

Minority Report
A-Engrossed
House Bill 3342

Ordered by the Senate July 5
Including Senate Minority Report Amendments dated July 5

Sponsored by nonconcurring members of the Senate Committee on Rules: Senators FERRIOLI, STARR

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.

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

[Requires Employment Relations Board to include in existing bargaining unit public employees who are not members of unit, but who seek to be included in unit, if majority of employees seeking inclusion sign petition submitted to board requesting inclusion.]

Eliminates certification of bargaining unit by petition and requires Employment Relations Board to conduct representation election by secret ballot.

Declares emergency, effective *[July 1, 2013]* **on passage.**

A BILL FOR AN ACT

1
2 Relating to union organizing; creating new provisions; amending ORS 243.682 and 243.692; and de-
3 claring 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 (a) Upon application of a public employer, public employee or a labor organization, designate the
8 appropriate bargaining unit, and in making its determination shall consider such factors as commu-
9 nity of interest, wages, hours and other working conditions of the employees involved, the history
10 of collective bargaining, and the desires of the employees. The board may determine a unit to be the
11 appropriate unit in a particular case even though some other unit might also be appropriate.

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

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

15 (B) A labor organization alleging that 30 percent of the employees in an appropriate bargaining
16 unit assert that the designated exclusive representative is no longer the representative of the ma-
17 jority of the employees in the unit;

18 (C) A public employer alleging that one or more labor organizations has presented a claim to
19 the public employer requesting recognition as the exclusive representative in an appropriate bar-
20 gaining unit; or

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) An employee or group of employees alleging that 30 percent of the employees assert that the
2 designated exclusive representative is no longer the representative of the majority of employees in
3 the unit.

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

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

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

19 [(B) Procedures to be used by the board to establish the authenticity of signed authorizations des-
20 ignating bargaining representatives;]

21 [(C) Procedures to be used by the board to notify affected employees of the filing of a petition re-
22 questing certification under subsection (3) of this section;]

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

26 [(E) Procedures for expedited resolution of any dispute about the scope of the appropriate bar-
27 gaining unit. The resolution of the dispute may occur after an election is conducted.]

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

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

34 [(b) The petition requesting a representation election must be supported by at least 30 percent of
35 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 days after
37 the date on which the petition was filed.]

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

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

44 243.692. (1) No election shall be conducted under ORS 243.682 [(4)] (2) 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 and 243.692 by sections 1 and 2 of this 2013**
13 **Act apply to petitions filed with the Employment Relations Board on or after the effective**
14 **date of this 2013 Act.**

15 **SECTION 4. This 2013 Act being necessary for the immediate preservation of the public**
16 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
17 **on its passage.**

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