



P.O. Box 422 Gresham, OR 97030

Date: February 11, 2019

Senate Committee on Workforce  
Attn: Senator Kathleen Taylor, Chair  
900 Court St. NE, HR-D  
Salem, OR 97301

**RE:** Testimony for SB 726 - Relating to unlawful conduct in the workplace

My name is Jarvez Hall and I am the Executive Director of The East Metro Economic Alliance (EMEA). EMEA is a non-profit organization comprised of businesses, chambers of commerce, and public agencies working together on issues vital to economic development in the East Metro region. EMEA serves East Portland, Fairview, Gresham, Troutdale, and Wood Village.

We urge the legislature to have a thoughtful and balanced discussion on SB 726. As currently constructed, this bill creates a new 7-year statute of limitations, holds officers and principals personally liable for discrimination, prohibits no-rehire and non-disclosure agreements and introduces vague terms such as “work-related event.” On the surface, many of the items in this bill would seem to help with sexual harassment and workplace discrimination but without a balanced discussion with both labor and employers at the table, many of the initiatives in this bill could hurt victims and negatively impact workplaces.

Expanding the time for lawsuits to be filed from one year to seven years can delay the justice for victims. It also discourages early reporting of illegal behavior, allowing it to potentially go on longer and cause either deeper harm to a current victim or facilitate an environment for new victims. It also makes it more difficult for a claim to be properly adjudicated and harder for employers to investigate and substantiate claims. As workers’ mobility has never been higher, people change jobs, people change companies, managers change, memories become fuzzy, technology systems change, and evidence is lost. It is imperative these cases move quickly so justice can be served. We should all work to create a culture where sexual harassment and workplace discrimination is addressed swiftly and extending the statute of limitation to seven years seems to be contrary to creating such a culture.

Holding owners, presidents, partners, and corporate officers personally responsible for offenses that occur “on their watch” is contrary to our rule of law. There are already laws in place to address conduct on owners, presidents, partners and officers to be personally liable if they are personally culpable either by commissioning or by gross negligence. Adding this additional layer is overly punitive, especially to large organizations and removes the focus away from actual offenders. Should Gov. Brown, Sen. Courtney and

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Rep. Kotek be held personally liable for the recent harassment claims made against legislators? Most would find that ridiculous but that is what this bill, as currently constructed, would prescribe.

No-rehire and non-disclosure agreements should be an option for both employers and for employees. The narrative is that these agreements only protect the employer, but this is not an accurate depiction. These agreements also protect victims. They also encourage resolutions and resolutions that are achieved faster than our civil court system can provide. Both employers and employees should have the right to enter into an agreement that is best for them and the legislature should not be taking away this privacy option from employees.

There are also new terms and definitions that need to be worked out and vetted. One of these is “work-related event.” The saying “the devil is in the details” applies here. Does a work-related event include only paid time? Does it include volunteer time? It is a term, along with others in this bill, that invites more questions than it does supply answers.

We ask the Senate to approach SB 726 thoughtfully and to allow enough time for analysis and discussion, like the process for all previous major labor law proposals over the last few years. This issue is important and deserves a real conversation to determine both the intent and impacts of such major changes in Oregon law. As currently constructed, this bill will lead to confusion and potentially lead to unintended consequences and adversely impact the very people it is intended to protect.

Best regards,

Jarvez Hall

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