



Standing for dignity in the workplace

Testimony in support of HB 4002

February 8, 2022

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

Northwest Workers' Justice Project provides legal representation to workers in low-wage jobs throughout the economy, including agricultural workers. Many of our clients are farmworkers who lack basic protections that almost all other workers enjoy.

The bill you are considering will take an existing right- the right to overtime after 40 hours of work in a week- and its corresponding enforcement structure, and open it up to farmworkers. It will not create a new right nor a new enforcement structure. BOLI currently enforces overtime violations for workers who choose to pursue an administrative remedy. Courts already hear cases involving overtime violations for workers who choose a legal remedy. While there may be more cases of violations if agricultural employers violate a new overtime requirement in that industry, there will not be new substantive law or new remedies created. The Oregon overtime provision and robust penalty wage structure have been in place for over half a century.

What we often refer to as the overtime law is actually called the “maximum hours” law under the Fair Labor Standards Act, our federal law governing many wage and hour issues. The 1938 FLSA set a maximum number of hours for a few specific reasons, including making it expensive to overwork people and to compensate overtime workers for the increased risk of workplace accidents they face from exhaustion or overexertion.¹ Working overtime is associated with poorer perceived general health, increased injury rates, more illnesses, and increased mortality, according to the CDC.² Further, agriculture work is one of the most dangerous professions.³ To give one example of this significantly increased danger, farmworkers die from heat stress at a rate 20 times greater than the rest of the U.S. workforce.⁴ Long hours in hot temperatures contribute to this gross disparity. This is one of many examples of increased health and safety risks that farmworker face.

¹ *Mechmet v. Four Seasons Hotels, Ltd.*, 825 F.2d 1173, 1175-76 (7th Cir. 1987).

² <https://www.cdc.gov/niosh/docs/2004-143/pdfs/2004-143.pdf>

³ <https://www.cdc.gov/niosh/topics/aginjury/default.html>

⁴ CDC, Heat Related Deaths Among Farmworkers, United States — 1996-2006, <https://bit.ly/3i9XgMw>

Pesticides, equipment accidents including vehicular ones, and long, arduous shifts all contribute to the serious, negative health effects of being a farmworker.

Oregon should lead the way in valuing farmworkers at least as well as we value other workers. Time and time again, farmworkers are treated differently, and worse. For those of us working to fight for farmworkers' rights, the legal landscape feels separate and unequal. Though we are not discussing other distinctions today, it is important to note that many farmworkers are not entitled to be paid even minimum wage. Farmworkers do not have the right to organize under the National Labor Relations Act. Requiring employers to pay farmworkers overtime after 40 hours is a step we can take right now to prove that farmworkers are indeed essential, valued, equal workers in Oregon.

The message we send to farmworkers is the opposite: though farmwork is one of the most hazardous jobs as described above, it also has some of the lowest compensation of any industry.⁵ In 2019, a farmworker made 65% of the median income for full-time work.⁶ There is no reason that one of the most challenging and dangerous jobs in the country should receive significantly less pay than other jobs including salespeople, telemarketers, hairdressers and many others.⁷

Please vote yes on HB 4002 to help begin to build a fair, equal system for farmworkers in Oregon.

Thank you.

Kate Suisman
Coalitions Manager, Attorney
NW Workers' Justice Project

⁵ https://www.bls.gov/oes/current/oes_nat.htm. Arrange columns by annual mean wage.

⁶ The national median income for a full-time farmworker in 2019 was \$25,840, compared to the median annual wage for all workers in 2019 of \$39,810. <https://www.bls.gov/ooh/farming-fishing-and-forestry/agricultural-workers.htm>

⁷ https://www.bls.gov/oes/current/oes_nat.htm