

February 16, 2021

Senate Judiciary & Ballot Measure 110 Implementation  
900 Court Street, NE  
Salem, OR. 97301

Chair Prozanski & Members of the Committee:

Thank you for the opportunity to submit the following testimony in opposition to SB 483.

I am General Counsel at Special Districts Association of Oregon. In this role I defend public entities in a range of lawsuits including matters involving employment discrimination and retaliation. ORS 654, like its counter-part ORS 659, provides protections to employees who make complaints regarding violation of the law, mismanagement, misuse of public funds, or as in this case, health and safety.

In the employment setting, the timing between the employee's complaint and employer's adverse employment decision, is often a factor in both a Judge's decision on a Motion for Summary Judgment, or Juries decision when they deliberate. In fact, timing is one of the most critical elements toward the outcome. You will find this to be the case throughout most Federal and State Jurisdictions in the United States.

SB 483 takes this traditional timing issue from an evidentiary standard to a presumption that the adverse decision was for reasons connected to the underlying complaint. While the presumption may be rebuttable, it still will have the effect of changing how the burden of proof is portrayed and possibly viewed by the jury. It will also become more difficult for an employer to make well-reasoned employment decisions within 60 days of an employee's complaint.

Sincerely,

*s/ Ronald W. Downs*

Ronald W. Downs  
General Counsel  
Special Districts Association of Oregon