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Smart policies for today's families.

April 3, 2015

Testimony in Support of HB 2010 and HB 3377-1: Fair and Predictable Scheduling
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Thank you for the opportunity to provide testimony in support of HB 2010 and 3377-1, which would protect employees from unfair scheduling practices that undermine their ability to provide for themselves and their families. These protections are particularly important to women, who make up nearly 65% of the 271,200 workers in Oregon's low-wage workforce – where these scheduling practices are most common.

Family Forward Oregon believes that workers should have adequate advance notice of their schedules, be guaranteed some measure of predictability in their schedules and be protected from retaliation for requesting an alternate work schedule. We appreciate the opportunity to begin what we see as an important conversation about an emerging problem. We commend the Speaker and Rep. Fagan for their work on HB 2010 and HB 3377. We see this as an issue of increasing concern and that we look forward to working on now and in future sessions.

I'd like to take a minute to walk you through the provisions of the HB 3377 with the -1 amendments and explain why we believe these provisions are necessary.

Section 1 – Places the provisions of the bill in ORS Chapter 653, Oregon's Wage and Hour laws.

Section 2 – Definitions

Section 3 & 8 – Right to Request

Employees currently have no job protection for requesting a more flexible schedule or an alternate schedule. All too often they never even make the request for fear of retaliation. No employee should fear this type of retaliation, especially when it's possible that the employer and employee could agree to a mutually acceptable work schedule.

Under HB 3377-1 Sections 3 & 8:

- Employees would have the right to request an alternate schedule and be protected from retaliation for making the request.
- Employers have the right to deny most requests but must engage in an interactive process with the employee to attempt to find a mutually acceptable alternate work schedule.



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- In very limited circumstances there is a right to receive unless there is a bona fide business reason that the request cannot be granted. Unless there is a bona fide business reason that the request cannot be granted, it would have to be granted if it is based on:
 - A serious health condition of the employee;
 - The employee's caregiving responsibilities for a family member;
 - A second job of the employee; or
 - The employee's participation in a career-related or educational training program.
- Bona fide business reason is defined in Section 2(1)(a).
- The Right to Request provision is applicable to both hourly and salaried employees.

Section 4 – Schedule Predictability

Unpredictable scheduling happens in a number of ways. It happens when employers give their employees a work schedule with just a few days, or hours, notice. It can also mean receiving a work schedule that is subject to frequent changes with little notice, disrupting an employee's out-of-work responsibilities and, often, childcare.

Under HB 3377-1 Section 4:

- Provides that employees must be provided their work schedule with at least 21 days advance notice. Changes to an employee's schedule (after the initial hire) must also be provided with 21 days notice.
- Employers would have to post a schedule of all employees in a location accessible to all employees. Employees would have the right to request and receive the most current version of all employees work schedules.

Section 5 – Show-up Pay

When employees aren't scheduled for a consistent number of hours, they can't count on a predictable income to pay their bills – and they can't hold a second job to supplement their income if they can't predict their schedules. If an employee shows up for work and is sent home with no hours, they should still be paid for a portion of their shift. This protection already exists in Oregon for minors, why not adults?

Under HB 3377-1 Section 5:

- If an employee is scheduled to work a shift of 4 hours or more and is sent home without work, they must be paid for at least 4 hours of their shift.



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- If the scheduled shift is less than 4 hours, the employee would be paid for whatever number of hours they were originally scheduled to work.
- There is an exemption for shifts that are cancelled for reasons beyond the employer's control.

Section 6 – Predictability Pay

We recognize that sometimes schedules do need to be changed and there does need to be some flexibility for employers to make changes when necessary. However, employees should also be compensated for these last minute changes. When the amount of hours that a worker is assigned varies, it is difficult for workers to meet expenses or even budget.

Under HB 3377-1 Section 6:

- If an employer needs to change an employees schedule with less than 21 days advance notice, but with more than 24 hours notice, the employer would be required to pay the employee one hour of wages for every shift that is changed.
- For schedule changes made with less than 24 hours advance notice, the employer would be required to pay the employee for 4 hours of wages for each shift that has changes.
- This creates a two-tiered approach depending on the amount of advance notice given about a schedule change. It's only one hour of additional pay if the schedule is changed with more than 24 hours notice, but requires four hours of additional pay if the change is made with less than 24 hours notice.
- If the employee is put on-call and has to call in within 72 hours of a shift to find out whether or not they work, they would receive 4 hours of predictability pay for that "on-call" time.
- If an employee is required to work two non-consecutive shifts in one 24-hour period they would receive additional compensation. This provides compensation for the "clo-opening" shifts where an employee is required to both close a business late at night and immediately return to open again early in the morning.

Section 7 – Enforcement Provisions

This section gives BOLI standard enforcement authority under Chapter 653.

Section 8 – Retaliation Provisions for Right to Request

This provides protection from retaliation for requesting an alternate schedule.



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We are open to your feedback about how these concepts can be improved, but want to move toward ensuring that families have the notice they need to meet the demands of their jobs and also be able to plan their lives. We encourage you to think about the solutions proposed in HB 2010 and HB 3377 and look forward to the dialog about how this problem is increasingly impacting Oregon families and low-wage workers and what appropriate solutions may be.