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Labor Law Enforcement and Worker Outreach Grants (HB 2856)

Too often, workers are unaware of their employment rights or may not understand the various workplace protections under Oregon and federal law. Unfortunately, low-income workers are most in need of these protections and often least likely to be able to access information about state and federal civil rights protections, leave laws, required meal and rest periods, overtime protections, appropriate worker classifications, and basic workplace health and safety standards in a timely and responsive manner. Other little-known programs, like the Wage Security Fund, can help workers recover back wages when an employer unexpectedly goes out of business. These laws can be confusing for a worker to navigate, especially when facing an urgent issue at work, without knowing what their rights are in a particular situation.

Workers Need Better Education About their Employment Rights.

While the state does provide free resources for employers to help them understand and follow the law when these situations arise, *there is no equivalent resource for employees* that can help answer their questions and understand their rights. This puts workers at a disadvantage and means that the most vulnerable workers are more likely to be impacted by the common mistakes made by employers and much more serious workplace abuses. Employers and employees alike want our laws to be followed. Educating all members of the workforce equally will help to break down barriers of understanding about employment law and ensure greater compliance across the board.

Workplace Protections Are Meaningless if Workers Can't Get Them Enforced.

Enforcement provisions for certain civil rights violations and protections from retaliation are insufficient for workers to access justice when their rights have been violated. This problem is compounded by the fact that many of the worst violations, like retaliation for filing a wage claim or denying protected leave to a worker, have accountability tools that do not sufficiently match the nature of the violation. Workers struggle to exercise their rights when the remedies do not balance the violation.

All civil rights violations with a private right of action are enforceable under ORS 659A.885, but not all remedies are equal. Certain violations are enforceable only under 659A.885(1), while others are enforceable under 869A.885(3). Both 659A.885(1) and 659A.885(3) allow a mistreated worker to get re-hired, back pay for up to two years, prevailing party costs and attorney fees; but only ORS 659A.885(3) allows an aggrieved worker to also get compensatory damages and punitive damages and allows for a trial by jury.¹

¹ See addendum for description of ORS laws and their remedies related to these violations.

Community-Based Worker Education and Appropriate Accountability (HB 2856)

HB 2856 proposes a two-part solution by providing community-based educational resources to workers and enhances the enforcement of existing workplace civil rights protections: Sections 1 & 2 create a grant program - similar to the City of Seattle's successful Community Outreach and Education Fund - to target labor law education and outreach to the most vulnerable workers, delivered by the community organizations already serving these targeted populations. Section 3 trues up some of the most egregious labor law violations and ensures more robust enforcement through more appropriate accountability.

An Example of Success: The Office of Labor Standards in Seattle

The Office of Labor Standards in Seattle first launched the Community Outreach and Education Fund in 2015 to help provide outreach, education and technical assistance to workers. Grants are awarded from the fund to community organizations and partnerships to do outreach and education to specific populations of low-income and vulnerable workers. In the first year of the program (2015-2016), \$1 million was awarded in grants support to community organizations in proactively educating workers about their rights in the workplace. Seattle's Community Outreach and Education Fund has since ensured that thousands of workers understand the city's labor laws and are assisted in filing complaints. In February 2017, the Office of Labor Standards announced a total of \$3.2 million has just been awarded for the 2017-2019 cycle to 7 organizations and community partnerships.

In Seattle, community organizations have used grant funds to do worker education activities like door-to-door outreach, hosting community-based education events, training workers and other community organizations about Seattle's labor standards, and providing labor rights intake, counseling, complaint resolution and referral for workers experiencing labor standards violations. Grant recipients emphasize reaching out to low-wage working communities who disproportionately experience workplace violations.

HB 2856 creates a grant program similar to Seattle's to target labor law education and outreach to specified populations of the most vulnerable workers, including low-wage workers, women, immigrant and refugee workers, LGBTQ workers, youth workers, workers with a disability and workers of color.

Retaliation is common. A national survey found that 43 percent of workers who complained to their employer about their wages or working conditions experienced retaliation.¹

Community-based organizations are crucial partners for enforcement agencies. Their ties to workers in specific industries and sectors, as well as their roots in certain marginalized communities, can assist enforcement through outreach and education; detection and reporting of violations; filing complaints; and identifying high-violation industries and employers for proactive investigations.

² National Employment Law Project, *Winning Wage Justice: An Advocate's Guide to State and City Policies to Fight Wage Theft* (2011) at 55, available at <http://www.nelp.org/content/uploads/2015/03/WinningWageJustice2011.pdf>.