



Associated Oregon Industries

AOI TESTIMONY ON HOUSE BILL 2950 HOUSE BUSINESS & LABOR COMMITTEE

MEASURE: HB 2950
EXHIBIT: 9
H BUSINESS & LABOR
DATE: 3.15.2013 PAGES: 3
SUBMITTED BY: J.L. Wilson

March 15, 2013

1149 Court Street NE
Salem, OR 97301-4030

telephone: 503.588.0050
portland: 503.227.5636
statewide: 800.452.7862
fax: 503.588.0052

www.aoi.org

AOI opposes HB 2950. To be clear, AOI does not oppose bereavement leave. In fact, most of our members actually offer **paid** bereavement leave as part of their own company employment policies.

What AOI opposes is further expansion of Oregon's family leave law (OFLA) without consideration for the unwieldy state of Oregon's current law. Oregon's family leave law is, by far, already the most generous in the nation even without HB 2950.

Oregon employers routinely cite OFLA as their biggest HR challenge. Companies that do business in multiple states regularly single out Oregon's family leave law as the most complex, confusing, and difficult to administer. Here's why:

Oregon is one of only 12 States currently with State Family Leave laws:

Oregon	Minnesota	Maine
California	Wisconsin	Massachusetts
Washington	New Jersey	Vermont
Hawaii	Connecticut	Rhode Island

Only Four States Require Family Leave for Small Business:

- Maine (15 or more)
- Vermont (15 or more)
- Minnesota (21 or more)
- Oregon (25 or more)

No state has a lower threshold for entry:

- Oregon (6 mos @ 25 hrs per week)
- Washington (680 hours in qualifying year)
- Hawaii (6 months – but only for companies with 100+ employees)
- Maine (12 mos)
- Minnesota (12 mos @ 20 hrs per week)
- Vermont (12 mos @ 30 hrs per week)

Oregon has no peer for qualifying leave:

- Oregon – 12 weeks/yr each for parental, serious health, pregnancy, sick child
- California – 12 weeks/yr for family; 16 weeks/yr maternity – 28 week/yr total
- Vermont – 12 weeks/yr each for parental, serious health
- Wisconsin – 10 weeks/yr total for all leaves
- Connecticut – 16 weeks/2yrs combined
- Rhode Island – 13 weeks/2 yrs combined
- New Jersey – 12 weeks/2yrs combined
- Maine – 10 weeks/2yrs combined
- Minnesota – 6 weeks parental/yr
- Hawaii – 4 weeks parental/yr
- Massachusetts – 24 hrs/yr addition to FMLA

No other state has a broader definition of “family” than Oregon:

Oregon – Domestic partners, grandparent, grandchildren, parents-in-law

Vermont – Civil union partner, parents-in-law

Maine – Domestic partners, siblings

Hawaii – Grandparent, parents-in-law

California – Domestic partners

Connecticut – Domestic partners

Wisconsin – Parents-in-law

Rhode Island – Parents-in-law

Other unique features to Oregon’s family leave law:

Oregon stands alone as the only state to offer 12 weeks of leave for children with non-serious health conditions. In fact, any employee can claim up to three days of “sick child leave” with no medical verification.

Oregon is one of only a handful of states that does not allow re-instatement to an “equivalent” position.

Oregon is one of only a few states that bars employers from counting a workers’ comp injury as time off under OFLA.

Oregon employers are covered under FMLA if they have 50 employees within a 75 mile radius. Oregon employers are covered under OFLA if they have 25 employees throughout the entire state.

On top of Oregon’s generous family leave laws, Oregon also grants:

OFLA-type leave protection for workers to address the effects of domestic violence, stalking, sexual assault, or assault.

An additional 2 weeks per year for families of service members deploying or returning from deployment.

Access to accrued paid leave while employee utilizes OFLA leave.

Reforms to OFLA that Oregon employers would like to see:

1. OFLA sick child leave. No other state offers this. At the very least, employers would like the ability to seek medical certification starting with the first instance, and not starting with the fourth.
2. OFLA reinstatement rights. FMLA allows an employer to put an employee in any comparable position upon a return from leave. OFLA is more strict: It must be the same position, unless the position was eliminated during the employee’s leave.
3. Intermittent leave. FMLA allows an employer to temporarily reassign an employee on intermittent leave to a comparable position, in order to make it easier for the employer to absorb inconsistent attendance patterns. OFLA, however, requires there to be an agreement with the employer and the employee, which means that few employees are reassigned.
4. Make OFLA recertification consistent with FMLA recertification at the 1-year mark.

5. OFLA and FMLA have two different penalties for failure to give timely notice. The result is employers cannot use either penalty.
6. OFLA does not allow the employer to directly contact the healthcare provider. FMLA allows for more direct contact and, therefore, better communication regarding issues.
7. FMLA allows for broader questioning regarding leaves, in particular intermittent leave issues. Under OFLA, an employer cannot deduct salary for partial day absences. FMLA allows such deductions.
8. OFLA intermittent leave rules consistent with FMLA rules.

