



A STRONG VOICE FOR OREGON'S WORKERS

TO: Chair Power
Vice-Chairs Reynolds and Zika
Members of the Committee on Childcare

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

RE: Support for HB 2474, OFLA Modernization

March 22, 2021

The Oregon AFL-CIO represents 300,000 workers across Oregon and is a voice for all workers in the legislative process. Oregon's working families have borne the brunt of the pandemic in various ways, many struggling to make ends meet while caring for loved ones that became ill with COVID-19, taking care of themselves when they contracted the virus, sometimes from work, all while often balancing child care and remote learning throughout the past year. The Oregon Family Leave Act has been on the books since 1995 and has been one of the only consistent job protections afforded to Oregon workers throughout the pandemic. Many other programs or protections were only temporary and have since expired. Consequently, it's critical that we modernize Oregon's unpaid job protected family and medical leave system to better meet the needs of Oregon's economy, families and communities today, and going forward.

A year ago this month, worker advocates were combing Oregon's statutes to figure out what could be done to mitigate the incredible impact shutdowns were having on workers throughout the state. There were so many gaps highlighted during this time period and some of them addressed in HB 2474, but there are many more that this bill doesn't even touch. HB 2474 aims to address issues related specifically to the Oregon Family and Medical Leave Act (OFLA). We are also in conversations with the employer community to narrow the scope of the bill and refine language and are hopeful we can find agreement on amendment language to bring forward.

One of the main concerns we heard from workers was when they were dismayed to find out that because they didn't work the required 25 hours per week, they didn't qualify for OFLA to take care of family members that became ill, meaning they could lawfully be fired after their 40 hours of paid sick time elapsed, or else their hours had been reduced and they no longer qualified for OFLA leave. Many others had just switched jobs, and were shocked to find out that because they hadn't worked for the same employer for 180 days, they had no right to keep their job when they contracted the virus and needed to take more than a week to recover. This is also true for workers who work for the same employer year round, but have a break in service. This impacts thousands of workers like school bus drivers, janitors and clerical staff in schools who don't work over the summer, yet remain with a consistent employer from year to year. Under current law, these workers are only afforded OFLA protections for 4 months of each year (March, April, May and June) since they must re-establish eligibility at the beginning of every school year.

Another issue is, because OFLA was passed in 1995, it doesn't fully capture the way we think about families today; it's outdated and doesn't recognize the diverse family relationships that currently exist and functionally excludes many of the family caregivers and relationships that workers depend on. We know that for many Oregonians a chosen family is the only group of people that they can rely on when the need arises to have care, yet neither the OFLA or sick time

definition of “family” cover the same universe of family members recognized in the much more recent and relevant paid family and medical leave law.

We also know that many transgender individuals, who identify as male, are getting pregnant and birthing children and deserve the same protections as any other pregnant individual. Yet, OFLA currently also only refers to “females” when it provides protection for pregnancy disability leave. This means many transmasculine men are shut out of pregnancy accommodation protections and leave, even though they face the same, regular and normal limitations of pregnancy and childbirth. You’ll hear from Trystan today about his experience not having access to OFLA after giving birth because of this outdated and unfortunate word choice. HB 2474 remedies this in Section 6 and 7 by changing OFLA pregnancy accommodation protections to be gender neutral.

The constant challenge for Oregon’s working families as COVID caseloads have fluctuated has been access to childcare. You’ll hear from workers today, who relied on time limited federal programs to take the time they needed, who were able to remain in the workforce because OFLA’s childcare rule was in place and their spouse was able to take it. HB 2474 aims to codify the current rule that allows workers to take OFLA leave when childcare or in-person learning is unavailable due to closures in a declared public health emergency. We commend Commissioner Hoyle from recognizing early on in this pandemic that OFLA sick child leave does indeed cover conditions such as school closures and distance learning in a public health pandemic. We appreciate her work very early, back in March 2020, to implement this rule and clarify this for working parents and employers alike. The intent of this bill is to codify into statute the OFLA sick child rules that have essentially been in place for a year now and we are working with BOLI to do so.

There are forthcoming amendments to HB 2474 that narrow the scope, but all of the issues addressed by HB 2474 are important. We know that OFLA has provided important protections for many workers during this unprecedented time; it has enabled them to both care for their children during closures and to continue working through the pandemic. Yet, many other workers are excluded from these basic protections because of their job tenure, a break in service, gender identity or family composition. HB 2474 seeks to address some of these discrepancies for many of the workers who have been hit the hardest during COVID-19. There is no better time to respond to this public emergency by modernizing OFLA protections for Oregon workers, families and communities.