

Seventy-Eighth Oregon Legislative Assembly - 2015 Regular Session
STAFF MEASURE SUMMARY
House Committee On Business and Labor

MINORITY REPORT
MEASURE: HB 2386 MRA2
CARRIER: Rep. Barreto

Fiscal: Fiscal impact issued

Revenue: No Revenue Impact

Action Date: 03/18/15

Action: Do Pass With Amendments And Be Printed A-Engrossed.

Meeting Dates: 02/09, 03/18

Signers of the Report: Rep. Bill Kennemer, Rep. Greg Barreto

Prepared By: Jan Nordlund, Committee Administrator

WHAT THE MEASURE DOES:

Authorizes Labor Commissioner to issue temporary cease and desist order when there is reason to believe statutes governing prevailing wage rate, farm and construction labor contractors, wage and hour, and employment conditions have been violated. Prohibits Commissioner from issuing temporary cease and desist order that would preclude production or distribution of perishable agricultural products. Requires Commissioner to pay reasonable attorney fees up to \$50,000 if defendant prevails in contested case hearing or upon appeal of final order regarding a temporary cease and desist order.

ISSUES DISCUSSED:

- Due process available to employer under cease and desist order
- Other actions BOLI can take to address employers who repeatedly violate laws
- “Reason to believe” would be standard to issue cease and desist order

EFFECT OF MINORITY AMENDMENT:

Prohibits Commissioner from issuing temporary cease and desist order that would preclude production or distribution of perishable agricultural products. Requires Commissioner to pay reasonable attorney fees up to \$50,000 if defendant prevails in contested case hearing or upon appeal of final order regarding a temporary cease and desist order.

BACKGROUND:

The Bureau of Labor and Industries (BOLI), under the direction of the Labor Commissioner, is responsible for protecting the rights of workers and citizens to equal, non-discriminatory treatment through the enforcement of anti-discrimination laws that apply to workplaces, housing and public accommodations. It is also responsible for encouraging and enforcing compliance with state laws relating to wages, hours, terms and conditions of employment.

Chapter 651 of the Oregon Revised Statutes provides the general authority of the Labor Commissioner and BOLI. Several individual chapters of the Oregon Revised Statutes (ORS) establish the specific state laws for wages, hours, and terms and conditions of employment as well as the Commissioner’s specific authority to enforce those laws. House Bill 2386-MRA2 adds in Chapter 651 that the Labor Commissioner has the authority to issue a temporary cease and desist order requiring an employer to refrain from an alleged unlawful practice related to the prevailing wage rate, wage and hour standards, employment conditions, and farm and construction labor contractors. A temporary cease and desist order could not be issued if the production or distribution of perishable agricultural products is precluded. The measure also requires the payment of reasonable attorney fees up to \$50,000 if the defendant prevails in contested case hearing or upon appeal of final order regarding a temporary cease and desist order.