

Oregon

April 8, 2015

Senate Workforce Committee
1:00 PM Public Hearing

Re: SB 845 – Employer Penalty for employees who receive health care coverage through medical assistance programs

Dear Chair Dembrow and Committee Members,

NFIB is an association of about 7,000 small privately-owned businesses throughout the state of Oregon. Although the majority of our membership has less than 20 employees, we do have members that have more than 50 up to several hundred employees. Additionally, many small employers aspire to one day become a large employer hitting that 50 or larger mark, whereby this legislation would impact them.

There are several points of concern regarding SB 845:

- Definition of “covered employee” to include “other individual under the direction and control of the employer.” This is vague, comprehensive and could include any person, at any time, working within a business, including but not limited to an intern, temporary worker or independent contractor regardless of whether part time or full time if they are enrolled in medical assistance.
- SB 845 creates a new *unlawful employment practice* should an employer refuse to hire, or discharges, demotes, suspends, retaliates, or otherwise discriminates against an employee who applies for or receives either medical assistance or premium tax credits. The burden of defense would be upon the employer.
- A new layer of administrative burden by requiring employers to provide information to new and existing employees regarding availability of medical assistance for low income employees, advising of the unlawful employment practices surrounding the statute should it pass and providing information of their right to file a complaint with BOLI or file a lawsuit for an alleged unlawful employment practice.
- Proponents argue that large businesses should pay their “fair share” of the state’s burden to provide medical assistance to those employed by a business with 50 or more employees. The proposed penalty of 90% of the cost of an individual silver level plan per “covered employee” is significantly more than the state would pay for an individual on Medicaid. Most would be



covered under the ACA-covered expansion program whereby the state pays nothing now and no more than 10% by 2019. Even low income workers who qualify for the Oregon Health Plan, the state covers no more than 40% of the cost of the insurance.

Additionally we believe that employment taxes and corporate income taxes paid by larger employers contributes to their fair share of this public burden. This could be viewed as additional taxation upon the business community.

Finally, there would be significant profit generated to the state by these penalties. However, there is little relation to the proposed use of these funds to the costs incurred to insure workers receiving medical assistance.

SB 845 represents yet another financial, administrative and legal liability burden unfairly placed upon employers.

NFIB IS STRONGLY OPPOSED TO SB 845