

February 10, 2025

Dear House Committee on Labor and Workforce Standards:

My name is Matthew Ellis, and I'm a resident of Portland, Oregon. I am also an attorney who, throughout my career, have represented both employers who have been sued for protected class discrimination and employees who have brought such claims.

I write in support of this bill which, in part, fixes an unintended consequence of the legislative decision to extend the statute of limitations from one year to five years for protected class discrimination under ORS 659A.030 and ORS 659A.112. These two laws are essentially Oregon's state law equivalents of Title 1 of the ADA, the ADEA and Title VII; the main federal laws that protect workers from discrimination based on disability, age, race, sex and more.

The current law, as drafted, rewards those who file discrimination lawsuits in state or federal court without ever first filing with BOLI and punishes those who try to work things out through the less expensive, less litigious and less public BOLI process. This is because, currently, those who file in federal or state court without first filing with BOLI have 5 years to do so. However, if one decides to take a less aggressive approach and first file with BOLI, who takes somewhere between one month and one year to process/ investigate a claim, one only has 90 days to bring a claim after BOLI processes the claim. Thus, the person filing directly in court has much more time to do so, but those going through the BOLI process – which often results in pre-filing resolutions of disputes, or the sharing of information that discourages litigation altogether – has only 90 days. It cannot have been the intent of the legislature when it extended the statute of limitations a few years back to punish those who wish for the less litigious and more process-oriented approach of BOLI and reward those who file lawsuits, straight away, against their employers. This law changes that and makes it clear that one has the longer of a) the applicable statute of limitations, or b) 90 days after BOLI issues its findings.

Again, it is hard to imagine that this was not the intent of the legislature when it extended the statute of limitations period from 1 year to 5 years. Because I can think of no valid reason not to fix what must be a significant unanticipated consequence of the legislature's decision to extend the statute of limitations, I urge passage of this bill.

/s Matthew C. Ellis