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RE: Paid Family and Medical Leave – Testimony before the Joint Meeting of House Committee on Business and Labor and Senate Committee on Workforce

Dear Chair Taylor, Chair Barker, and Members of the Committee:

Thank you for the opportunity to present oral testimony at the hearing this morning. As time was short this morning, I submit this written testimony to ensure the below concerns are addressed.

Associated General Contractors – Oregon Columbia Chapter is the commercial construction industry association for Oregon and SW Washington. AGC represents a broad cross-section of the commercial construction industry. I am also a labor and employment attorney at Schwabe Williamson & Wyatt.

AGC is supportive of our members having the time they need with their families, but has a number of concerns with HB 3031 as currently drafted and even greater concern with HB 3140. Both bills place an extreme burden on employers. The one-size fits all approach provides no exceptions for small businesses, where one absent employee is felt acutely, or businesses, such as those in the construction industry, with a seasonal workforce.

To put the burden of HB 3031 and HB 3140/SB 947 in context, we provide the following brief comparisons with the other states that have implemented paid family leave:

Pre-existing infrastructure: the four states currently providing paid family leave benefits – California, New Jersey, Rhode Island, and New York are administering the program through pre-existing temporary disability insurance programs. The only other state with this sort of preexisting statewide disability insurance program is Hawaii, which means that the 45 other states must find alternatives in their creation and expansion of infrastructure in order to administer paid family leave. Please note, the state specific details below describe the funding mechanism of paid family leave only and not the temporary disability insurance program.

California: Paid family leave is funded entirely by an employee payroll tax. The program is administered by a state agency, but includes limited employer private options. Paid family leave is limited to 6 weeks. The benefits are limited to roughly 55% of the employee's weekly earnings, with a maximum weekly payout of $1,216.

New Jersey: Paid family leave is funded by an employee payroll tax. The law provides for limited private options. Paid family leave is limited to 6 weeks. The benefits are limited to 66% of the employee's weekly earnings, with a maximum weekly payout of $637.

Rhode Island: Paid family leave is funded by an employee payroll tax. Paid family leave is limited to 4 weeks of leave. The benefits are limited to 60% of the employee's weekly earnings, with a maximum weekly payout of $831.

New York: Paid family leave is funded by an employee payroll tax. The program is administered by the state, and provides for highly regulated private options. Paid family leave is limited to 10 weeks of leave, increasing to 12 weeks in 2021. The benefits are limited to 55 % of the state average weekly wage.

Washington, D.C. (paid family leave becomes effective 2020): Paid family leave is funded by an employer payroll tax. Paid family leave is limited to 8 weeks parental leave, 6 weeks for family care, two weeks for employee's own serious health condition. The benefits are limited to 90% of earnings up to 150% of the DC minimum wage, 50% of earnings above this threshold, with a maximum weekly payout of $1,000.

Washington (premiums effective 2019, benefits effective 2020): Paid family leave is funded by a joint employer and employee payroll tax. Employers with fewer than 50 employees are not required to pay their portion of the payroll tax. The law provides for limited private options. The benefits are limited to 12 weeks for paid family leave, 12 weeks for own serious health condition (14 weeks for pregnancy related serious health condition resulting in incapacity); no more than 16 weeks total/year for combined own serious health condition and family leave (18 weeks if the employee experiences pregnancy related serious health condition). The benefits are limited as follows: workers paid 50% or less of average weekly wage receive 90% of the average weekly wage while workers paid more than 50% of the average weekly wage receive an additional 50% of weekly earnings, with a maximum weekly payout of $1,000.

HB 3031 in comparison:

- Provides significantly more paid family leave than most states: 12 weeks of paid family leave, 14 weeks of parental leave, and 6 weeks for a serious health condition related to pregnancy/child birth, for a total of 32 weeks of paid leave. HB 3140 provides 24 weeks of paid family leave and 24 weeks of medical leave, for a total of 48 weeks of leave. This is unworkable for many employers, particularly those small employers who would be forced to provide paid leave for up to 32 or 48 weeks (almost a full calendar year).
- Provides a higher maximum weekly payout, covering up to 130% of the average weekly wage with no maximum dollar cap on the weekly payout. HB 3140 takes it one step further, and mandates a benefit of 100% of the employee's regular rate of pay.
- Provides a broader definition of family member:
    - Other states all include the employee's child, parent, spouse, and domestic partner. SOME states include grandparent, grandchild, and sibling.
    - 3031: adds legally recognized relative, individual for whom employee is responsible, individual who lives with employee and with whom employee shares responsibility for each other's common welfare, or any other individual whose close association with an employee is equivalent to a familial relationship.

- Shifts a significantly larger portion of the burden onto employers through the employer payroll tax.
- Does not provide for any private options. Therefore, employers are not incentivized to keep their current paid leave plans in place because all employers face the mandatory payroll tax.

Construction industry specific issues:

- Construction industry employers are more likely to have a seasonal workforce. For example, some employers hire employees for a four month building season, if the employee takes leave for three of those months, the employer will have significant issues finding a replacement, holding the job open for the employee's return, and is not provided any assistance in funding temporary workers to ease this burden.
- Furthermore, the bills do not require the proposed paid family leave to run concurrently with paid sick leave or other paid time off – so employees may be able to extend their leave beyond the proposed 32 and 48 weeks under HB 3031 and HB 3140 respectfully.

For these reasons, AGC urges your opposition to HB 3031 and HB 3140. For additional information, please contact Kirsten Adams (503) 990-2262 or Nyika Corbett (503) 796-2981.

Sincerely,

Annyika Corbett

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