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AOI Testimony on House Bill 2111 House Business & Labor Committee

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HB 2111 appears to lower the standard for defining who is considered 'disabled' for purposes of Oregon's disability discrimination law. It does so by changing the definition of "substantially limited in a major life activity" to an impairment that "restricts," instead of "materially restricts," a major life activity.

HB 2111 is a bill that AOI would oppose for the following reasons:

- ✓ HB 2111's proposed change to the Oregon statute would take a huge leap and encompass conditions well beyond the highly generous federal ADA Amendments Act (ADAAA). If the statute is changed to say that the impairment only needs to "restrict" a major life activity, that's an extraordinarily low standard.

The reason this is important is Oregon already has more qualifying conditions for disability than federal law (eg. "socializing," "ambulation," "transportation," and "employment") and Oregon disability law applies even to the smallest businesses (6 or more employees) while federal law applies to companies with 15 or more employees.

- ✓ Under HB 2111, any restriction of a major life activity, no matter how minor, would be considered disabling. For example, an occasional stutter restricts the major life activity of speaking, a wart on the ball of the foot restricts the major life activity of walking, and a pulled muscle restricts the major life activity of bending. These conditions are far too minor to warrant protection under Oregon's disability discrimination law, or to require accommodation by an employer.
- ✓ The EEOC's regulations, while very expansive, still place some parameters on the concept, as follows: "An impairment is a disability within the meaning of this section if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population" as well as, "An impairment need not prevent, or significantly or severely restrict, the individual from performing a major life activity in order to be considered substantially limiting. Nonetheless, not every impairment will constitute a disability within the meaning of this section." HB 2111 does not have the necessary parameters to match up with the meager federal parameters.

A guiding principle concerning AOI's support for legislative proposals such as HB 2111 is that AOI supports conformity with federal regulation where possible.

It is AOI's contention is that HB 2111 is far more generous than federal law, and it creates an undue burden on Oregon employers, particularly those Oregon employers with 6 to 14 employees that are not subject to federal disability discrimination and accommodation laws.

What AOI could support is an effort to make sure the language of House Bill 2111 comports with federal as exactly as possible. We just don't believe HB 2111 accomplishes this in its current form.

What AOI does not want is for Oregon companies to have to fight a legal interpretation that Oregon intended to liberalize its disability statutes to set a lower bar than what exists in current federal law.