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# A STRONG VOICE FOR OREGON'S WORKERS

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TO: Chair Taylor  
Vice-Chair Knopp  
Members of the Senate Committee on Labor and Business

FR: Jessica Giannettino Villatoro, Political Director, Oregon AFL-CIO

RE: Oregon AFL-CIO Testimony September 2020 Legislative Days

September 22, 2020

The Oregon AFL-CIO represents 300,000 workers across the state and is a voice for all workers in the legislative process. It's no surprise to you all that workers are facing unprecedented challenges. From job loss that is 2.5 times the Great Recession that has impacts on all facets of their life, including the loss of health insurance during a global pandemic. Workers are reeling but are resilient. There are a handful of challenges I'm going to raise today, but there are more policy recommendations on the record than today's time allotted time allowed for.

The first issue I'll raise is the suspension of critical worker protection laws and the negative impacts that they had on workers. The first is the suspension of the nursing staffing law that Paul from ONA will talk about more extensively, but left nurses across the state working in unsafe ratios for themselves and made it incredibly difficult to provide quality care to patients. This law is currently back in effect. The second suspension that is worth raising is the suspension of the overtime statute for manufacturing and food processing workers. This committee is well versed in this statute, but as a reminder prior to the passage of HB 3458 in 2017 workers in that industry could be expected work 91 hours in one week. Another reminder, seafood processing workers have the lowest wage among their manufacturing and food processing counterparts and have among the highest workers compensation disabling claim rates across industries. This overtime cap suspension ends today, 6 months after it was enacted. OHA workplace outbreak data shows food processing at the highest total share of outbreaks to date, with 28.7% of total outbreaks. Our recommendation to this committee is to strongly consider the revisions ONA is proposing to the staffing law and more carefully define the provision in the manufacturing overtime law that allowed for this suspension.

The next issue is one that we've raised before this committee prior is centered on workers compensation for COVID-19 exposure. We're seeing incredibly concerning trends in COVID-19 workers compensation denials among self-insured providers. Out of the 905 COVID-19 claims currently made public by the Workers Compensation Division, SAIF has a denial rate of 15% and the self-insured providers have a denial rate of 66%. One might extrapolate and assume that the majority of the cases aren't covered by SAIF and that might be why the denial rate is so much higher among the self-insured providers, but that's also not the case. SAIF covers 632 of the total COVID claims to date, or 70%. This data does not include accepted non-disabling claims where only medical care was provided which means there was no wage replacement or what the agency calls time loss. MLAC is convening again to discuss both a proposal from the employer community around rule changes and the provisions surrounding a statutory presumption. We will participate again in the MLAC process, but I do want to highlight for this committee how incredibly difficult the workers compensation appeal process is, the low rate of appeals we've seen based on denials, and the incongruity between workplace outbreaks and claims by industry. Two outliers in the denial data that we've seen consistently throughout the pandemic

is Providence who has denied 63 of 76 claims or 83% and an assisted living facility outside of Eugene who has denied 24 out of 25 claims, or 96%.

Because of Federal abdication of responsibility as it relates to workplace safety with as Federal OSHA refusing to take up an infectious disease rule to ensure workers and employers had consistent guidance to protect against aerosolized exposure to COVID-19. We approached Oregon OSHA during the first week of the pandemic hitting Oregon to begin the rule making process to ensure Oregon workers had these protections, and ultimately the agency began the process only after the second special legislative session. We appreciate the agency beginning the rule making process on this matter, but their proposed rule falls wholly short of protecting workers from the continued workplace exposure that they continue to be subjected to.

One other issue workers are grappling with is increased retaliation for raising safety and health concerns. In the absence of Oregon OSHA guidance for employers and workers it's allowed unhelpful ambiguity for what protections workers do and don't have. While you'll likely hear that retaliation is already prohibited under the Oregon Safe Employment Act it isn't preventing an increase in a concerning trend that workers advocates are seeing across the country and unfortunately in Oregon as well. According to the National Employment Law Project's report on retaliation during the pandemic Black workers were most likely to answer "yes" or "maybe" when asked if they or anyone at their company had been punished or fired for raising COVID safety concerns. One in five Black workers (19 percent) answered as such, compared with 1 in 10 white workers (9 percent), and one in eight workers (12 percent) overall. In Oregon, I've been made aware of the following examples of retaliation that reflects a disproportionate impact on BIPOC communities, including a nursery worker fired for trying to get more PPE (was perceived to be talking to OSHA but was actually responding to a call from a worker rights organization offering more PPE- coworker overheard and reported her- she was then fired and blacklisted at a nearby employer when she tried to get a new job). In addition, there was a group of farmworkers who refused to continue to share one cup due to COVID-19 related concerns and were fired after communicating that to their employer.

Lastly, but not least important by any means is what is being referred to as the "she-cession" nationally. When we look at the industries that have been hardest hit by shutdown orders, they disproportionately impact women and women of color, like travel, and leisure and hospitality. This is while industries like construction and manufacturing that are most often dominated by men have fared well in comparison to previous recessions. Couple the initial job loss numbers with the challenges faced by many working parents to juggle distance learning and their own economic stability and we fear that many of the gains this committee in particular has worked diligently on to balance the economic playing field for women and women of color is threatened by the unprecedented pressures on working families and disproportionately on women. We'd encourage this committee to strongly look at modernizing the Oregon Family Leave Act (OFLA) to meet the needs of working women across the state.

Thank you for the time today. As always, we look forward to working with this committee to make the lives of working Oregonians better.

