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Testimony of D. Michael Dale
Before the House Committee on Business and Labor
February 9, 2015
HB 2212 – Remedy for Late Payment of Wages

I am the Executive Director of the Northwest Workers' Justice Project. I have been a lawyer in Oregon since 1977, and have spent most of that time representing migrant and seasonal agricultural workers. The Northwest Workers' Justice Project provides legal representation to low wage contingent workers throughout the economy in sectors such as construction, building maintenance, landscaping, hotel and restaurant industry, food processing, agriculture and reforestation. I am submitting this testimony on behalf of the Coalition to Stop Wage Theft, of which NWJP is a member. The Coalition includes more than 35 civic, labor, religious and business organizations.¹

The Oregon Coalition to Stop Wage Theft supports HB 2212, but suggests an amendment.

Under current Oregon law, employers are supposed to establish a regular payday at least every 35 days, and workers are to be paid on that regular payday. Workers have a remedy if they are not paid within a certain period of time after their work ends, see ORS 652.150, but if they are continuing to work even though they have not been paid on time, the statutes do not currently provide a remedy to workers, nor does BOLI have authority to levy a fine.

HB 2212 would provide authority to BOLI to levy a civil penalty of up to \$1,000 if an employer fails to pay on pay day and the late payment is not a result of circumstances beyond the employer's control. The coalition supports this provision as far as it goes.

However, we believe that the bill would be more effective if the money collected from the employer for late payment were in the form of penalty damages paid to the employees

¹ Adelante Mujeres, AFL/CIO of Oregon, American Friends Service Committee, CAUSA, Beyond Toxics, Catholic Office of Life, Justice and Peace, Archdiocese of Portland, Centro Latino Americano of Eugene, Common Cause Oregon, Community Alliance of Lane County, Economic Fairness Oregon, Ecumenical Ministries of Oregon, Family Forward Oregon, Human Dignity Advocates of Crook County, Interfaith Movement for Immigrant Justice (formerly ONSM), Jewish Federation of Greater Portland, Mainstreet Alliance, Northwest Workers' Justice Project, Oregon Action, Oregon AFSCME, Oregon School Employees Association, Oregon Center for Christian Voices, Oregon Center for Public Policy, Oregon Strong Voice - Southern OR Chapter, Oregon Thrives, Oregon Working Families, PCUN, Portland Jobs with Justice, Project REconomy, Rural Organizing Project, SEIU Local 49, SEIU Local 503, Tax Fairness Oregon, Teamsters Local 26, United Food and Commercial Workers Local 555, VOZ Workers Education Project and We Are Oregon.

affected. Inevitably, BOLI investigations depend very heavily on cooperation of the workers, themselves. Workers who cooperate run significant risk of retaliation if their employer incurs a fine. If they will receive nothing for their trouble or for the dislocation of their finances caused by the late payment, it will prove difficult in many cases to win necessary cooperation. And after all, it is the workers who suffer harm when the timely payment mandate of the statute is not honored.

We recommend that this bill be amended to provide that monetary penalties provided in the bill be paid to injured workers, and then be approved with a do pass recommendation.