



Feb. 22, 2011

By Edward A. Lenz
Senior Vice President, Legal and
Public Affairs
703-253-2035
elenz@americanstaffing.net

Oregon Antistaffing Bill Would Destroy Jobs

Senate Bill 610, recently introduced, would adversely affect Oregon staffing firms and their temporary workers.

- Staffing firms employ more than two million temporary workers every day in the U.S.—more than nine million during the course of a year—and have led the nation’s jobs recovery by adding more than 500,000 new jobs since October 2009
- Oregon staffing firms employed more than 20,000 workers every day, bridged more than 35,000 workers to full-time jobs, and generated almost \$600 million in payroll in 2009

SB 610 represents a totally unwarranted intrusion into the private employment relationships of tens of thousands of Oregon businesses and their employees. It would impose costly and unnecessary new mandates, record keeping and notice requirements that would drive up the cost of staffing services and dramatically reduce those firms’ ability to create new jobs—*the last thing the Oregon legislature should be doing in this still highly fragile employment environment.*

A few of the more egregious provisions of this bill include the following:

Mandated Wage and Benefit Parity

Section 2.(2) would make unlawful *any* pay and benefit differentials between employees, except those based on “differences in job duties.” Differences in experience, skill level, training, education, length of service, or market-based factors of any kind, are all irrelevant—as are critical subjective factors such as work ethic and the ability to work well with others. Moreover, the bill specifically mandates what staffing firms must pay their temporary workers—namely the gross hourly wages paid to “similarly situated” full-time employees—*plus a 30% surcharge* payable in wages or benefits. *No state has seriously considered, much less adopted, such a provision.*

Such legislative overriding of private contracts would be an unprecedented repudiation of free-market principles and would have a devastating impact on the temporary jobs market. As noted above, temporary work is an essential component of the nation’s job creation mechanism—especially during economic recoveries—and a vital bridge to permanent employment.

Blanket Prohibition of Fees for Service

Transportation and check cashing fees

Section 8.(2) of the bill imposes a blanket prohibition on employment agencies from charging employees for providing transportation or for cashing their paychecks—no matter how reasonable or nominal the charge, or that the charge is completely voluntary, or that it is for the convenience or safety of the employee. This makes no

sense and would cause staffing firms to discontinue offering such services, to the detriment of workers.

Placement fees

Section 8.(3) provides that employment agencies would not be allowed to “restrict the right of an applicant to accept permanent employment with a third-party employer to whom the applicant has been referred for temporary work or restrict the right of a third-party employer to offer permanent employment to the applicant.” Nor would it be permitted to “charge an applicant a fee or fine for accepting an offer of permanent employment from a third-party employer or charge a third-party employer additional amounts for offering permanent employment to an applicant, except as otherwise provided in ORS 658.005 to 658.245.”

Section 8.(3) reflects a fundamental misunderstanding of the role of staffing firms in today’s market. Staffing firms do not restrict their employees from accepting permanent employment with their clients or restrict clients from making job offers; nor do they have any economic incentive to do so. Much of the staffing business today are so-called “temp-to-hire” arrangements in which clients use staffing firms for the express purpose of recruiting, screening, and placing candidates for permanent employment after a trial period. Most staffing firms do not charge applicants a fee for such placements although it is perfectly lawful to do so in every state, including Oregon. Nevertheless, section 8.(3) appears to entirely prohibit such fees, including those paid by clients. If staffing firms are barred from charging a fee to cover the cost of recruiting, screening, and training, and placing applicants, there is no way they could stay in business.

Unnecessary Notice and Reporting Requirements on Day Labor Firms

In addition to the mandates described above, SB 610 imposes myriad additional requirements, summarized below, on day labor staffing firms—despite the fact that most of those firms already comply with many of the requirements and despite any evidence to justify imposing additional burdens on such firms.

Section 1.(4)-(7) of the bill requires day labor firms to post notices of all employers seeking day laborers, including the names and addresses of employer and their work sites, and the type of jobs available. Notices must include the hourly wage for each type of work, whether transportation is available, whether the work site is accessible by public transportation, the commute time, and a toll-free phone number for filing complaints. Day labor firms also must provide each worker, at the time of recruitment or hiring, a written description of the particular job, the pay, and any requirements for special attire or equipment; the address of the work site and a phone number where workers can be reached in emergencies; directions to the work site; start and stop times; and whether a meal is provided and at what cost, if any, to the worker. All notices must be in English and “any other language” generally used in the locale. Day laborers must be paid the “prevailing wage rate” paid to permanent employees performing “substantially equivalent work”—again ignoring the myriad free-market factors that might be relevant in determining pay rates.

Conclusion

As Oregon and the rest of the nation continue to struggle with high employment and a slow jobs recovery, policy makers bear a heavy burden to justify imposing costly new regulations on businesses, especially businesses such as staffing firms that play a critical role in the labor market. Because there is no compelling evidence of the need for such regulations in the case of staffing firms, we respectfully urge the Oregon legislature to reject SB 610.