



Oregon Rehabilitation Association

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Abilities at Work
Abilitree
Adult Learning Systems of Oregon
Albertina Kerr Centers
Alternative Services Oregon, Inc.
Alvord Taylor Independent Living Services
AmSan
ANCOR
Ashland Supportive Housing (ASH)
Bay Area Enterprises
Bethesda Lutheran Communities
Catholic Community Services.
CCER/TACE Northwest
Chamberlin House, Inc.
Coast Rehabilitation Services
Coastwide Laboratories, A Division of Staples
Community Access Services, Inc.
Community Services, Inc.
Comerstone Associates, Inc.
Creative Supports, Inc.
Diamond Peak Group (Morgan Stanley Smith Barney)
Douglas Residential Training Facilities
Dungarvin, Inc.
Eastco Diversified Services
Eastern Oregon Support Services Brokerage (EOSSB)
Edwards Center, Inc.
Enterprise Fleet Management
Full Access
Galt Foundation
Garten Services, Inc.
Greenleaf Industries
Horizon Project, Inc.
Independence Northwest
Independent Environments, Inc.
Lane Community College, Specialized Support Services
LaPorte & Associates
Living Opportunities, Inc.
Marie Mills Center, Inc.
McKenzie Personnel Services, Inc.
Mentor Oregon
Mid-Valley Rehabilitation, Inc.
New Day Enterprises, Inc.
Opportunity Connections
Opportunity Foundation of Central Oregon
Oregon Supported Living Program
Oregon Telecommunications Relay Service
Partnerships in Community Living, Inc. (PCL)
Pathway Enterprises, Inc.
Payless Drugs
Peak Performers
Pearl Buck Center Incorporated
Pharmasync
REACH, Inc.
Residential Assistance Program (RAP)
RISE Services, Inc.
Riverside Training Centers
Scioto Properties, LLC
Self Determination Resources, Inc. (SDRI)
Shangri-La Corporation
SourceAmerica
Source America NW Regional
South Coast Horizons
Southern Oregon Aspire, Inc.
Southern Oregon Goodwill Industries
Southern Oregon Regional Brokerage
Star of Hope
Step Forward Activities, Inc.
Sunrise Enterprises, Inc.
Therap Services, Inc.
TVW, Inc.
Umpqua Homes for the Handicapped, Inc.
Wentworth Chevrolet
WITCO

DATE: February 11, 2014

TO: House Committee on Consumer Protection and Government Efficiency

FROM: Chris Burnett, Executive Director
Oregon Rehabilitation Association

RE: Testimony on House Bill 4118

Thank you for the opportunity to provide the community provider perspective and share with you our concerns about this bill. It is but one of multiple pending threats to the PIDL and to allowing the full range of choice in employment for individuals with disabilities.

This discussion is in fact about consumer protection and government efficiency - a point I will emphasize again later in my testimony. To put this bill in perspective it is important to recognize our current environment.

The issue of employment is a highly charged, emotional, polarized and personal. We often introduce ourselves by describing how we choose to spend our days and where we invest our time and our emotional energy - for most of us that is our job. We define value in our own way, from the corporate executive, to the bus driver, to the artist, to the volunteer.

We cannot ignore the fact that there is intense interest in pending litigation around what employment choices will remain available for individuals with disabilities and who ultimately gets to make that decision - the individual and their support team, or the government. Will Oregon continue to protect a consumer's right to choose from more than one option for employment?

Even without the lawsuit, changes in emphasis at the federal level, in other states and the demands of today's families are driving change. We don't dispute that and fully support the expansion of employment opportunities appropriate for the individual's needs and chosen by that individual. **Those supports, however, have not been prioritized with appropriate funding so has put policy in conflict with the reality of implementing that policy.**

The Governor's Executive Order, in response to the lawsuit, added emphasis to the discussion and drew a line in the sand; however, our comments are about more than either of these high profile issues or the specifics of this bill.

Our testimony today encompasses the broader issue of personal choice and human rights. These issues are inextricably woven together in the larger debate in which we are all engaged.

Before I get to the specifics about this bill let me say that in recent weeks we've seen what appears to be systematic undermining of the PIDL and the viability of QRF's that causes us grave concern.

The PIDL is a high value program that has operated at low cost to the State so we are concerned and confused about why, when Oregon is focused on improving employment outcomes and coordinating workforce activities that, the PIDL and the value of QRF's appears to be in question.

The proliferation of quasi-state entities such as the OTE that are not subject to the PIDL and its consumer protections and repeated efforts by institutes of higher education to avoid compliance with the PIDL adds to our concern about reduced choices of employment opportunities for individuals with disabilities.

Let me get to the specifics of our opposition to this bill.

