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HB 2976 WOULD DESTROY OREGON JOBS

The American Staffing Association and its Oregon affiliate, the Oregon Staffing Association, represent temporary and contract staffing firms in Oregon and throughout the United States. Staffing firms in Oregon employed nearly 135,000 temporary and contract employees in 2011, accounting for almost $800 million in payroll. Oregon staffing firms operated some 740 offices throughout the state, each contributing to the vitality of the state's economy.

Temporary and contract jobs offer workers critical flexibility and training, as well as a path to a permanent employment, thus contributing significantly to the state's economy. This legislation will be extremely harmful to staffing firms, their employees, and the state's economy for many reasons. Here are just a few.

1. ***The "abuses" this legislation attempts to prevent are not committed by staffing firms and, to the extent they are, staffing firms already must comply with all laws applicable to employers***

It is our understanding that this legislation primarily aims to protect day laborers – who are picked up at such sites as parks and street corners and transported to worksites – and who are not adequately informed about their wages, working conditions, employer, etc.

But these alleged abuses are not committed by staffing firms. The vast majority of staffing firms that place workers on temporary assignments do not place day laborers, and those firms that do assign day laborers do not pick up them up from street corners, parking lots, or parks – instead, the day laborers report to the staffing firms' offices, from which they are assigned.

As employers, these staffing firms are already obligated by law to pay payroll taxes (FICA, FUTA) and provide workers' compensation insurance, as well as comply with all other legal obligations (e.g. civil rights, wage and hour, and workplace safety laws) with which every other employer in the state must comply—like all other workers, temporary workers are protected by all federal and state employment laws. Therefore, to the extent problems exist, they should be solved by more aggressive enforcement of existing laws that already protect workers' rights, not by enacting a bill, HB 2976, that would cripple the entire staffing industry.

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2. ***State wage mandates would undermine workforce flexibility***

In addition to having nothing to do with any alleged abuses the bill purportedly is designed to address, the wage mandates imposed by HB 2976 would be bad for businesses in Oregon and would adversely impact workers.

Requiring staffing firms to pay temporary employees wages equal to those paid to clients' permanent employees, *plus a 30% surcharge,* would increase clients' cost of doing business with staffing firms, discourage their use of temporary workers, and thus undermine the benefits of a flexible labor force. Requiring day labor service firms to pay the prevailing wage of the clients' permanent employees would lead to the same result. Such wage mandates would violate free market principles and chill the use of flexible staffing arrangements, depriving both workers and businesses of critical flexibility. Employers and employees have the right to bargain over working conditions and wages and the state should not interfere with that process.

3. ***The proposed legislation would prohibit staffing firms from charging reasonable fees for their services***

Staffing firms would be prohibited from charging clients fees for placing certain candidates in permanent jobs, thus wiping out a large part of the staffing industry. Specifically, the bill would prohibit staffing firms from charging clients what are commonly referred to as "conversion fees," which are reasonably designed to discourage clients from using the staffing firm as a free employment agency. These fees, which are imposed in what are commonly known as "temp-to-hire" arrangements, cover staffing firms' cost of recruiting, screening, training, and placing applicants. Such a prohibition would be unprecedented, as no other state prohibits direct hire or conversion fees.

4. ***Requiring staffing firms to provide written notice to temporary employees would impose an unnecessary and crushing administrative burden***

HB 2976 would require staffing firms to provide temporary employees with written detailed information including, among other things, the expected duration of the work to be performed, an accurate job description, accurate information on any health and safety hazards, and other information, and would impose a crushing administrative burden on staffing firms.

Most staffing firms already provide this information to workers verbally. Requiring this information to be given in writing would place an unnecessary administrative burden on firms. The volume and variety of temporary jobs and the fact that most job assignments must be filled on very short notice, make it impractical if not impossible to provide job-specific written job descriptions to workers placed on jobs.

Furthermore, there is no evidence that employees are not being adequately informed about their jobs before going on assignments and after they get there. Without such evidence, there is no basis for even considering legislation such as HB 2976.

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5. ***Staffing Firms should be allowed to charge nominal fees when offering voluntary services***

The legislation expressly prohibits staffing firms from charging a fee to cash an employee's check or to provide the employee transportation to and from the work site. Staffing firms that do provide these services to their employees do so for the benefit of such workers, and often charge a nominal fee to simply cover the cost of providing these services. If staffing firms cannot charge a reasonable fee, then they will stop offering these services to the detriment of employees who may not be able to get to the bank before it closes to cash their checks or who may need transportation in order to get to the job site.

6. ***Prohibiting Placements at Strike Locations Likely Violates Federal Law***

Language stating that a day labor firm cannot assign temporary workers to a workplace where a strike, lockout or other labor trouble exists is almost certainly unenforceable. The National Labor Relations Act protects the right of employers to use temporary or permanent replacement workers in strike situations and the courts have uniformly struck down laws prohibiting the use of replacement workers. Moreover, it should be a temporary worker's individual choice as to whether to accept an assignment where workers are on strike.

7. If a job changes during an assignment, day labor firms should be able to adjust workers' pay rates, if necessary

The legislation states that, "When a day labor employer and a day laborer have agreed upon a wage rate, the day labor employer may not reduce the agreed upon wage rate during the term of the employment." This provision is problematic because a temporary worker's job responsibilities may change over time, thus necessitating a wage rate change, as well. For example, if someone is sent to work as a finishing carpenter for a week and then is sent back to the same customer again to do general clean up, they may be paid different wages because of the different skillsets required for the jobs.

8. ***Putting restrictions on how staffing firms operate will harm workers and the economy***

HB 2976 would only serve to cripple the staffing industry, thus hurting workers and businesses alike. HB 2976 will restrict how staffing firms operate and drive them out of business or out of Oregon. Because of the wage mandates, prohibition of conversion fees and other measures this legislation would impose, staffing firms would have no choice but to close or relocate elsewhere – hurting workers, clients, and the Oregon's economy.

Therefore, we respectfully urge the Oregon legislature to reject HB 2976.