



*Opposition testimony regarding SB 397 (2025)*

Chair Taylor, Vice Chair Bonham and members of the Committee,

My name is Kate Suisman. I am an attorney at the Northwest Workers' Justice Project (NWJP). Thank you for the opportunity to provide testimony on this important bill. We represent workers in low-wage jobs when bad things happen to them at work: when they are not paid, or are discriminated against for being in a protected class or are retaliated against for speaking up. Finally, we engage in policy advocacy and try to bring the important perspectives of workers in low-wage jobs and immigrant workers to these policy discussions.

I write in opposition to SB 397. Oregon law is clear that workers must be paid for “all hours worked.” “Hours worked” is defined as “all hours for which an employee is employed by and required to give to the employer...” (*O.A.R. § 839-020-0004(19)*). This contrasts with federal law which allows rounding when employers pay employees, on the whole, what they are owed over time. (This means that one employee can be paid a little less as long as another is paid a little more, over time.) (*29 CFR §785.48(b)*)

The federal rounding regulation dates to the 1960s, and was written at a time when time-keeping was done by hand and was much more of a burden on employers. As the court says in the case which likely spurred SB 397,

“[The defendant] actually had to take the extra step of converting the unrounded time punches to rounded ones; it is not clear what efficiencies were gained from this practice.”

*District Court Decision in Eisele v. Home Depot, (internal citations omitted.) Case 3:20-cv-01740-HZ, page 12.*

In both California and Oregon cases, courts have pointed out that state labor law differs from federal because state legislatures have chosen to adopt their own standards. Courts should not look to federal rules when a state has chosen to write and pass a law that differs substantively from federal interpretation. There is no reason for Oregon to align itself to a less protective, more confusing, and outdated regulation when the Legislature and our courts have made clear that Oregon law is distinct, and in this case, more modern and efficient than federal. (*See Eisele, page 10.*)

Currently, when a worker is not paid on time or is not paid for all hours worked, the worker can bring a claim for the wages they are owed as well as penalties. SB 397 would take away the worker's ability to claim the underlying wages owed when the wages were unpaid due to the employer's rounding policy. This bill would also remove the option for workers to claim penalty wages and receive some remedy for late or inaccurate payment when it is based on an employer's rounding policy. Rounding policies are not inadvertent and often serve to underpay

workers. Workers should be able to seek wages owed as well as penalty wages whenever they are underpaid, whether it is due to malfeasance, negligence or an unfair rounding policy. SB 397 would take important rights away from workers.

One other concerning component of this bill is that it simply says Oregon will tie itself to whatever federal law says. With a new administration in DC that severely weakened worker protections in its first term, it's impossible to say if federal law on this issue will stay the same or get even worse for workers in the coming years.

In short, Oregon has decided we value paying workers for all hours worked. This is especially important for workers in low-wage jobs, where a small difference in a paycheck can have big impacts at home. We also recognize that much has changed since 1961 when the federal regulation at issue was written. Employers have sophisticated time-keeping systems, and it is no longer burdensome to pay workers for each and every minute they work. This bill would give employers a large amount of leeway to haphazardly adjust workers' paychecks at a time when all workers are feeling the impact of high prices and need every dollar they have earned.

Thank you for considering my testimony.