

# Enrolled House Bill 2891

Sponsored by Representative SCHAUFLEER; Representatives CLEM, C EDWARDS, GREENLICK, HOLVEY, HUNT, MERKLEY, RILEY, ROSENBAUM, SHIELDS, WITT, Senators AVAKIAN, BROWN, MONROE, MORRISSETTE, WALKER, WESTLUND (at the request of Oregon AFL-CIO)

CHAPTER .....

## AN ACT

Relating to certification of labor organization by the Employment Relations Board; creating new provisions; amending ORS 243.682 and 243.692; and declaring an emergency.

### Be It Enacted by the People of the State of Oregon:

**SECTION 1.** ORS 243.682 is amended to read:

243.682. (1) If a question of representation exists, the Employment Relations Board shall:

[(1)] (a) Upon application of a public employer, public employee or a labor organization, designate the appropriate bargaining unit, and in making its determination shall consider such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees. The board may determine a unit to be the appropriate unit in a particular case even though some other unit might also be appropriate.

[(2)] (b) Investigate and conduct a hearing on a petition that has been filed by:

[(a)] (A) A labor organization alleging that 30 percent of the employees in an appropriate bargaining unit desire to be represented for collective bargaining by an exclusive representative;

[(b)] (B) A labor organization alleging that 30 percent of the employees in an appropriate bargaining unit assert that the designated exclusive representative is no longer the representative of the majority of the employees in the unit;

[(c)] (C) A public employer alleging that one or more labor organizations has presented a claim to the public employer requesting recognition as the exclusive representative in an appropriate bargaining unit; or

[(d)] (D) An employee or group of employees alleging that 30 percent of the employees assert that the designated exclusive representative is no longer the representative of the majority of employees in the unit.

**(2)(a) Notwithstanding subsection (1) of this section, when an employee, group of employees or labor organization acting on behalf of the employees files a petition alleging that a majority of employees in a unit appropriate for the purpose of collective bargaining wish to be represented by a labor organization for that purpose, the board shall investigate the petition. If the board finds that a majority of the employees in a unit appropriate for bargaining have signed authorizations designating the labor organization specified in the petition as the employees' bargaining representative and that no other labor organization is currently certified or recognized as the exclusive representative of any of the employees in the unit,**

the board may not conduct an election but shall certify the labor organization as the exclusive representative unless a petition for a representation election is filed as provided in subsection (3) of this section.

(b) The board by rule shall develop guidelines and procedures for the designation by employees of a bargaining representative in the manner described in paragraph (a) of this subsection. The guidelines and procedures must include:

(A) Model collective bargaining authorization language that may be used for purposes of making the designations described in paragraph (a) of this subsection;

(B) Procedures to be used by the board to establish the authenticity of signed authorizations designating bargaining representatives;

(C) Procedures to be used by the board to notify affected employees of the filing of a petition requesting certification under subsection (3) of this section;

(D) Procedures for filing a petition to request a representation election, including a timeline of not more than 14 days after notice has been delivered to the affected employees of a petition filed under paragraph (a) of this subsection; and

(E) Procedures for expedited resolution of any dispute about the scope of the appropriate bargaining unit. The resolution of the dispute may occur after an election is conducted.

(c) Solicitation and rescission of a signed authorization designating bargaining representatives are subject to the provisions of ORS 243.672.

(3)(a) Notwithstanding subsection (2) of this section, when a petition requesting certification has been filed under subsection (2) of this section, an employee or a group of employees in the unit designated by the petition may file a petition with the board to request that a representation election be conducted.

(b) The petition requesting a representation election must be supported by at least 30 percent of the employees in the bargaining unit designated by the petition.

(c) The representation election shall be conducted on-site or by mail not later than 45 days after the date on which the petition was filed.

[3] (4) Except as provided in ORS 243.692, if the board finds in a hearing conducted pursuant to subsection [(2)] (1)(b) of this section that a question of representation exists, [it] **the board** shall conduct an election by secret ballot, at a time and place convenient for the employees of the jurisdiction and also within a reasonable period of time after the filing has taken place, and certify the results [thereof] **of the election**.

**SECTION 2.** ORS 243.692 is amended to read:

243.692. (1) No election shall be conducted under ORS 243.682 [(3)] (4) in any appropriate bargaining unit within which during the preceding 12-month period an election was held, nor during the term of any lawful collective bargaining agreement between a public employer and an employee representative. However, a contract with a term of more than three years shall be a bar for only the first three years of its term.

(2) Notwithstanding subsection (1) of this section, the Employment Relations Board shall rule that a contract will not be given the effect of barring an election if it finds that:

(a) Unusual circumstances exist under which the contract is no longer a stabilizing force; and

(b) An election should be held to restore stability to the representation of employees in the unit.

(3) A petition for an election where a contract exists must be filed not more than 90 calendar days and not less than 60 calendar days before the end of the contract period. If the contract is for more than three years, a petition for election may be filed any time after three years from the effective date of the contract.

**SECTION 3.** The amendments to ORS 243.682 by section 1 of this 2007 Act apply only to conduct to obtain certification of a labor organization occurring on or after the effective date of this 2007 Act.

**SECTION 4.** This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect on its passage.

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**Passed by House April 18, 2007**

**Repassed by House June 18, 2007**

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Chief Clerk of House

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Speaker of House

**Passed by Senate June 11, 2007**

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President of Senate

**Received by Governor:**

.....M,....., 2007

**Approved:**

.....M,....., 2007

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Governor

**Filed in Office of Secretary of State:**

.....M,....., 2007

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Secretary of State