1) **The bill is not a person centered/individualized approach.** The bill seems to assume that one QRF can be interchanged with another, at least from the viewpoint of employees with disabilities. The assumption that one QRF is basically the same as any other is false. Often, the best outcomes for individuals are achieved when supports are built for individuals over time. Success depends upon longstanding relationships with support staff, counselors and trainers and is influenced by corporate culture.

In addition, some QRFs specialize in working with individuals with specific challenges or types of disability. Expectations that individuals with disabilities can move from QRF to QRF may set them up for failure.

2) **Added cost. Prices for QRF goods and services must be "reasonable." High costs are already a primary reason for public agencies to bypass QRFs.** Adding additional costs to QRFs will ultimately result in reduced job opportunities for Oregonians with disabilities. Price pressures present in the bill include an agency fee, increased overhead from additional compliance requirements, and (per SEIU Local 49) a bond that will have to be put up for every contract.

3) Like any other contractor, QRFs must abide by contract terms and conditions. That means QRFs must also provide good, consistent service. By far, the most common reason for a QRF to lose a contract is poor service. **Forcing a QRF to take on low-performing employees hurts its chances of success.** If the second QRF also loses the contract, those jobs may go to a non-QRF, meaning that persons with a disability won't have access to those jobs or to the supports offered to them by the QRF.

4) **Minimum Wage/Federal Wage Structure. Assisting individuals with disabilities to find and keep good paying jobs is the ultimate goal. In fact, the majority of QRF jobs already pay more than minimum wage.** Those that do not use the subminimum wage provisions allowed by the U.S. Department of Labor to provide training and employment to persons whose skills that may not be competitive in the marketplace. **Many individuals with disabilities who work for sub-minimum wages do so because they choose to be engaged on a daily basis and to work at their individual productivity level than not work at all.**

Human beings are not an all or nothing entity. Some who begin their work career in a facility based setting learn essential skills there and move on to integrated work setting. By Rule or funding mechanisms if these safety net facilities are eliminated there are fewer choices for those who may fluctuate in their ability to work in a competitive setting or choose a variety of settings to meet their needs. Today there are a number of individuals who participate in all levels of employment supports within a week - spending some time in an integrated setting, some in facility based settings and some in ATE or recreational settings.

Like anyone else, in addition to a wage people with disabilities experience the intangible benefits of work, including increased pride and self-esteem. They could be deprived of those benefits in instances where their productivity does not meet Agency demands of price and specification. Those with the most severe disabilities – the same ones whose disabilities are so severe that they are denied services from Vocational Rehabilitation – may find that they are no longer welcome in the QRF Program if their labor would price QRFs out of business.

To limit an individual to a few hours a week of minimum wage instead of a full week of engaged participation with

co-workers of their choosing at a prevailing wage, based on their productivity, in effect negates choice. We do not have the right to make that decision for every individual if we truly support individual choice, individual determination and operating on the basis of person centeredness.

We can, however, with sufficient resources expand the capacity and increase the numbers of individuals who can succeed at minimum wage or higher jobs. ORA fully supports this maximized effort and stands ready to support the State in this effort while retaining individual options as the system evolves.

5) **Social Security / Medicaid.** Most people who earn less than minimum wage receive other supports including social security, Medicaid, food stamps, etc. If they earn too much, they jeopardize those benefits. Medicaid in particular is essential this group: they often have health and medical issues that come with their disability and they depend upon that insurance. Raising individuals' wages not based on performance, could result in them being forced to work fewer hours, in turn decreasing their integration into the community, a stated goal of the Governor's Executive Order.

6) Unfairly punitive damages. QRFs are contractors, yes, but they also perform a civic service by employing a group whose employment rate is historically (and continues to be) below one in three. The same wage and hour laws apply to QRFs as to any other contractor, so why treat them more harshly? Unnecessarily burdensome oversight, not to mention fees and penalties, will hinder QRFs' ability to perform their missions: and that means fewer jobs for people with disabilities.

7) Contracting agency nuisance and liability. When an Agency makes a purchase from a QRF, that purchase is already outside the scope of that Agency's "normal" purchasing procedures. That could be viewed as burdensome and find a reason/excuse to make their purchases elsewhere. This bill increases this possibility by:

- Adding a requirement that new special language be inserted in all bids and advertisements;
- Requiring Agencies to notify BOLI of all QRF contract awards;
- Forcing Agencies to accept liability when the QRF fails to pay minimum wage or better;
- Adding fees for each QRF contract that must be paid to BOLI on a consistent basis.

Any one of these factors could be the straw that breaks the camel's back, giving a public agency reasons to bypass the QRF Program for goods and services. Every time that happens, jobs are lost to Oregonians with disabilities. Ultimately, the bill puts jobs at risk for individuals with disabilities who currently benefit from the QRF program.

Thank you.