



812 SW Washington, Suite 1100, Portland, Oregon 97205 • (503) 525-8454 • www.nwjp.org

**Testimony of D. Michael Dale
Before the House Committee on Business and Labor
February 13, 2017**

HB 2181 – Protecting Workers from Retaliation

I am the Executive Director of the Northwest Workers' Justice Project. 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 sponsored by the Coalition to Stop Wage Theft, of which NWJJP is a member. The Coalition includes about 40 civic, labor, religious and business organizations.¹

A key reason that wage theft continues to grow in Oregon is that many workers who have suffered from wage theft are reluctant to make a complaint for fear of retaliation. That fear is well-founded. Retaliation, usually discharge, often occurs following a wage complaint. It is already against the law, but it is very difficult to prove. This bill will make it easier for workers to show that they have been fired illegally for making a wage complaint

HB 2181 will require that a discharged worker may request a simple statement of the reasons for discharge. An employer must respond to a former employee's request. It can give any explanation it wishes, or can even simply state that the employee worked "at will" and was no longer needed. However, the employer will be held to whatever reasons it chooses to provide. This will prevent an employer from giving any reasons for discharge other than those disclosed in the requested statement of reasons for discharge.

The bill will also create a rebuttable presumption of retaliation if adverse employment action is taken within 90 days of a wage complaint. This presumption can be overcome by the employer with evidence of other, non-retaliatory, reasons for the adverse employment action. The employer is the only person who knows the actual reason for discharge, and has access to all

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 (IMiRj), 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.

relevant records and evidence, so this shifting of the burden to the employer levels the playing field.

We recommend that this bill be approved with a do pass recommendation.