of the business of the employer as described in subsection (4) of this
12 section.

13 (2) Subsection (1) of this section applies only to leave that is not restricted as to the manner in
14 which the leave may be used and that the employer allows the employee to take by adjusting or
15 altering the work schedule or assignment of the employee.

16 (3) An employer violates ORS 659A.030 if:

17 (a) The employer imposes an occupational requirement that restricts the ability of an employee
18 to wear religious clothing, to take time off for a holy day or to take time off to participate in a
19 religious observance or practice;

20 (b) Reasonably accommodating those activities does not impose an undue hardship on the oper-
21 ation of the business of the employer as described in subsection (4) of this section; and

22 (c) The activities have only a temporary or tangential impact on the employee's ability to per-
23 form the essential functions of the employee's job.

24 (4) A reasonable accommodation imposes an undue hardship on the operation of the business of
25 the employer for the purposes of this section if the accommodation requires significant difficulty or

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 expense. For the purpose of determining whether an accommodation requires significant difficulty
2 or expense, the following factors shall be considered:

3 (a) The nature and the cost of the accommodation needed.

4 (b) The overall financial resources of the facility or facilities involved in the provision of the
5 accommodation, the number of persons employed at the facility and the effect on expenses and re-
6 sources or other impacts on the operation of the facility caused by the accommodation.

7 (c) The overall financial resources of the employer, the overall size of the business of the em-
8 ployer with respect to the number of persons employed by the employer and the number, type and
9 location of the employer's facilities.

10 (d) The type of business operations conducted by the employer, including the composition,
11 structure and functions of the workforce of the employer and the geographic separateness and ad-
12 ministrative or fiscal relationship of the facility or facilities of the employer.

13 (e) The safety and health requirements in a facility, including requirements for the safety of
14 other employees and any other person whose safety may be adversely impacted by the requested
15 accommodation.

16 **(f) The degree to which an accommodation may constrain the obligation of a school dis-**
17 **trict, education service district or public charter school to maintain a religiously neutral**
18 **work environment.**

19 **SECTION 2. ORS 342.650 and 342.655 are repealed.**

20 **SECTION 3. This 2010 Act takes effect on July 1, 2011.**

21