



OREGON COUNCIL
on
CIVIL
RIGHTS



Urban League
of Portland

HB 2669: Workplace Protections for Interns

BACKGROUND

While protected under state and federal wage and hour law, interns are *not covered* under the employment-related anti-discrimination laws and other workplace protections of ORS Chapter 659A and Title VII of the Civil Rights Act of 1964. Because they are often young and inexperienced, interns remain vulnerable to predatory work environments.

The Equal Employment Opportunity Commission (EEOC) has issued Title VII guidelines that provide coverage to volunteers “if the volunteer work is required for regular employment or regularly leads to employment with the same entity”, but some interns have been unable to bring sexual harassment or civil rights complaints under Title VII because courts have not found them to technically be “employees”, to whom these protections are explicitly afforded.¹ *Oregon law does not offer specific protections for interns or volunteers. The protections of state statutes speak only to employees.* Protections for interns in the workplace need to be explicit in state law to guarantee their civil rights.

PROBLEM: Student interns are not technically “employees”. They are not afforded the protections under ORS 659A.030 and other workplace discrimination protections in Oregon and should be given the same protections that an employee working next to them has.

SOLUTION: By creating a provision to apply these protections to interns, as defined in the proposed amendment, HB 2669 clarifies that existing civil rights workplace protections also apply to interns.

****HB 2669 does not extend the employment relationship to any other employment statute, only to the anti-discrimination statutes.**

Information provided by Elizabeth Cushwa, Bureau of Labor and Industries, 503/593.8946

¹ *O'Connor v. Davis*, 126 F.3d 112 (2d Cir. 1997), in which the court dismissed the student’s Title VII sexual harassment claim because, as an unpaid intern, she was not an “employee”.

Lowery v. Klemm, 845 N.E.2d 1124 (Mass. 2006), in which the appellate court extended state anti-harassment law to unpaid interns and volunteers, only to have the Supreme Judicial Court of Massachusetts reverse the decision.



Remaining Bills Memo House Business & Labor Committee

April 16, 2013

Dear Chair Doherty and House Business & Labor Committee –

With the remaining bills on the B&L calendar for tomorrow, I wanted to re-iterate AOI's position .

SUPPORT:

HB 2923 fixes the problem of an Appeals Court ruling which the business community believes stripped exclusive remedy protections from LLC owners and members on workers' comp claims.

HB 3095 clarifies that franchise agreements do not constitute employment relationships between franchisors and franchisees.

HB 3141 excludes direct sellers from the definition of "employment" for purposes of UI taxes.

OPPOSE:

HB 3042. Current law already allows for wage discrimination claims based on protected class, as the claimant must show discriminatory intent on the part of the employer. This bill reduces proof of liability down to more of a strict liability standard for employers on wage discrimination claims and switches the burden of proof from employee to employer.

HB 3142 expands the definition of "employer" to include a host of non-employers for the purposes of expanding the pool of persons liable for wage claims.

HB 3390, the paid sick leave mandate, is effectively a 3% payroll tax on small business that would not affect big businesses and would effectively undermine current employee benefits arrangements and management tools used by Oregon's small businesses. This bill is not a fit for Oregon's small employers, particularly in rural or economically depressed areas.

OTHER:

HB 2669, which extends certain civil rights protections to interns, will likely be OK with us pending amendments on the Senate side. BOLI has answered AOI's concerns thoroughly and allayed outstanding concerns.

HB 2672, to our knowledge, has not been amended sufficiently to allay concerns, particularly with regard to definition of 'employer' and with creating an exemption for people who provides domestic services as independent contractors.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "L. Wilson".