



Commissioner Brad Avakian

Bureau of Labor and Industries

COMMISSIONER'S MESSAGE – November 24, 2010

Dear Friends:

Like you, I am looking forward to celebrating the Thanksgiving holiday with family and other cherished individuals. I am thankful, truly more than I can express, for my family: Debbie, Nathan and Claire, my parents and parents-in-law. I am also thankful for the opportunity to serve as Labor Commissioner, both to defend the rights of my fellow Oregonians and to share what I learn about our shared challenges.

One lesson came earlier this month, when I participated in a delegation of American state labor officials to the Republic of China (Taiwan), exchanging ideas on economic and workforce development. While my hosts were gracious and unfailingly cordial, the subtext to the experience was a stare down the like of which I have not felt since I was a wrestler at OSU.

The Taiwanese clearly expect a healthy, respectful competition—except that they, and we if we are honest with ourselves, know that we are not ready to compete.

In the last twenty years we've made it harder for companies to find their workforce here and at the same time, harder for young people to find a pathway to a family wage job. We laudably push college, but make it too expensive for many to reach.

We've virtually eliminated shop classes (now "career and technical education") from our middle schools and many of our high schools. With the loss of those classes, young people who used to be ready to work at 19, now wander their way into apprenticeship or community college programs when they're 25 or 30.

While we study and task force ourselves to death, the Taiwanese operate a national training facility for their manufacturing workforce in Taichung, Taiwan. While this center trains those with the greatest aptitude in advanced CAD and state-of-the-art robotic manufacturing techniques, including 15-20 year olds and older workers being reskilled, many thousands more are enrolled in high school and skill center programs.

Our exchanges were far from one-sided. For every advancement they make in manufacturing, we are doing so much more in other areas: civil rights, more choices for our students to pursue their dreams, fair wages and good working conditions. Here we are on the right track—we just need to strengthen our workforce development system.

Oregon must begin the restoration of shop classes to every middle and high school now. Not just the old wood and metal shops: twenty-first century classes in how to design and build renewable energy components and navigate the advancing health care fields.

It's time to invest in public schools and job training programs. Partner with local businesses for the equipment and expertise. Despite the tough economy, a week doesn't go by that Oregon businesses don't tell me they're ready and willing to do it right now.

Let's coordinate our education and workforce development systems to capitalize on the dedicated teachers, staff, and hard working students in our public schools. Our best can't compete if we never give them the opportunity.

Re-establishing a strong manufacturing base is necessary to our continued success as a state and a nation. We'll be ready to win this match again - if we invest wisely and invest now.

Sincerely,

A handwritten signature in blue ink that reads "B. Avakian".

Brad Avakian
Oregon Labor Commissioner

The Brad Tracker

Where's he been? Earlier this month, Brad traveled to the Republic of China (Taiwan) along with labor officials from several other states. You can read more about his experience above, in this issue's cover letter. Brad has also spoken to the Employment Law Society at Lewis & Clark Law School (his alma mater), attended the Urban League of Portland's annual Equal Opportunity Day Awards, met with a number of legislators including incoming freshmen, MC-ed the Washington County Democrats' annual Neuberger Banquet, spoken to a Town Hall Forum of the Bend Chamber of Commerce, met with a team from the Oregon Employment Department about results of the annual construction industry wage survey and begun setting prevailing wage rates for 2011.

Where's he going? After a long holiday weekend observing Thanksgiving and visiting family out-of-town, Brad will welcome the attendees at BOLI's 26th Annual Employment Law Conference, present the second annual BOLI Business Awards at the Conference luncheon, continue his meetings with legislators and attend a celebration with the Oregon League of Minority Voters.

If your group is interested in having the Commissioner come to speak, send good contact information to Donna.Brown@state.or.us. Staff will respond to your request in a timely manner, but please try to provide at least 2 weeks' notice if suggesting a particular date for the Commissioner's visit.

The Annual Employment Law Conference Approaches

Next week, December 1-2 at the Oregon Convention Center in Portland, BOLI's 26th Annual Employment Law Conference will feature 24 different seminars on a wide range of topics that employers need to understand. The annual conference, run by BOLI's Technical Assistance for Employers Program (TA), is the #1 value available for an employer's training dollar.

"As usual, our slate of seminars is driven by the topics that our attendees—managers, HR professionals and attorneys, mostly—have told us that they want presented," said Jennifer Germundson, chief of TA.

BOLI's conference offers sessions on diverse employment law topics, including new focuses this year on workplace accommodations for domestic violence survivors and proper classification of employees and independent contractors. The continuing education credits available to attendees—12 General Credit hours toward PHR, SPHR or GPHR recertification through the HR Certification Institute for human resources professionals; 12 Continuing Education Hours for operators licensed by the Construction Contractors Board or the Landscape Contractors Board—show the pressing nature of these topics for Oregon workplaces.

"Questions about worker classification issues are on the rise," Germundson continued. "We're hearing from more employers that they need help navigating the various laws that apply to employee versus independent contractor classification, and we're being very responsive to that."

A [complete schedule](#) for the Conference is available at www.oregon.gov/BOLI/TA, along with additional information about various Oregon employment laws and regulations, reference materials and related publications. For questions or to sign-up for the conference, please call 971-673-0825.

