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February 3, 2022

## Memorandum

VIA EMAIL ONLY

TO: Chair Taylor  
Vice-Chair Knopp  
Members of the Senate Labor and Business Committee

FROM: Elliot Levin, PROTEC17 Research Director and Legislative Advocate

RE: SB 1586 Support, Discrimination and Sexual Harassment NDA Clean-up

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On behalf of the nearly 900 Professional and Technical Employees, Local 17 (PROTEC17) represented employees of City of Portland, I write today in support for SB 1586 to clean up existing statute related to when an employer can ask an employee to sign a Non-Disclosure Agreement (NDA) after workplace discrimination, harassment or sexual assault has occurred. PROTEC17 represents a wide variety of professional and technical employees, including engineers, planners, information technology specialists, and technicians who live and work in the Portland area. Additionally, we represent approximately 8,000 public sector employees across Washington State.

For far too long the norm was to silence workers who experience harassment and discrimination by requiring them to sign a non-disclosure agreement at the time of hire, after the conduct, or in a legal settlement negotiations. In coalition, we worked to address that rampant problem in 2019 with the bipartisan Oregon Workplace Fairness Act which, among other things, prevents the employer from being the first to request a non-disclosure agreement that relates to workplace discrimination, harassment or sexual assault.

While the intent of this 2019 law was to cover NDAs from the conduct all the way up to a settlement, in the year that the law has been in effect, it's been clear that some clarity needs to be added to the underlying statute to ensure this policy works as intended in practice:

- SB 1586 attaches a penalty to violations of the Oregon Workplace Fairness Act so if an employer violates the law by asking for an NDA, they may be subject to civil penalty per violation.

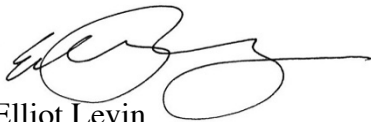
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- SB 1586 clarifies that former employees are also covered under the Oregon Workplace Fairness Act protections so if a worker is in settlement negotiations after they quit or are terminated, the employer can still not be the first to request an NDA.
- SB 1586 clarifies that an employee must be notified of their rights (as outlined in the Oregon Workplace Fairness Act) in the language that they regularly communicate with their employer in. This ensures that primarily non-English worksites are actually communicating this important information to workers.
- In addition to the discrimination or harassment conduct, SB 1586 clarifies that employers cannot be the first to ask for an NDA on the fact that a settlement occurred and what the company settled with the worker for.

These changes are specific to NDAs related to harassment, discrimination or sexual assault and the worker is still empowered to ask for an NDA if they want one. However, these clarifications to existing Oregon law allow workers *to choose* what information they want to disclose and to whom.

When people speak up and share their stories, it makes space for others to come forward. This is the path towards meaningful change. We encourage your Yes vote on SB 1586 to make sure the Oregon Workplace Fairness Act works as intended to help protect and empower workers to speak out when they've been discriminated against, harassed or sexually assaulted on the job.

Sincerely,



Elliot Levin  
Research Director and Legislative Advocate  
PROTEC17

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