



Testimony in support of HB 2548 (2025)

Chair Grayber, Vice Chairs Elmer and Muñoz, and members of the Committee,

My name is Kate Suisman. I am an attorney at the Northwest Workers' Justice Project (NWJP). Thank you for the opportunity to provide testimony on this important bill. We represent workers in low-wage jobs when bad things happen to them at work: when they are not paid, or are discriminated against for being in a protected class or are retaliated against for speaking up. Finally, we engage in policy advocacy and try to bring the important perspectives of workers in low-wage jobs and immigrant workers to these policy discussions.

I write in strong support of HB 3193, the Farmworker Standards Board bill. NWJP has been working with and advocating with farmworkers for better working conditions for over twenty years. Low-wage workers struggle economically in general, but farmworkers even more so since work is often seasonal, and low-pay often continues even after many years in jobs. Farmworkers also do hard labor around many hazards like pesticides and heavy machinery, resulting in significantly worse health outcomes and higher rates of workplace fatalities than other workers.

Why a Standards Board?

This bill aims to change this dynamic. There are many benefits to a standing committee of experts who can research market conditions, analyze data, and listen to community members. A board like this could understand the unique issues of farmworkers. Workers need a place to have their voices heard en masse. Many protections that workers in Oregon enjoy are hard to access for farmworkers, and the board could address this. A few examples:

- How do you ask for a sick day, when you may be at any given employer for less than the 90 days it takes to be able to use your sick time?
- Relatedly, how do you build up a retirement account when you work for many employers each year, most of whom do not offer retirement accounts or matching?
- How do you access Paid Leave Oregon when your need for it may arise after you stop working for one employer and no longer eligible?
- What do you do if your piece rate wage is not going up, but the minimum wage is? How do you deal with the expectation that you work faster and earn enough piece rate to meet minimum wage, so your employer does not have to supplement your earnings to get you to minimum wage?
- How do you take rest breaks when you are a piece rate worker, knowing you will very likely not be paid for the time you are not picking? (Compared to hourly workers where they are generally paid for the break as part of their hourly wage.)

This bill aims to make farmworker jobs safer and more desirable. We hear regularly from farmers about the worker shortage they are facing. There are likely many reasons for this, but one of them is the low demand of workers for this kind of difficult, generally low-paying work.

The Need for a Just Cause Termination Standard

An important protection in the bill is a just cause termination standard. Many of the farmworkers who call us have asked their supervisor questions about pay or working conditions, tried to improve them, or spoken up about a danger or hazard at work. For these workers, retaliation is not the exception, it is the norm. To be clear, we do not hear from workers at the majority of farm employers who are following the laws. We wouldn't be here if all farm employers were treating workers as well as the Legislators and farmers who spoke at the March 12th hearing on this bill.

In low-wage, non-unionized work, which describes most of farm work, there is a power imbalance between workers and employers, and even more so when some workers are undocumented. And of course this is highly exaggerated today with the hateful, anti-immigrant rhetoric and actions coming from the White House. NWJP and other groups can bring individual lawsuits to try to fix this retaliation epidemic case by case, and we do, but that has not changed the dynamic. There are not enough attorneys or investigators at BOLI to respond to the great need for legal representation in the farmworker community.

What would change this dynamic of fear and retaliation, and ensure that farmworkers can ask questions about their pay, or speak up when an assignment is too dangerous, is a just cause termination standard.

The advice we usually give workers who call us concerned they have been discriminated against is, "you can be fired for any reason except a discriminatory one." Just cause changes that dynamic so a worker can only be fired for a legitimate reason like serious misconduct, fraud, illegal conduct, ongoing neglect of work etc. Yes, some bad employers would continue to fire people illegally and some of those firings are already illegal- but presently, if a worker is fired in retaliation or because of discrimination, the worker has to prove the *intent* of the employer, which can be hard to do. It is hard to get into someone else's thinking and prove why they did a certain thing. Just cause would switch the burden so that the employer has to have a legitimate reason for the termination. This standard is common in union contracts and many private contracts. It is also the norm in much of the industrialized world - Canada, Mexico, the European Union, and the United Kingdom, among others, all have this standard- the U.S. is the outlier

As this committee knows, farmworkers are excluded from bargaining and from union contract protections under the federal National Labor Relations Act. This portion of the bill aims to provide local farmworkers one of the benefits of a union contract which they cannot get any other way, unless an employer chooses to embrace it which is very uncommon. Additionally, H2A visa workers have long had this protection. It is not fair that workers who are here on visas have more protections than local workers.

The bill also lays out a number of exceptions from the just cause standard, to make sure that farmers can still run their businesses as needed:

- (a) A bona fide economic layoff that is:
 - (A) Supported by legitimate and verifiable economic reasons documented in the employer's records; and
 - (B) Made in the reverse order of seniority within job classifications.
- (b) The expiration of a designated period of temporary or seasonal agricultural work.

In Conclusion

I have heard the opposition talk about their needs and how hard it is to be a farmer, and I respect that farming is a difficult job, especially for smaller farms. But I would love to hear their suggestions for what we do to deal with the real concerns farmworkers have shared in their testimonies. The status quo is not working for farmworkers.

Everyone involved in this debate wants to see a strong agricultural industry in Oregon. The Farmworker Standards Board is a necessary part of that- taking a step back to look at the reality of farm work for farmworkers *and* farmers, and seeing what we can do to improve it. The board aims to make farm jobs better, healthier, more fair- and if that happens, I can see an Oregon where people are competing for these jobs and farmers are not facing worker shortages each season. This bill provides a framework to improve farming for farmworkers and farmers alike.

Thank you.