

April 3, 2017

Wilsonville, OR 97070

Dear Chair Taylor and Members of the Committee:

503-682-3363

800-826-6610

Associated General Contractors – Oregon Columbia Chapter represents a broad cross-section of the commercial construction industry, including open shop and union, rural and metro, highway and building contractors. What the majority of our members have in common is that they are small businesses and are highly mobile, moving from jobsite to jobsite where the work is.

We oppose the -3 amendments to Senate Bill 828, particularly the sections that apply to all employers. Our industry operates in a constantly changing environment. This is something that workers understand when they choose to go into this field, and in part explains their above average compensation. On average, the annual wage for construction workers is \$53,600, which is about 12% above other private sector jobs in Oregon and on the public works side of the industry, that annual wage is even higher.

The recordkeeping portion of this bill (Section 11) is particularly onerous to the construction industry. Our industry constantly moves from one construction site to another. Construction firms that operate in different parts of the state tend to hire workers locally, whenever possible. This makes the recordkeeping requirement a burden of significant proportions for our industry. Many employers could be required to keep records on as many as 100 employees for the year, even if they only average 20 full time employees, based solely on the hours worked in a given year. This recordkeeping requirement could necessitate hiring another employee just to keep track and meet the recordkeeping requirements of this bill, especially in smaller companies that do not have dedicated HR employees.

The rebuttable presumption (shifting the burden of proof to the employer) in Section 11(3), that an employer who does not have adequate records violated the law, creates an ongoing exposure to a BOLI claim or a civil action. This is a harsh punishment for what could easily be an accidental oversight when juggling hundreds of employee records.

SB 828 also gives employees the right to request certain schedule changes, including telecommuting, job sharing, and changes to start or end times for the work day. In the construction industry, such schedule changes are simply not feasible. Given different jobsites and project timelines, the construction industry does not lend itself to such variations and our employees know this when they choose to join this industry. This request portion becomes problematic when taken in conjunction with the retaliation portion of the bill. Section 12 creates an unlawful practice for retaliation in any term of employment of employees based on their inquiry about schedule changes, even if the employee was wrong in their accusation. This is problematic because a contractor can be penalized for making a necessary employment decision, if the employee simply thinks that this is in response to a scheduling request. This fear of having an unlawful practice claim against them would interfere with employers' ability to make necessary hour-to-hour employment decisions on the construction jobsite.

It is for these reasons that we urge your opposition to SB 828. For additional information, please contact John Rakowitz (503) 317-1781 or Kirsten Adams (503) 990-2262.

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