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**Testimony of D. Michael Dale
Before the Joint Committee On Ways and Means
Sub-Committee On Transportation and Economic Development**

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HB 3279 – Licensing of Building Services Contractors

I am the Executive Director of the Northwest Workers' Justice Project. Thank you for the opportunity to testify on this bill.

I have been a lawyer since 1975, and have spent most of that time representing migrant and seasonal workers. The Northwest Workers' Justice Project provides legal representation to low wage contingent workers throughout the economy in sectors such as construction, building maintenance, landscaping, hotel and restaurant industry, food processing, agriculture and reforestation. This bill is supported by the Coalition to Stop Wage Theft, of which NWJP is a member. The Coalition includes about 40 civic, labor, religious and business organizations.¹

From 1977 until 2002, I worked for migrant legal services programs in Oregon, supervising the statewide program for most of that time. In that connection I was intimately involved in developing and enforcing the Oregon Contractor Registration Act, ORS 658.405 et seq. Major strengthening revisions were enacted in 1979, 1981, 1983, and 1989. These changes incorporated reforestation contractors under the Act's coverage. In 2013, NWJP led the effort to include construction labor brokers under this regulatory regime.

We have found that this licensing scheme has made significant improvements in the work climate in agriculture and reforestation. While worker abuses certainly continue in these industries, requiring contractors to have a license, and those who use contractors to only deal only with responsible, licensed contractors, has made a significant improvement in

¹ Adelante Mujeres, AFL/CIO of Oregon, AFT Oregon, American Friends Service Committee, Beyond Toxics, CAUSA, Catholic Office of Life, Justice and Peace, Archdiocese of Portland, Centro Latino Americano of Eugene, Common Cause Oregon, Community Alliance of Lane County, Economic Fairness Oregon, Ecumenical Ministries of Oregon, Family Forward Oregon, Human Dignity Advocates of Crook County, Interfaith Movement for Immigrant Justice (IMiJ), Jewish Federation of Greater Portland, Mainstreet Alliance, Northwest Forest Worker Center, Northwest Workers' Justice Project, Oregon Action, Oregon AFSCME, Oregon School Employees Association, Oregon Center for Christian Voices, Oregon Center for Public Policy, Oregon Strong Voice - Southern OR Chapter, Oregon Thrives, Oregon Trial Lawyers Association (OTLA), Oregon Working Families, PCUN, Portland Jobs with Justice, Project REconomy, Rural Organizing Project, SEIU Local 49, SEIU Local 503, Tax Fairness Oregon, Teamsters Local 26, Unidos Bridging Community, United Food and Commercial Workers Local 555, and VOZ Workers Education Project.

enforcement of employment laws in what had been egregiously exploitive industries. The inclusion of construction labor brokers only took effect in July of 2015, and non-compliance is still quite wide spread. But this does take time. It will, no doubt, take some time to bring the industry into significant compliance, as it did with agriculture and reforestation. Notwithstanding, watching the development of this law over the last 40 years leaves me no doubt that this bill will ultimately help reward responsible actors and punish and eliminate those who would exploit—all to the benefit of hard working Oregonians.

Janitorial firms need this level of accountability. Based on my experience and that of my coworkers in representing janitorial workers in employment disputes, the industry is rife with abuses. One of the biggest problems that we see are fly-by-night janitorial companies that advertise for workers on Craigslist and other internet publications. Workers labor in isolated conditions, often at night. Often these undercapitalized companies, or individuals, simply fail to pay their workers and then go bankrupt or evade the collection of wages because they have disappeared or have no resources. Every week we talk to hard-working Oregonians who have done the work, but have not been paid, and often there is simply nothing we can do to protect their rights.

One of our clients, whom I will call Brenda, was victim to repeated problems in the janitorial industry. She first worked for a small janitorial company cleaning a mechanic's shop, a grocery store, a beauty shop and a recycling center. Her employer only paid her once and fired her without paying the rest of her wages. She filed a small claims suit against the contractor, but he filed for bankruptcy in the middle of her case. She received a small sum from the bankruptcy, but much of her wages and damages remain unpaid. She then got what she thought was a more established position, cleaning a chain of national fitness centers. However, she was not paid overtime by that janitorial contractor and her hours were arbitrarily reduced on her paycheck. The national fitness center chain had contracted with an out-of-state janitorial company, who had contracted with another out-of-state janitorial company, who had contracted with Brenda's immediate Oregon employer. When she tried to collect the unpaid overtime and wages, the Oregon contractor had dissolved and had no assets. Unfortunately Brenda's stories are not unique.

Common wage and hour violations include not paying travel time or making employees work off the clock; paying with a piece rate (like a flat rate per office or building) that does not add up to the minimum wage; and misclassifying workers as independent contractors when they are employees. We also see out-of-state janitorial companies violate the specific protections under Oregon law. Another client, whom I will call Fernanda, cleaned a large department store for an Ohio contractor. When Fernanda's mother-in-law became deathly ill, she and her family took time off to care for her. The contractor, not aware that Oregon family leave law protects this type of absence, fired her. When we filed the case with BOLI, neither Human Resources in Ohio, nor local management wanted to take responsibility for the violation of state law.

Oregon's janitorial workers often labor alone, doing difficult work when the rest of us are not looking. They are in desperate need of protection, the kind of protections that HB 3279 would finally afford them.

Finally, the inclusion of a focus on sexual harassment and assault is key to protecting vulnerable workers, particularly in the janitorial industry, where so many work in isolation through the night.

We strongly recommend passage of this bill.