



February 21, 2024

Chair Holvey, Vice Chairs Elmer and Sosa, and Members of the Committee,

Thank you for the opportunity to provide comments on **SB 1515**.

My name is Alberto Gallegos and I am providing testimony on behalf of the Service Employees International Union (SEIU), Oregon. SEIU Oregon is composed of SEIU Local 503 and SEIU Local 49, which together represent over 87,000 people. Local 49 represents private sector janitors, property service workers, light manufacturing, and healthcare workers; while Local 503 represents homecare workers, private nonprofit workers, in-home childcare providers, nursing home workers, and state and local government employees.

Although we're supportive of several components of SB 1515 as amended, the purpose of this testimony is to highlight several concerns SEIU Oregon has identified with this bill using recent examples of workplace violations that we have been able to remedy using the current protections that we believe are at stake. We want to ensure that these concerns are considered and we look forward to participating in post-session discussions to address these:

1. Partial days: Oregon Paid Leave is only available to workers who miss an entire shift. Many workers have temporary medical restrictions that restrict the number of hours they can work per day. Others may need to leave work early or arrive late to attend medical appointments but would not be released by their doctor to miss an entire shift, since there is no medical justification for missing more time than is needed to attend the appointment. Medical restrictions on hours an employee may work are common for jobs requiring physical labor, where BIPOC workers are over-represented. Currently, an employee's ability to work a reduced number of hours or to miss partial shifts is protected by OFLA. Since employees in these situations are ineligible for Paid Leave, the removal of protections for medical leave under OFLA would mean that partial day absences are no longer protected. A few examples of how this would hurt hourly workers:
 - a. An SEIU member was recently told by her doctor that she could not work a full 8-hour shift since her job does not involve any sitting and she could not be on her feet for more than 4 hours per day. Her employer did not want to accommodate this and told her she would have to be off work until she could come back full-time. This worker likely would have run out of her 12 weeks of protected time before she was released by her doctor to return to 8 hours of standing per day if she had been forced to miss work completely while she had the 4-hour restriction. However, since OFLA law currently provides workers with the right to miss portions of their shift for medical reasons, the worker was accommodated.



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Her medical insurance was protected even though she was unable to work the requisite number of hours to qualify for medical insurance (30 per week), since the hours she missed were counted under OFLA.

Paid Leave does not provide a parallel protection in this case. If SB 1515 passes, workers in this situation could potentially lose their jobs by running out of Paid Leave before they could return to full duty, or, if their employer permitted it, could continue to work but would lose their medical insurance because the hours away from work would no longer be protected by OFLA. Losing their medical insurance would often result in a failure to recover completely or as quickly as they would otherwise, given the disruptions in service and changes of providers that a switch from private insurance to the Oregon Health Plan often causes.

- b. Another SEIU member suffers from panic attacks. These can come on during work and result in him needing to go home early. Medical appointments to address this condition result in him needing to arrive late to work. Despite this worker submitting medical verification of his condition, his supervisor has expressed suspicion about it and has made several attempts to dissuade him from missing time. This has included telling him that his doctor's note only excuses him from entire shifts, and that if he leaves before his shift is over, he will be disciplined for a "leave-early." The worker was remaining on the job, sometimes hiding in the janitor's closet while suffering through a panic attack, to try to keep from being disciplined. An SEIU representative intervened when she learned of the situation, and the worker and supervisor were informed of his right to leave work if experiencing a panic attack. SB 1515, by removing legal protection for partial days, would result in this worker either being fired for leave-earlies, or being forced to stay at work while suffering a mental breakdown.

2. Informing employees of their right to take leave:

Under OFLA, if an employee tells their employer the reason that they need to take time off work, it is the employer's responsibility to identify whether this leave may be protected under current leave laws. Under Paid Leave, job protections are only invoked when the employee informs the employer that they are applying for Paid Leave.

By asking groups of our members over the past several months, SEIU has found that most workers, particularly low-wage workers, and those who do not speak English as their first language, are unaware of the existence of Paid Leave. Those who are aware



of the program have usually heard about it in the context of news reports about the difficulty workers have faced in applying for and receiving benefits in a timely manner.

Shifting the burden of identifying whether an absence qualifies as protected medical leave from the employer to the employee is a massive setback in the rights of Oregon workers. It will give employers the ability to fire any employee who misses time from work but does not state that they intend to apply for Paid Leave – a program most workers are unaware of.

- a. An SEIU member whose first language is Sudanese Arabic has a medically fragile daughter. She needs to be fed through a feeding tube and requires constant monitoring. The member's wife is the primary caretaker, but the member sometimes needs to miss work to take care of his daughter; for example if the wife needs to take their other child to an appointment. The member has been clear with his employer about the reason for his absences but had no idea about Paid Leave or OFLA. Under current law, it didn't matter that this member didn't know his rights, since his employer was expected to know them. When he received a Final Written Warning for absences under the employer's "no fault" attendance policy, his SEIU steward became aware of the discipline the company had been issuing and was able to get it all removed based on current OFLA law. Any employee in a similar situation after the passage of SB 1515 will not have that protection, and can be fired, since they did not invoke their job protection by informing their employer that they intend to apply for a program (Paid Leave) that they are unaware exists.

3. Conflicts with Sick Time law, opens new pathways for retaliation:

- a. Employees who DO NOT want to use other accrued paid time when taking medical leave:

ORS 653.641 (Sick Time law) reads as follows: 653.641 Unlawful practices. It is an unlawful practice for an employer or any other person to:

- i. (1) Deny, interfere with, restrain or **fail to pay for sick time** to which an employee is entitled under ORS 653.601 to 653.661;

When Sick Time became law in Oregon, the bolded provision was helpful to SEIU in our efforts to combat retaliation against employees for taking protected leave. Prior to this, many employers would require employees to first use up all their vacation time before being allowed to use sick time, if the reason for the



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employee's absence also qualified for OFLA leave. This practice is punitive and is an attempt to dissuade employees from taking protected leave. For example, if an employee has a vacation planned and has already paid for plane tickets, but has a medical need to be off work at some point before that trip, the employer will pay out the employee's vacation time while they are on medical leave. The employer will then cancel the employee's pre-approved vacation time because the employer's time off policy does not allow employees to take unpaid time off for non-medical reasons.

