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**Testimony of D. Michael Dale
Before the House Committee on Business and Labor
February 9, 2015**

HB 2387 – Strengthening BOLI Authority to Require a Bond of Noncomplying Employers

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 2387.

Wage theft has become a common practice in many low-wage industries in Oregon and nationwide—a recent study of low-wage workers found that *more than two-thirds* of these low wage workers interviewed had suffered wage theft in the previous work week.² The Economic Policy Foundation, even before the recession, estimated that companies annually steal \$19 billion in unpaid overtime.³ This hurts workers, good employers who must compete with competitors who cheat and Oregon communities that don't benefit economically from wages or taxes that are never paid.

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.

² Annette Bernhardt, Ruth Milkman, Nik Theodore, Douglas Heckathorn, Mirabai Auer, James DeFilippis, Ana Luz Gonzalez, Victor Narro, Jason Perelshteyn, Diana Polson, and Michael Spiller, *Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities* (Chicago: Center for Urban Economic Development, 2009).

³ Craig Becker, "A Good Job for Everyone: Fair Labor Standards Act Must Protect Employees in Nation's Growing Service Economy," *Legal Times*, 27, No. 36, September 6, 2004.

One key problem with enforcing wage laws today is that economic sanctions in the form of penalty damages or fines are the primary tools available to deter unscrupulous businesses from cheating workers. Unfortunately, these remedies can be employed only after the violations have occurred, and if a business is structured in a way to insulate the key actors from having to pay, the employer may feel that it is immune from adverse consequences and above the law.

Under current law BOLI can require an employer who is not paying wages on time to post a bond to secure future payment. However, to do so, BOLI must file an action in Circuit Court. Since BOLI must pay the Department of Justice to do so, as a practical matter, this remedy is too costly to be used commonly. SB 2387 would allow the Commissioner to invoke an administrative hearing process to require a bond. This would be significantly less costly and would hopefully result in more frequent use of the remedy.

Enforcement of an order to establish a bond would continue to be handled in the courts.

We recommend that this bill be approved with a do pass recommendation.