



April 5, 2013

Senate Committee on General Government, Consumer Protection and Small Business

Re: SB 573 – Civil action of lien on employer’s real & personal property for unpaid wage claim

Speaking on behalf of NFIB and numerous additional business organizations representing thousands of small businesses of every type and scope throughout the state of Oregon we wish to express our strong opposition to SB 573.

First, we want to acknowledge our agreement that wage theft is wrong! Actual wage theft is unconscionable. We wholeheartedly endorse that viewpoint. Protecting against wage theft and seeing justice done is the purpose of Oregon’s stringent wage theft statutes as overseen and administered by BOLI.

Oregon’s workforce numbers about 1.8 million workers. The percentage of that workforce that experiences wage theft is very small when put in perspective. Yet SB 573 has a potential punishing effect on the entire business sector due to the actions of these few “bad actors”. We have laws in place and agencies in place to deal with these individual circumstances.

The proponents have stated in the past that the process is too complicated for some workers and they feel left out of the system. The BOLI wage claim form is two pages in length and does require proof of claim documentation. If a claimant can fill out a lien form, they are capable of filling out the BOLI form. The one significant difference between the BOLI process and the lien process is that the lien process does *not* require any proof of claim. This alone is a strong case for all wage claims to go through the existing BOLI process.

SB 573 represents a “guilty until proven innocent” approach. That does not represent the principles of our democracy. A priority lien can be executed against the employer’s real and personal property in the state of Oregon without even filing a wage claim with BOLI. There is complete absence of due process for the employer. This completely circumvents the appropriate wage claim process. The lien option is open to any employee capable of filling out a form and paying the fee.

Of great concern is the fact a priority lien placed against an employer can have a significant detrimental affect in conducting normal business activities such as banking or buying and selling property.

Key points of objection:

- No controls
- No judicial findings to substantiate lien
- No evidentiary showing required
- No exhaustion of administrative remedies required
- Creates a wage claim machine for lawyers
- Current law provides remedy and stiff penalties against employers in wage claims
- Significant adverse effect caused by a priority lien in conducting normal business activity

SB 573 is not only an insult to small businesses, it is an assault upon small businesses and the large majority of entrepreneurs that are law abiding business owners who treat their employees in a fair and equitable manner.

With all due respect, we strongly urge the committee – do not move this bill forward.