

House Bill 2892

Sponsored by Representative SCHAUFLEER; Representatives CANNON, CLEM, D 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 **as introduced**.

Prohibits use of state funds to assist, promote or deter union organizing. Prohibits employer from using state property to hold meeting with employee or supervisor if purpose of meeting is to assist, promote or deter union organizing. Prohibits state contractor from discharging, demoting, harassing or otherwise taking adverse action against individual because individual seeks to enforce this law or testifies, assists or participates in investigation, hearing or other proceeding to enforce this law. Provides exceptions. Requires Bureau of Labor and Industries to enforce law. Allows civil action for violation. Imposes civil penalty for violation.

Declares emergency, effective July 1, 2007.

A BILL FOR AN ACT

Relating to union organizing; and declaring an emergency.

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

SECTION 1. Sections 1, 2 and 3 of this 2007 Act may be cited as the State Financial Accountability Act.

SECTION 2. (1) The Legislative Assembly finds that:

(a) It is the policy of this state that the state's funds may not be used to subsidize interference with an employee's choice to join or to be represented by a labor union.

(b) Some private employers use state funds to aid or subsidize efforts to deter union organizing.

(c) Such use of state funds is contrary to the purposes for which the funds were appropriated and is wasteful of scarce public resources.

(2) The purpose of section 3 of this 2007 Act is to maintain the neutrality of the state in labor organizing by forbidding the use of state funds for unintended purposes and to conserve state resources by ensuring that state funds are used as intended.

SECTION 3. (1) As used in this section:

(a) "Assist, promote or deter union organizing" means any attempt by an employer to influence the decision of any or all of the employer's employees or the employees of its subcontractors regarding:

(A) Whether to support or oppose a labor organization that represents or seeks to represent those employees; or

(B) Whether to become a member of any labor organization.

(b) "Employer" means any individual, corporation, association, partnership or other legal entity that employs more than one individual in this state.

(c) "State contract" means a public contract with the state government for goods or services, or a subcontract for providing part or all of the goods or services covered by another entity's contract for goods or services.

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 (d) "State contractor" means an employer that has a public contract with the state
2 government.

3 (e) "State funds" means any moneys drawn from the State Treasury or any special or
4 trust fund of the state government, including any moneys appropriated by the state govern-
5 ment and transferred to any public body, as defined in ORS 174.109.

6 (f) "State government" has the meaning given that term in ORS 174.111.

7 (g) "State property" means any real property or facility owned or leased by the state
8 government.

9 (2)(a) Any state contract for goods or services must prohibit the state contractor from
10 using any state funds to assist, promote or deter union organizing. State funds may not be
11 used to reimburse a state contractor for any costs incurred to assist, promote or deter union
12 organizing.

13 (b) During the duration of a state contract, a state contractor may not use any state
14 funds to assist, promote or deter union organizing. Every request for reimbursement from
15 state funds by a state contractor shall include a certification that the contractor is not
16 seeking reimbursement for costs incurred to assist, promote or deter union organizing.

17 (c) The recipient of a grant of state funds, including state funds disbursed as a grant by
18 any public body, may not use the funds to assist, promote or deter union organizing. Before
19 the disbursement of a grant of state funds, the recipient shall provide a certification to the
20 state government that none of the funds will be used to assist, promote or deter union or-
21 ganizing.

22 (d) An employer conducting business on state property pursuant to a contract or con-
23 cession agreement with the state government, or a subcontractor on such a contract or
24 agreement, may not use state property to hold a meeting with any employee or supervisor
25 if the purpose of the meeting is to assist, promote or deter union organizing. This paragraph
26 does not apply if the state property is equally available, without charge, to the general public
27 for holding a meeting.

28 (e) A state contractor may not discharge, demote, harass or otherwise take adverse
29 action against any individual because the individual seeks to enforce this section or testifies,
30 assists or participates in any manner in an investigation, hearing or other proceeding to
31 enforce this section.

32 (f) For purposes of this section, any expense, including legal and consulting fees and
33 salaries of supervisors and employees, incurred for research for, or preparation, planning or
34 coordination of, or carrying out, an activity to assist, promote or deter union organizing
35 shall be treated as paid or incurred for that activity. For purposes of accounting for expen-
36 ditures, if state funds and other funds are commingled, any expenditures to assist, promote
37 or deter union organizing shall be allocated between state funds and other funds on a pro
38 rata basis.

39 (3)(a) This section does not apply to an activity performed, or to an expense incurred, in
40 connection with:

41 (A) Addressing a grievance or negotiating or administering a collective bargaining
42 agreement.

43 (B) Allowing a labor organization or its representatives access to the employer's facilities
44 or property.

45 (C) Performing an activity required by federal or state law or by a collective bargaining

1 agreement.

2 (D) Negotiating, entering into or carrying out an agreement with a labor organization.

3 (b) This section does not apply to a fixed-price contract or to any other arrangement by
4 which the amount of the payment of state funds does not depend on the costs incurred by
5 the state contractor.

6 (4)(a) This section shall be enforced by the Bureau of Labor and Industries, which shall
7 adopt such rules as are necessary to implement and administer compliance. The rules must
8 include reasonable requirements for state contractors and grantees to maintain records
9 sufficient to show that no state funds are used to assist, promote or deter union organizing.

10 (b) A civil action for a violation of this section may be brought by the bureau, or by any
11 state taxpayer on behalf of the people of the state, for injunctive relief, damages, civil pen-
12 alties and other appropriate equitable relief. All damages and civil penalties collected pursu-
13 ant to this section shall be paid to the State Treasury.

14 (c) Before filing a civil action under this section, a taxpayer shall give written notice to
15 the bureau of the alleged violation and the intent to bring suit. If the bureau commences an
16 action for the same alleged violation within 60 days of receiving the notice, a separate action
17 by the taxpayer is barred. A taxpayer may intervene as a plaintiff in any action brought
18 under this section. If the plaintiff prevails, a taxpayer plaintiff or taxpayer intervenor who
19 makes a substantial contribution to the action is entitled to recover reasonable attorney fees
20 and costs.

21 (d) A state contractor or employer that violates this section is liable to the state for a
22 civil penalty equal to triple the amount of any funds expended to assist, promote or deter
23 union organizing.

24 SECTION 4. Section 3 of this 2007 Act does not apply to a grant or contract awarded
25 before July 1, 2007, unless the grant or contract is modified, extended or renewed after July
26 1, 2007.

27 SECTION 5. This 2007 Act being necessary for the immediate preservation of the public
28 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
29 July 1, 2007.

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