BOLI Unveils New Online Resources for DVSAS Victims

Additional information for employees, employers to come

Commissioner Avakian has announced the launch of a new webpage filled with information to assist victims of domestic violence, sexual assault or stalking (DVSAS) in Oregon workplaces. BOLI will maintain the new webpage, www.oregon.gov/BOLI/dvsas.shtml, and plans to add additional content over the coming months. Launch of the new webpage, which provides information about support services as well as Oregon's laws on employment rights for victims, coincided with October as [National Domestic Violence Awareness Month](#).

"This webpage is an important part of the effort to protect Oregonians from abuse," Avakian said. "But it is simply one part of a broader, community-driven effort to combat domestic violence and related crimes. Working with partner organizations like the Oregon Law Center and local victim services providers, BOLI will continue to seek proactive opportunities to raise awareness about the rights of survivors and the responsibilities of employers."

The Oregon Legislature first created employment protections for victims of DVSAS in 2007 ([Senate Bill 964](#)), providing that victims could take reasonable unpaid leave from work if necessary for safety. The law was clarified and expanded through [SB 928 \(2009\)](#), prohibiting workplace discrimination against victims of DVSAS. As a then-state senator from Washington County, Avakian co-sponsored the 2007 legislation; since taking the helm at BOLI, Avakian has remained committed to protecting the livelihoods of victims and keeping them safe in Oregon workplaces.

"The momentum for engagement and action on this issue is building strongly," Avakian added. "I want to applaud the community partners and public agencies that have come together, through the Governor's Task Force on Domestic Violence and elsewhere, to help build that broad-based ground swell of support."

Employers can assist victims and reduce workplace violence risks by effectively addressing violence in the workplace. BOLI and the Oregon Law Center plan to roll out additional resources for the new webpage, including Frequently-Asked Questions for employers and employees, leading up to a panel presentation for employers at BOLI's [26th Annual Employment Law Conference](#) on Dec. 2, in Portland. For additional information about the Conference, call 971-673-0825; for additional information about the DVSAS webpage, call 971-673-0788.

Employers Flock to Free Worker Classification Seminars

Enforcement agencies explain employee vs. independent contractor determinations to interested crowds

Large audiences, including a handful of workers themselves, attended free seminars on proper worker classification in Portland last Monday. Two identical 1.5-hour sessions combined for some 110 attendees at the event, organized by the Technical Assistance for Employers Program (TA) of the Bureau of Labor and Industries (BOLI) and its partners in Oregon's Interagency Compliance Network (ICN). Each session featured presenters from BOLI, the Employment Department, Department of Revenue and the Workers Compensation Division to highlight the importance of accurate determinations and the resources available to help Oregonians understand who is, and who is not, an independent contractor.

The mission of the Bureau of Labor and Industries is to protect employment rights, advance employment opportunities, and protect access to housing and public accommodations free from discrimination.

“I’m so glad that I came to the presentation today,” said Caitlin Jeffery of VanderHouwen & Associates, Inc., who attended the later session. “Getting information from each of the different agencies really helped clarify the difference between an employee and an independent contractor.”

ICN’s website, www.oregonindependentcontractors.com, contains useful information about the agencies that make up the network as well as resources to help properly classify workers.

Oregon law often requires state agencies to assess back taxes, penalties, and interest against employers that have misclassified their workers. Misclassified employees run the risk of losing out on lawful benefits and protections like unemployment insurance, income tax withholding, workers compensation coverage for on-the-job injuries, minimum wage and overtime protections as well as other workplace protections under civil rights and wage and hour law. Misclassified employees will almost certainly forfeit benefits offered to properly classified employees such as sick leave, vacation pay and retirement benefits.

“Awareness of this issue is rising,” said Jennifer Germundson, BOLI’s TA Manager. “We’re hearing from more employers that they want to convert employees to independent contractors to lower costs, and it just doesn’t work that way.”

The Annual Employment Law Conference run by TA will also feature a session focusing on worker classification issues. A [complete schedule](#) is available at www.oregon.gov/BOLI, along with additional information about various Oregon employment laws and regulations, reference materials and related publications. For questions or to sign-up for the conference, please call 971-673-0825.

Upcoming BOLI Events

Date	Event Type	Location	Subject	Contact
Dec. 1	OSATC Sub-Committees	State Office Building, Portland	Rules & Policy, Standards Review	Appr. Division @ 971-673-0760
Dec. 1	PWR Seminar	ODOT HR Trng. Center, Salem	PWR for Contractors and Subcontractors	PWR Unit @ 971-673-0853
Dec. 1 & 2	Annual Law Conference	Oregon Conv. Center, Portland	All the laws that Oregon employers need to know	TA Program @ 971-673-0825
Dec. 8	PWR Seminar	TBD, Portland	PWR for Contractors and Subcontractors	PWR Unit @ 971-673-0853
Dec. 8	PWR Seminar	TBD, Portland	PWR for Public Agencies	PWR Unit @ 971-673-0853
Dec. 16	OSATC Quarterly Mtg	Clackamas CC, Oregon City	State Apprenticeship and Training Council	Appr. Division @ 971-673-0760
Jan. 20	OCCR Quarterly Mtg.	State Office Building, Portland	The Co-Chairs are developing the agenda	Civil Rights @ 971-673-0795
Jan. 20	PWAC Quarterly Mtg.	I.U.O.E. Hall, Gladstone	Prevailing Wage Advisory Committee	PWR Unit @ 971-673-0837

The mission of the Bureau of Labor and Industries is to protect employment rights, advance employment opportunities, and protect access to housing and public accommodations free from discrimination.