



To: House Committee on Business and Labor  
From: Richard Donovan, Oregon School Boards Association  
Re: House Bill 2167  
Date: February 13, 2017

Chair Holvey and members of the House Committee on Business and Labor:

On behalf of OSBA’s membership, including 197 school districts throughout the state of Oregon, thank you for the opportunity to testify in opposition to HB 2167. OSBA stands in opposition to HB 2167 for several reasons:

**OFFICERS**

- President**  
**Betty Reynolds**  
*West Linn-Wilsonville SD*
- President-elect**  
**LeeAnn Larsen**  
*Beaverton SD*
- Vice President**  
**Tass Morrison**  
*North Santiam SD*
- Secretary-Treasurer**  
**Don Cruise**  
*Philomath SD*
- Past President**  
**Doug Nelson**  
*High Desert ESD*

**DIRECTORS**

- Francisco Acosta, Jr.**  
*Multnomah ESD*
- Paul Anthony**  
*Portland PS*
- Kevin Cassidy**  
*Baker SD*
- Carlos Castañeda**  
*Gladstone SD*
- Sherry Duerst-Higgins**  
*Lane ESD/South Lane SD*
- Susan FitzGerald**  
*Yamhill-Carlton SD*
- Cheri Helt**  
*Bend-La Pine SD*
- Kris Howatt**  
*Gresham-Barlow SD*
- Kaye Jones**  
*Jefferson SD*
- Greg Kintz**  
*Vernonia SD*
- Hank Perry**  
*Douglas ESD*
- Craig Prewitt**  
*Phoenix-Talent SD*
- Scott Rogers**  
*Athens-Weston SD*
- Lori Theros**  
*Klamath Falls City SD*
- Maureen Wolf**  
*Tigard-Tualatin SD*

**EX-OFFICIO DIRECTORS**

- COSA/OASE**  
**Craig Hawkins**
- OAESD**  
**Joel Robe**  
State Board of Education  
**Charles Martinez, Jr.**

**EXECUTIVE DIRECTOR**

- Jim Green**

- *HB 2167 would increase costs for school districts*

HB2167 would create a new cause of action under ORS 659A. This new cause of action would cost school districts money due to an anticipated increase in costs of insurance and liability coverage that every district must purchase. Unfortunately, creation of this new cause of action means that the costs of that new cause of action will be taken from money that would hopefully otherwise be going to the classroom.

- *Sufficient remedies exist under current state and federal law*

Under current law, a number of remedies exist for damages alleged to have occurred in the workplace. State remedies include Oregon workers’ compensation claims, including a specific provision around damages as a result of “mental stress.” Federal law provides for remedies under the Equal Employment Opportunities Commission. Additionally, there of course exists the substantial body of tort case law and rule. OSBA believes that these existing remedies provide sufficient parameters to make determinations of harm.

- *HB 2167 would expand the responsibilities of investigators*

House Bill 2167 would expand the scope of workplace-related investigations (e.g. those conducted by Bureau of Labor and Industries investigators) to include a determination of whether or not a work environment is abusive, which is directly tied in the bill to a determination of “psychological harm.” Currently, the normal course of investigation does not include any provision this broad as it relates to mental or psychological wellbeing. OSBA has strong concerns around the appropriateness of increasing the scope of responsibility of investigators in this fashion.

- *HB 2167 would be especially challenging for small and rural school districts*

The cause of action created by HB 2167 would be especially burdensome on small and rural school districts. Provisions of the measure would put the burden on school districts to demonstrate that they did not reasonably know about an alleged workplace situation, or failed to appropriately remedy an alleged situation. This is challenging for a district of any size because the bill does not limit the source of harm and could include parents,

coworkers, or even students. Small and rural schools have very limited practical abilities to shuffle staff, teachers, and other employees. Creating a new cause of action which depends on a district's ability to prevent or remedy any potential psychological harm would be one more hurdle that small and rural districts would have to traverse in order to deliver basic education services to children and students.