

A-Engrossed
House Bill 2891

Ordered by the Senate June 7
Including Senate Amendments dated June 7

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)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires Employment Relations Board, **unless petition for representation election is filed**, to certify labor organization as exclusive representative of employees if board finds that majority of employees in unit appropriate for bargaining have signed authorizations designating labor organization specified in petition as employees' bargaining representative and that no other labor organization is currently certified or recognized as exclusive representative of employees in unit. Requires board to develop guidelines and procedures for such designation by employees of bargaining representative.

Provides that petition for representation election must be supported by 30 percent of affected employees. Requires board to develop guidelines and procedures to effect election and to resolve disputes. Requires election to be held not later than 45 days after petition is filed.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to certification of labor organization by the Employment Relations Board; creating new
3 provisions; amending ORS 243.682 and 243.692; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

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

6 243.682. (1) If a question of representation exists, the Employment Relations Board shall:

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

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

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

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

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

22 [(d)] (D) An employee or group of employees alleging that 30 percent of the employees assert

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 that the designated exclusive representative is no longer the representative of the majority of em-
2 ployees in the unit.

3 **(2)(a) Notwithstanding subsection (1) of this section, when an employee, group of em-**
4 **ployees or labor organization acting on behalf of the employees files a petition alleging that**
5 **a majority of employees in a unit appropriate for the purpose of collective bargaining wish**
6 **to be represented by a labor organization for that purpose, the board shall investigate the**
7 **petition. If the board finds that a majority of the employees in a unit appropriate for bar-**
8 **gaining have signed authorizations designating the labor organization specified in the petition**
9 **as the employees' bargaining representative and that no other labor organization is currently**
10 **certified or recognized as the exclusive representative of any of the employees in the unit,**
11 **the board may not conduct an election but shall certify the labor organization as the exclu-**
12 **sive representative unless a petition for a representation election is filed as provided in**
13 **subsection (3) of this section.**

14 **(b) The board by rule shall develop guidelines and procedures for the designation by em-**
15 **ployees of a bargaining representative in the manner described in paragraph (a) of this sub-**
16 **section. The guidelines and procedures must include:**

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

19 **(B) Procedures to be used by the board to establish the authenticity of signed authori-**
20 **zations designating bargaining representatives;**

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

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

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

28 **(c) Solicitation and rescission of a signed authorization designating bargaining represen-**
29 **tatives are subject to the provisions of ORS 243.672.**

30 **(3)(a) Notwithstanding subsection (2) of this section, when a petition requesting certif-**
31 **ication has been filed under subsection (2) of this section, an employee or a group of em-**
32 **ployees in the unit designated by the petition may file a petition with the board to request**
33 **that a representation election be conducted.**

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

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

38 **[(3)] (4) Except as provided in ORS 243.692, if the board finds in a hearing conducted pursuant**
39 **to subsection [(2)] (1)(b) of this section that a question of representation exists, [it] the board shall**
40 **conduct an election by secret ballot, at a time and place convenient for the employees of the juris-**
41 **isdiction and also within a reasonable period of time after the filing has taken place, and certify the**
42 **results [thereof] of the election.**

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

44 243.692. (1) No election shall be conducted under ORS 243.682 [(3)] (4) in any appropriate bar-
45 gaining unit within which during the preceding 12-month period an election was held, nor during the

1 term of any lawful collective bargaining agreement between a public employer and an employee
2 representative. However, a contract with a term of more than three years shall be a bar for only
3 the first three years of its term.

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

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

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

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

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

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

18