



Associated Oregon Industries

1149 Court Street NE  
Salem, OR 97301-4030

telephone: 503.588.0050  
portland: 503.227.5636  
statewide: 800.452.7862  
fax: 503.588.0052

[www.aoi.org](http://www.aoi.org)

# AOI TESTIMONY ON HOUSE BILL 3041 HOUSE BUSINESS & LABOR COMMITTEE

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House Bill 3041 is not needed. AOI opposes this legislation because formal wage complaints are already protected and actionable under federal and state law.

## **House Bill 3041 is a second layer of redundancy with regard to retaliation laws.**

ORS 659.030 already prohibits any employer from discriminating against any person because that person opposes any unlawful practice. Because discriminatory pay differentials are a form of gender discrimination, the very conduct addressed by HB 3041 is already on the books.

Then, in addition, ORS 659A.199 was added in 2009 and prohibits any form of retaliation against any employee who in good faith reports information the employee believes is evidence of any legal violation. As such, complaints about gender wage inequality are covered by a second general statute.

As retaliation law, HB 3041 doesn't add any remedies or source of additional rights. It is totally unnecessary.

## **The novel concept of HB 3041 is in Section 2 (1), which covers employees who "express concerns" about wage inequities based on sex.**

AOI would oppose this concept for very specific reasons.

First, the phrase "the employee has expressed concerns..." is completely untethered from the usual legal test of an objectively based belief by a claimant that an employer's conduct is discriminatory.

The new concept in HB 3041 is so broad it would cover musings to co-workers or stray comments made in the workplace. Phrases uttered in the workplace like, "*I'm worth more than this*" or "*I don't get paid enough to do this*" now become grounds for retaliation complaints.

In addition, most discrimination/retaliation statutes will include language defining what specifically employers can't do. For example, 659A.199 covers "promotion, compensation or other terms, conditions or privileges of employment." In HB 3041, what constitutes "retaliatory action" appears to be at the discretion of the complainant.

Finally, with regard to formal employee complaints about wages, this would be considered "oppositional activity" which is already protected in ORS 659A.030 and would be considered an "internal complaint" which is actionable under federal law.