



April 27, 2023

TO: Members of the Senate Committee on Labor and Business

FR: Derek Sangston, Oregon Business & Industry

RE: Opposition to HB 3471A

Chair Taylor, Vice-Chair Bonham, members of the Senate Committee on Labor and Business. For the record, I'm Derek Sangston, policy director and counsel for Oregon Business and Industry (OBI).

OBI is a statewide association representing businesses from a wide variety of industries and from each of Oregon's 36 counties. Our 1,600 member companies, more than 80% of which are small businesses, employ more than 250,000 Oregonians. Oregon's private sector businesses help drive a healthy, prosperous economy for the benefit of everyone.

Thank you for the opportunity to testify in opposition to HB 3471A. OBI opposes this bill because it would extend Oregon's ban on no-rehire clauses to settlements over workers' compensation cases. Bans on no-rehire clauses can serve an important role in ensuring transparency in the resolution of discrimination and harassment claims because those claims might result in a finding of fault. However, such a ban for workers' compensation agreements would not serve the same purpose because workers' compensation cases are no-fault situations. These are fundamentally different types of claims that contain extremely different circumstances.

HB 3471 would broadly ban no-rehire agreements in every settlement over workers' compensation claims, even those cases where the employee is represented by an attorney and each party has equal bargaining power. In those situations, the attorneys, who are required to provide competent representation to their clients, should be able to request and discuss specific terms to get to a fair settlement agreement. Perhaps in certain circumstances, this might include a no-rehire provision.

Critically, HB 3471 would make settlement of workers' compensation claims much less likely. By adding a new unlawful employment practice, private right of action, and penalty, the bill, as drafted, would create substantial exposure for employers, particularly in situations where the employer bears no fault. This could have a chilling effect on settlements as employers evaluate whether there is sufficient value in pursuing them given the risk. Ultimately, this reduction in settlement activity would impact the worker who must wait for the workers' compensation claim process to be finally adjudicated and would increase costs for both parties.

OBI urges this committee to reject HB 3471. The current practice is not broken, and you should not disincentivize settlements for workers' compensation claims. Thank you for your consideration.

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