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March 8, 2017

Testimony in Opposition to SB 779: No Roll Backs to Paid Sick Time  
Submitted by Kate Newhall, Family Forward Oregon

Thank you for the opportunity to provide this testimony in opposition to SB 779, which would roll back sick time protections and eliminate those protections for certain workers. Family Forward worked hard, with many others, in 2015 to pass a strong and inclusive paid sick time law for Oregon workers. This law is meant to ensure that workers are able to take paid time off when they or a family member are ill. This as an important public health measure and is a basic right to which all workers should be entitled. We are opposed to any changes to the new sick time law, like SB 779, that roll back or eliminate sick time protections for any worker in Oregon. **If even a single worker loses access to paid sick time, we see that as too many.**

While SB 779 might be characterized as a simple technical fix, we respectfully disagree. **We see if as as substantive policy shift that has the net impact of taking paid sick time away from workers who are currently eligible for and receive paid sick time under Oregon's historic paid sick time law.**

SB 779 seeks to exempt the parents, spouse and children of LLC and LLP partners from the overall employee-count threshold for purposes of determining if paid or unpaid sick time applies to employees. Currently, employers with 10+ employees must offer paid sick time (6+ employees inside the Portland city limits) and unpaid sick time for employers below that employee-count threshold. The employer size is the key determining factor in whether paid or unpaid protections exist.

Current law already exempts the parents, spouse and children of business owners from the definition of "employee" in the sick time law and those family members are exempt from both sick time protections and the overall employee count. We think BOLI's interpretation of this provision as only applying to sole-proprietorships is correct and appropriate. Only an individual or sole proprietorship can have parents, spouses or children; this provision should not and cannot be extended to LLC partners via administrative rule. BOLI would have been outside their statutory authority to do so - the statute is clear and LLC's and LLP's are legal entities and cannot have family members.

Regardless, our coalition never supported the exemption from sick time for the parents, spouse and children of business owners, but agreed to the compromise that was advocated for by the business lobby. We didn't then, and don't now, see family members as any less deserving of of paid sick time than other workers. We certainly don't support excluding a wider universe of family members from the overall employee count.

We see SB 779 as a very real threat that could mean a loss of paid sick time for workers in Oregon reaching beyond just family members of owners. Let's use an example of an LLC with 4 partner owners to demonstrate our concern: If the LLC has 15 employees total and 6 of those employees are the children of the four LLC partners, there would be 9 unrelated employees of the LLC. If SB 779 were to pass the 9 unrelated employees would lose access to paid sick time they currently have under existing law because the total number of covered employees would drop below 10. We don't think this is fair to either the employees who are not related LLC partners or the family members of LLC partners. We also believe this to be the exact intent of the bill – to exclude more workers from paid sick time through what is presented as just a “technical fix”.

We are also concerned that this creates a loophole that could be easily abused. There wouldn't be anything to preclude an LLC from making its employee's LLC partners with such a small and financially meaningless share (like 1/1,000,000 ownership) that they could not exert any actual control or benefit financially and yet that individual employee, now LLC partner, and their parents, spouses and children would be instantly be exempted from the overall employee count and would lose benefits. This is a dangerous precedent to set.

In addition to the above concerns, we see this legislation as unfairly targeting agricultural workers who appear to be the class of workers most impacted by this proposed change. We see this as discriminatory and damaging to some of the state's most vulnerable workers and a group of workers who most need access to paid sick time. Agriculture workers have been carved out of many labor protections over our country's history, dating all the way back to slavery, reconstruction and Jim Crow. It is time to right this historic wrong. These workers are truly no more unique than any other worker in any other sector. They also deserve rights under the law.

Given the very real threats to the basic health and well-being of our communities at the national level, we should be working together to protect and expand the very basic rights we have just achieved here in Oregon, not rolling them back.

We urge your no vote on SB 779.