



Standing for dignity in the workplace

Testimony in support of HB 4152

February 7, 2022

Chair Holvey, Vice-Chairs Grayber and Bonham, Members of the House Business and Labor Committee,

I write in strong support of HB 4152. This bill represents a step towards improving the balance of power between franchisors and franchisees in Oregon.

The Northwest Workers' Justice Project provides legal representation to low-wage workers throughout the economy in sectors such as construction, building maintenance, landscaping, hotels, restaurants, food processing, agriculture and forestry. All of our clients are low-wage earners. The large majority of our clients are people of color, and most are immigrants.

NWJP is currently handling a mass action filed against a national janitorial franchisor. In their complaint, 32 janitorial workers allege that they were misclassified as franchisees. They paid hefty initial franchise fees to work as “business owners” and were forced to sign lengthy franchise agreements, over 100 pages long, entirely in English. These janitors, who are immigrants and spoke very little English, were unaware of the one-sided terms that heavily favored the janitorial franchisor. They relied on gross misrepresentations made by the franchisor at the initial meeting. Included in the terms was an arbitration provision that forced these janitorial workers to arbitrate any claims in Minnesota, where the franchisor is headquartered, as well as many other terms that put the workers at a severe disadvantage in the contract.

After signing, the janitorial “franchisees” were in an abusive employment relationship. Unlike people in business for themselves, the janitors speak of instances when the franchisor forced them to take unprofitable accounts and often threatened to terminate their franchise agreement if they refused to abide by the work assigned. The janitorial franchisees are therefore alleging that these threats kept them in involuntary servitude and debt bondage, forced to work for little to no income.

HB 4152 provides protections for workers like my clients that would make it illegal to make such gross misrepresentations about the terms contained in a franchise agreement. Among the changes that we strongly support in HB 4152 are:

Language access

Many of the clients in our large janitorial case did not speak English, yet were only provided documents in English. We strongly believe such agreements should be voidable if a prospective franchisee has not received the franchise agreement in their primary language. The burden should be on the franchisor to determine a prospective franchisee's primary language and then do the work necessary to have the documents translated into a prospective franchisee's primary language.

Employee v Franchisee

We are concerned that people will be wrongly classified as franchisees when they are actually employees with additional rights that franchisees likely don't have. We understand that the -1 Amendment will address potential issues around misclassification. This is an important change for workers in low-wage job settings where misclassification is common.

Disclosures

The disclosures in Section 3(2) of the bill are extremely important to our clients. Many enter into agreements with no idea about how much income/work they are actually going to receive. We believe the disclosures should be required to be in writing and given orally. This may require that a franchisor hire an interpreter, but for such an important decision, a potential franchisee must understand the document before signing.

Thank you for your consideration and work on this important issue.

Mayra Ledesma, Staff Attorney
Northwest Workers' Justice Project