

Felisa Hagins, Political Director
Service Employees International Union, Local 49
HB 3248
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**Testimony to the House Committee/Committee on Consumer Protection
and Government Effectiveness in support of HB 3248**

Chair Fagan and members of the Committee,

My name is Felisa Hagins and I am the Political Director for the Service Employees International Union, Local 49. SEIU Local 49 is an 11,000 healthcare and property service member union. Combined with our brothers and sisters at SEIU Local 503, SEIU is the largest union in the state representing over 65,000 public and private sector workers throughout Oregon and Southwest Washington. Our mission as a union is to improve the quality of life for our members, their families, and dependents by achieving a higher standard of living, by elevating their social conditions, and by striving to create a more just society.

SEIU 49 represents over 600 workers who who work at a Qualified Rehabilitation facility.

I am here today to testify in support of HB 3248, a bill that will make crucial changes and improvements to one of Oregon’s key employment programs for workers with disabilities. Oregon’s Qualified Rehabilitation Facilities employ workers with disabilities in a variety of capacities, from piece-work conducted in “sheltered workshop” settings to service contracts for services such as janitorial, landscaping, staffing, and security services, etc. Oregon Revised Statute 279.845-855 requires public agencies to first procure needed goods and services from the state’s QRF list if there is a QRF capable of performing the contract. QRF’s often receive contracts at state, local governments and universities with no competitive bidding process and often without even a public request for proposal describing the full scope of the work. While the QRF program established under ORS 279.845-855 has provided much-needed employment opportunities for workers with disabilities, HB 3248’s amendments include vital worker protections absent from the current law.

HB 3248 addresses serious problems regarding employee wages, accountability and oversight, worker retention, and the lack of an opt-out option for public agencies when QRF’s are violating policies related to employment standards. HB 3248 amends ORS 279.845-855 to alleviate these problems.

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Wages

Currently, QRF workers on a public agency service contract may only be making the minimum wage. QRF workers on products contracts may be making even less than the minimum wage. QRF workers on these public contracts have a broad range of abilities and are providing important services to the State of Oregon; they deserve fair compensation for their work. The minimum wage is the minimum and workers with disabilities should not be categorically excluded from that pay because of their disabilities and work locations.

HB 3248, Section 2 directs QRFs to pay a wage that meets or exceeds the rate set by the Commissioner of the Bureau of Labor and Industries for its service contracts, effective January 1, 2016.¹ HB 3248, Section 3 likewise directs QRFs to pay this wage for its products contracts effective January 1, 2018.

Accountability and Oversight

There is currently no formal oversight mechanism to ensure QRFs are complying with applicable wage and hour laws, civil rights laws, and occupational health and safety standards other than the existing processes for filing a complaint. Workers with disabilities have access to the various processes for filing complaints with BOLI and OSHA, but navigating these processes is difficult and is not designed for people with disabilities. The challenges workers with disabilities face in reporting workplace violations can mask the operations of bad actors in the industry, and workplace abuse can persist for years without meaningful action.

HB 3248, Section 4 addresses this serious problem by establishing a program audit to be conducted by the BOLI Commissioner. This audit is triggered when the Commissioner receives two or more complaints in a year from a QRF worker, and the Commissioner will make the results of these audits available to the Department of Administrative Services. Further, a QRF that violates HB 3248, Section 2's wage requirement more than three times in a calendar year shall be removed from the procurement list of qualified agencies.

HB 3248, Section 6 establishes a fee to be collected by QRFs that will pay for the cost of conducting these audits.

Worker Retention

Workers with disabilities are profoundly impacted and have a difficult time adjusting to a new work environment when their QRF-employer loses a public contract through no fault of the workers. A worker retention policy would provide a critical component of protecting workers from poorly-managed contractors.

HB 3248, Section 5 establishes a policy of worker retention in the event a public agency terminates a contract with one QRF in favor of another. Under this policy, the new QRF would be required to offer employment to the workers employed under the previous contract. The new QRF would still be allowed to require workers hired under this provision to undergo its standard hiring procedure and probationary period.

¹ This wage must equal the prevailing wage determined by the U.S. Secretary of Labor in accordance with the McNamara-O'Hara Service Contract Act (41 U.S.C. 351 et seq).

Agency Opt-Out

Under ORS 279.845-855, public agencies are currently required to first attempt to fulfill public contracts from the state's list of QRFs, if there is an available QRF capable of providing the needed goods and services. Problems arise when the only QRF option may be one that does not provide its workers with adequate wages and benefits, or is one that has racked up multiple BOLI complaints or legal violations.

HB 3248, Section 8 allows public agencies to "opt-out" of the QRF procurement list if the only available QRF has violated HB 3248, Section 2 (establishing prevailing wages). Further, a public agency may opt out if an alternative non-QRF contractor offers employment to employees of the QRF the public agency would have contracted with but for the violation of HB 3248, Section 2.

HB 3248 will make important and necessary improvements to a program that is vitally important to Oregonians with disabilities. We urge you to support this measure.

Thank you, I would be happy to answer any questions.