

TO: Members of the House Business & Labor Committee

FROM: Hasina E. Squires, Special Districts Association of Oregon

DATE: February 22, 2013

RE: **Testimony in Opposition to House Bill 2418**

INTRODUCTION

Members of the House Business and Labor Committee, thank you for the opportunity to submit written testimony regarding HB 2418. The Special Districts Association of Oregon's (SDAO) membership consists of approximately 900 special service districts that provide a range of services including but not limited to water, wastewater, irrigation, parks and recreation, 9-1-1 and rural fire protection districts. Rural fire protection districts are the largest type of special district that belong to our association (approximately 275 of the 900 special districts).

HOUSE BILL 2418

HB 2418 redefines who is considered a "supervisory" employee in strike-prohibited labor unions (including 9-1-1 or fire employees). Under the provisions of the bill, an employee who "merely transfers or directs the work of other employees but does not have the authority to impose economic discipline" would not qualify as a "supervisory" employee.

The definitional change proposed in the bill would decrease the number employees who may be lawfully excluded from a strike-prohibited union. In other words, it increases the number of employees who must be included in the union—even if they primarily perform work as a supervisor.

HOW CURRENT STATUTE FUNCTIONS

Current law provides that any individual who has the authority to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward, or discipline other employees or to responsibly direct them or adjust grievances or effectively recommend such actions are "supervisory" employees and may be excluded from a union.

Disputes about whether an employee qualifies as a "supervisor" are currently handled by the Employment Relations Board ("ERB"). The ERB applies the above statutory language in addition to other criteria, such as:

- whether the employee uses independent judgment;
- whether the employee effectively recommends employment actions;

- whether the employee exercises significant authority over other staff; and
- whether such tasks occupy the employee for approximately 50% or more of the employee's work time.

We do not believe that current law has resulted in employees being unjustly excluded from bargaining units. In order to be excluded supervisory employees must meet the ERB's standards.

EFFECT OF HB 2418

Supervisors Usually Have Hiring/Firing/Assigning/Promoting/Rewarding Authority—But Don't Usually Have Economic Discipline Authority

Most managers and supervisors have full supervisory authority—except for the authority to issue economic discipline. This is because management usually disciplines using non-economic sanctions. It is rare for an everyday boss (who regularly hires, fires, rewards, promotes, and assigns work) to impose economic discipline (such as a demotion or unpaid leave) without first getting authority from a higher level. Such economic discipline is usually a last resort and used only after authorization by a high ranking staff.

This is especially true for small local governments like rural fire protection districts. For example, a small fire district may have an eight member department (a chief, two captains and five firefighters). Under the provisions of the bill, because only the fire chief may issue economic discipline it is possible that all other employees of the district would belong to the union.

Thank you for the opportunity to submit written comments in opposition to HB 2418.