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House Committee on Labor and Workplace Standards
Re: HB 2957 – Testimony in Support

Chair Grayber and Members of the Committee:

My name is Nik Yanchar and I would like to provide testimony in support of House Bill 2957.

By way of background, I am a solo practicing employee-sided employment discrimination and wrongful termination attorney and have been practicing since 2012. In my many years of practice I have represented hundreds, or more, of individuals who were terminated or otherwise harmed as a result of discrimination and retaliation in violation of state laws.

In those many years I have come to learn that Oregonians want to put a period and move on from situations that happened in the workplace—but because of the situation that HB 2957 is seeking to remedy, those situations end up being stalled, delayed, painstakingly slow moving, or altogether not pursued, either because an employer forced an employee to “give up” their statute of limitations for a shorter one, or because of a Right to Sue being issued from the Bureau of Labor and Industries (BOLI).

First, employers should be prohibited from forcing hardworking individuals to sign away their rights, usually as a condition precedent to being offered employment. Allowing this to happen inherently gives employers a free pass to openly discriminate or retaliate against an individual hoping that by the time the individual is able to process what happened, and seek advice, it’s too late. The reality is that when someone gets terminated because of discrimination or retaliation, it creates a huge emotional impact, and usually requires a grieving period (there is a reason why people use the term “work family”). This then causes the individual to not necessarily seek assistance or advice on what happened until sometime later. While this “sometime later” may be well within the statutory time limits—if the employer forced that individual to sign away that time limit for a much shorter one as a condition of employment, then the employee is out of luck. By voting in favor of HB 2957, this will allow individuals an opportunity to grieve the loss of their job, income, and work family, or perhaps even seek therapy; and seek new employment to supplement income. Then usually at that point, being able to objectively talk about what happened in an effort to seek redress for the wrongs that happened to them.

Secondly, and similarly, the same principles and statements above apply to BOLI charges. While BOLI does not intend necessarily to shorten an individual’s statutory time limits the same way as employers do, if BOLI dismisses a charge for any reason resulting in a 90 day Right to Sue being

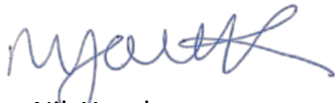
issued, that can have the same effect. For example, if an individual files with BOLI the day after termination and that claim is dismissed two months later (for whatever the reason) with the Right to Sue being issued, now the individual is forced to file their claims within 90 days of that Right to Sue. This is an unintended punishment on the individual since now the statutory time limit is again, shortened.

By supporting HB 2957, the above-described impact would be altogether avoided. It would provide all Oregonians the ability to seek assistance and help from BOLI for workplace discrimination and retaliation without having to give up their right to access the civil justice system as a consequence.

I urge the committee to vote in favor of HB 2957. Permitting employers to ignore these limits and set their own limits workers' access to justice; it is time to remedy the unintended consequence of punishing individuals who seek help from BOLI.

I appreciate your time on this important matter.

Thank you,

A handwritten signature in blue ink, appearing to read "nyanchar", written in a cursive style.

Nik Yanchar
Attorney