



A STRONG VOICE FOR OREGON'S WORKERS

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

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

RE: Support for HB 4086, Workers Compensation Modernization

February 7, 2022

Thanks for the opportunity to testify on behalf of the Oregon AFL-CIO which represents 300,000 workers across the state and is a voice for all workers.

When a worker dies from an on-the-job injury or exposure their family is entitled to apply for workers compensation death benefits. You can find an overview of the most recent benefit summary on OLIS for what type of benefits are eligible to family members when they are impacted by this both personal and economic loss. During 2020, 53 Oregonians lost their lives as the result of an on-the-job injury or exposure.

As Rep. Power stated, the requirements in statute relating to who qualifies as family are outdated and in some cases offensive. Changes found in HB 4086 relate to:

- Current statute requires unmarried individuals to have cohabitated in the state for 1 year and had a child as a result of that relationship in order to qualify for benefits. Obviously, this is not how all families are structured. We change this by tying the statute to case law related to family law. Our new definition links the term cohabitation to the family law sections that are applied to unmarried individuals in civil cases. By modifying which set of case law is linked to the definition of cohabitation, we are creating a definition that will evolve with future definitions of family.
- There are additional benefits eligible to individuals who are so severely impacted by disabilities that they cannot earn a living by themselves. The current statute currently refers to them as "invalid." Obviously, this term is offensive so we changed it to incapacitated.
- We also de-gender the terms found in the list of dependents who may be eligible for benefits and add the terms "blood and affinity" to ensure that even non-nuclear family members who were reliant on the deceased worker can maintain some sense of economic security.
- There is also a fairly arcane part of the statute that grants the department director the discretion to reduce payments made to family members solely because they reside in another country. While we know that no one in the position now would do that, it does seem like good public policy to ensure that this discriminatory tool

cannot be used in the future. We retained the requirement to suspend payments if we are at war with a country where a family member resides.

The last changes made in HB 4086 are to the discrimination and therefore the retaliation protections in workers comp. The bill moves workers' compensation protections closer general employment protections by the addition of "by any person acting on behalf of" to ensure that anyone acting on behalf of the employer will trigger worker protections against discrimination and harassment when filing a comp claim.

We also clarify that an employer or anyone acting on behalf of the employer cannot discriminate or retaliate against a worker because they have inquired about their rights related to workers compensation protections.

Lastly, current statute only grants discrimination and retaliation protections to workers who are employed by an employer who has 6 or more employees. This is inconsistent with other employment protections across Oregon statute. We remove the employer threshold so that all workers in Oregon regardless of employer size have protections to ask about and file for workers compensation when they are injured on the job.