



February 11, 2024

Chair Holvey, Vice Chairs Elmer and Sosa and members of the committee,

My name is Odalis Aguilar Aguilar and I am writing today on behalf of Oregon AFSCME Council 75 to express concerns on HB 4050. Oregon AFSCME represents over 37,000 workers across the State of Oregon in both the public and private sector. Our membership ranges from the professionals and techs at OHSU to the folks working in local governments that carry out essential services. Our mission is to ensure that workers have equal access to compensation for their labor. Historically, we've seen pay gaps between groups that continue to marginalize workers of color, women, immigrants, and workers with disabilities.

We have significant concerns about HB 4050 to add "business necessity" as a factor for why an employer could pay workers differently. We fear that this bill will open the door for bonuses – or base compensation in general – to be driven by factors other than output, seniority, merit, location, travel, education, training, experience, or the stipulations of a collective bargaining agreement -- all of which are already allowable under our Pay Equity law.

For example, under HB 4050 an employer could offer a "retention bonus" to a worker who got a new job offer at a different workplace. However, data shows that workers with more privilege – namely whiter and wealthier workers and those who are not caregivers – have more time and resources to look for other jobs. These systematic and implicit barriers to equal pay are exactly what Oregon's Equal Pay Act was designed to work to address.

This opening could have major consequences for Oregon workers after advocates have worked to address the wage gap. Data substantiates that implicit bias has a significant impact on bonuses if gone unchecked. This is a nationwide issue as data from research in national HR software provider ADP found that women, on average, earn a 17 percent (\$15,000) lower salary than men. However, when factoring in the gender pay gap for bonus pay, the total earnings pay gap widens to 19 percent (\$18,500).<sup>1</sup> ADP has further found that although an initial hiring bonus pay differential may seem minimal at the beginning, it compounds significantly over the course of a woman's career furthering the pay gap.<sup>2</sup>

The vagueness of the term "business necessity" and the broadness of the application of this factor across all pay differentials are our greatest concerns in HB 4050. This allows room for employers to use other factors not relevant to the workers training or experience to widen the pay gap. We urge this committee to not move forward with this concept and engage other stakeholders in a longer conversation in the future.

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<sup>1</sup> <https://www.adp.com/spark/articles/2018/09/the-gender-pay-gap-widens-as-women-earn-less-bonus-pay.aspx>

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