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Testimony of Arthur Towers
Before the House Committee on Business and Labor
In Regard to SB 279
REVISED for May 31, 2017

Thank you for the opportunity to testify today.

We oppose the current form of SB 279 but believe it could be improved with a change of approach.

We are sympathetic to very small business owners who have a lot of employment law to learn in order to start hiring workers. It is their responsibility to learn it, but we understand that is a task.

However, it is not fair for business owners to rely on employees seeking their final paycheck or other outstanding wages to provide that education. The employee in that situation is neither required nor likely to understand employment law – they just know they want an honest day's pay for an honest day's work.

If the legislature believes that the 12-day deadline is particularly important for small business owners to be notified about, we are open to that notion. We would recommend an approach that calls on state agencies that have regular contact with small business owners to include that information in their regular communications. This could be on worksite posters, in e mails, in trainings, on tax forms, or through other types of regular communication.

In this time of tight budgets, it makes sense to avoid costly requirements on state agencies, but including this information as a course of normal business might be cost-effective and of value to small business owners and their employees.

If a change along those lines was considered, we could support the bill.

Setting the Record Straight on the Senate Testimony

In the Senate Committee, testimony centered on one particular case. Clearly from the testimony, this employer and her attorney have a lot of integrity.

In that case, **Federal** Fair Labor Standards Act provisions around unpaid overtime allowed the worker to seek compensation over and above the amount of wages in dispute. Federal law also has no notice provision when making a claim regarding unpaid overtime.

We are attaching the background information we could find about the case so committee members can see what we are talking about. In the complaint, near the top of page one, you can see that both federal and state claims were brought.

In the arbitration award, the arbitrator found the worker was able to prove a claim for unpaid vacation wages, but was not able to prove that the employee was misclassified as a manager. The arbitrator split between the two parties and each party had to pay their own attorney. The arbitrator would have had the authority to award attorney fees to the employer, but elected not to.

The arbitrator, given all he knew about this case, the conduct of the parties, and the claims and evidence provided, decided to not award attorney fees. No change to state law would necessarily change the process that this employer experienced. We take exception to statements made in the Senate Committee that Oregon-specific employment law is unduly harsh on businesses.