



TESTIMONY

Senate Committee on Workforce

March 8, 2017

Oregon Farm Bureau Supports SB 779

Thank you for the opportunity to testify in support of SB 779. On behalf of our 7,000 farming and ranching member families, the Oregon Farm Bureau Federation (OFB) respectfully asks the Committee to move SB 779 forward to provide farmers and ranchers with much needed clarity in implementing the Oregon Sick Time law.

When the paid sick leave law passed in 2015, the bill exempted the parents, spouses and children of employers from the employee count that is used to determine whether a business qualifies for paid or unpaid sick leave. SB 454 (2015) established a threshold of 10 or more employees (six or more in Portland) to qualify for paid sick leave. In exempting family members from the definition of employee, the bill recognized that the unique structure of family businesses—particularly multi-generational farms and ranches—could inadvertently put them over the paid sick time threshold.

OFB believes that the legislative intent as expressed in 2015 was clear. During the Joint Subcommittee on Human Services' work session on the final version of the bill, the dialogue between legislators confirmed that family members were not intended to be included in employee counts.¹ No distinction was made concerning business entity type. And Senator Dembrow's summary of the final amendment distributed in committee explained that the definition of employee "*excludes family members, independent contractors, and interns. Section 2(1)(c).*"² Additionally, during his floor speech as the House co-carrier of the paid sick leave bill, Representative Paul Holvey

¹Joint Subcommittee on Human Services, Committee Discussion between Representatives Duane Stark, Paul Holvey, Andy Olson, and Senator Michael Dembrow at 24:33 to 26:26 (June 1, 2015), http://oregon.granicus.com/MediaPlayer.php?clip_id=9852

² Joint Subcommittee on Human Services, Senator Michael Dembrow, *Senate Bill 454-A39 Dembrow Testimony* (June 1, 2015), <https://olis.leg.state.or.us/liz/2015R1/Downloads/CommitteeMeetingDocument/76567>

stated: *“If a family member is working for another family member, are they covered under this bill? And that, they are not. That’s explicit in the bill. There is no confusion about that.”*³

Unfortunately, since SB 454 passed in 2015, subsequent interpretations have applied the family member exemption only to sole proprietorships. In a November 22, 2016 response to Senator Ted Ferrioli and Representative Mike McLane, the Bureau of Labor and Industries (BOLI) wrote: *“A corporation or LLC cannot be the parent, spouse or child of an individual. Only where an employer is an individual or sole proprietor (not a corporate entity or LLC) can the parent, spouse or child exception be applied. Simply put, the plain language of the statute is clear.”*

OFB agrees that the statute and legislative intent are clear—family members are *not* intended to count under the law, regardless of the organizational structure of the family business. Many modern-day family businesses are formally organized to ensure that they are protected and able to be passed down to the next generation. BOLI’s interpretation has pushed many unsuspecting family businesses organized as LLCs, S-Corps or C-Corps over the 10-employee threshold.

When SB 454 passed in 2015, the family member exemption was a key provision to reduce the regulatory burden on family businesses. Many small- and mid-sized operations saw the family member exemption as a mechanism to support their small businesses. Their families and businesses suffered when this provision was reversed.

OFB respectfully asks the Committee to assist farmers with implementation of Oregon Sick Time and support SB 779. SB 779 provides necessary clarity to multi-generational farm families by specifically exempting business owners and their parents, spouses and children from the employee count.

Thank you for the opportunity to provide testimony today. OFB looks forward to continuing to engage with the Committee on this important issue. Please direct any questions to Jenny Dresler at the Oregon Farm Bureau (jenny@oregonfb.org, 503-810-4174).

³ House Floor Debate on Senate Bill 454-B, Representative Paul Holvey Closing Floor Speech (June 12, 2015), 4:13:58 to 4:14:10, http://oregon.granicus.com/MediaPlayer.php?clip_id=9990