Sick Time law gave workers a modest level of protection against this practice by making it illegal to pay out vacation before first allowing the employee to use their legally protected sick time. SB 1515 can either be interpreted as reversing this gain, or as creating an unresolved conflict between Paid Leave law and Sick Leave law.

The language in SB 1515, Section 5 that amends ORS 657B.030 to read "...an employee is entitled to use any accrued paid sick leave, accrued paid vacation leave or any other paid leave that is offered" is helpful in clarifying that employees have this right. However, it is important that the law also make clear that employees have the right NOT to take accrued paid leave.

b. Employees who DO want to use other accrued paid time when taking medical leave:

An additional conflict with ORS 653.641(1) would be created where employers restrict the amount of sick time an employee may use for an absence to cap the total pay at an employee's full wage replacement. This could result in an employer failing to pay for sick time to which an employee is entitled under ORS 653.601.

SEIU stewards have reported hardships their coworkers have suffered, including not being able to pay for rent and basic needs while on medical leave, due to the long delays in receiving payments that many Paid Leave applicants are currently experiencing. These delays sometimes come from slow processing times at the Oregon Employment Department. Other times, they come from the difficulties employees face in correctly filling out the required forms to apply for Paid Leave. Many SEIU members are not proficient at filling out digital applications and have experienced difficulties and delays in obtaining printed application forms, mailing them in, and having them accepted by the Employment Department. Most SEIU



employees do not work jobs that allow them to remain on hold for the length of time that is currently necessary to be able to speak to an agent in the Paid Leave department to get help with an application. The current operating hours of the Paid Leave hotline are Monday – Friday, 8:30 am – 5 pm, which conflicts with many SEIU members' shifts.

Allowing an employer to restrict an employee's ability to use accrued paid leave for time missed that may end up being covered by Paid Leave makes this already difficult delay worse for low-income employees who live paycheck to paycheck and suffer when payments are delayed. It appears that under this provision, an employer could refuse to pay any accrued leave out until such time as the Oregon Employment Department approved an applicant's claim and notified them of the weekly amount to which the employee is entitled, so that the employer could accurately calculate how much they would pay the employee to reach full wage replacement.

Low wage employees with medical issues that qualify them for Paid Leave benefits are usually struggling with high medical bills due to medical plans with high deductibles and out of pocket maximums. The changes introduced last session that removed the earnings cap were welcome for low-income workers with these types of health insurance plans. These workers now saw a pathway to getting past a serious medical condition without going into debt, by using accrued paid leave to pay large medical bills while using Paid Leave to cover basic needs like rent and food. Re-introducing the concept of capping earnings one year after removing it will be confusing and will create more medical debt for low-wage workers.

4. Reduction in bereavement leave benefits:

Other pieces of testimony have given examples of how shortening bereavement leave can be devastating to people. I want to share some of our members' unique circumstances: we represent workers who are first-generation immigrants and refugees, with immediate family still living in war zones or countries overridden by gang violence that they fled to Oregon to escape. Our hearts are heavy with stories from our members of multiple family members held for ransom and later murdered. Other family members die of medical conditions that would have been curable in the United States. Many issues that result from the death of family members in these situations can't be resolved from the United States and require our members to be present in person to deal with property ownership transfers, in addition to necessary time to grieve.



Under SB 1515, a member of ours who went to Mexico for four weeks to mourn and address issues relating to the murder of her mother and father would have no ability to travel there 11 months later if anyone else in her family was murdered as well. Thankfully these situations are relatively rare, but we have witnessed them, and it is unclear to us why a bill purporting to address “alignment” between OFLA and Paid Leave would also reduce protected leave for our members living through the worst year of their life.

5. Negative impacts largest for undocumented workers:

Although undocumented workers who file taxes and have an ITIN are theoretically eligible for Paid Leave, there are many barriers to accessing this benefit. Undocumented workers are hesitant to apply for any government benefits that may put them in the category of “public charge,” which they fear could disqualify them from becoming a citizen or permanent legal resident. The Oregon Employment Department’s upcoming transfer of all Unemployment Insurance information to the same operating platform (Frances) as that holding all Paid Leave information will create additional concern about entering one’s name into a database that, in some cases, allows the federal government access to data.

Even if advocates assure undocumented workers that Paid Leave would not fall into the category of “public charge,” and that the OED has erected internal electronic barriers between the Unemployment and Paid Leave portions of the Francis database, the risks are often viewed as too large to take when the consequence is being deported and having to either abandon your children or take them back to an unsafe country.

Workers in this situation will not be able to truthfully claim that they are applying for Paid Leave Oregon. Under current OFLA protections, this doesn’t matter, but under SB 1515, choosing to not apply for Paid Leave would deny them job and medical protections when they are unable to work. This leaves undocumented workers in an untenable situation, and has a disproportionate impact on Oregon’s BIPOC community.

Due to these concerns—although we are supportive of some components in this bill around clarity and protections—SEIU Oregon is neutral on SB 1515.

Once again, the purpose of this testimony is to highlight the challenges that we believe our members may face by the changes brought forth with SB 1515. We appreciate all the work and commitment that has gone into this vital program, and we urge you to consider these challenges as we continue to work towards expanding Paid Leave Oregon.



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Thank you,

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