

SENATE MINORITY REPORT AMENDMENTS TO HOUSE BILL 3342

July 5

President Courtney:

A minority of your Committee on Rules, to whom was referred House Bill 3342, having had the same under consideration, respectfully reports it back with the recommendation that it do pass with the following amendments:

- 1 On page 1 of the printed bill, line 2, after “243.682” insert “and 243.692”.
- 2 Delete lines 5 through 26.
- 3 Delete pages 2 through 4 and insert:
- 4 “**SECTION 1.** ORS 243.682 is amended to read:
- 5 “243.682. (1) If a question of representation exists, the Employment Relations Board shall:
- 6 “(a) Upon application of a public employer, public employee or a labor organization, designate
- 7 the appropriate bargaining unit, and in making its determination shall consider such factors as
- 8 community of interest, wages, hours and other working conditions of the employees involved, the
- 9 history of collective bargaining, and the desires of the employees. The board may determine a unit
- 10 to be the appropriate unit in a particular case even though some other unit might also be appro-
- 11 priate.
- 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
- 21 “(D) An employee or group of employees alleging that 30 percent of the employees assert that
- 22 the designated exclusive representative is no longer the representative of the majority of employees
- 23 in the unit.
- 24 “[(2)(a) *Notwithstanding subsection (1) of this section, when an employee, group of employees or*
- 25 *labor organization acting on behalf of the employees files a petition alleging that a majority of em-*
- 26 *ployees in a unit appropriate for the purpose of collective bargaining wish to be represented by a labor*
- 27 *organization for that purpose, the board shall investigate the petition. If the board finds that a majority*
- 28 *of the employees in a unit appropriate for bargaining have signed authorizations designating the labor*
- 29 *organization specified in the petition as the employees’ bargaining representative and that no other la-*
- 30 *bor organization is currently certified or recognized as the exclusive representative of any of the em-*
- 31 *ployees in the unit, the board may not conduct an election but shall certify the labor organization as*
- 32 *the exclusive representative unless a petition for a representation election is filed as provided in sub-*

1 *section (3) of this section.]*

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

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

7 *“(B) Procedures to be used by the board to establish the authenticity of signed authorizations*
8 *designating bargaining representatives;]*

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

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

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

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

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

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

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

26 *“(4) (2) Except as provided in ORS 243.692, if the board finds in a hearing conducted pursuant*
27 *to subsection (1)(b) of this section that a question of representation exists, the board shall conduct*
28 *an election by secret ballot, at a time and place convenient for the employees of the jurisdiction and*
29 *also within a reasonable period of time after the filing has taken place, and certify the results of the*
30 *election.*

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

32 **“243.692. (1)** No election shall be conducted under ORS 243.682 [(4) (2)] in any appropriate bar-
33 gaining unit within which during the preceding 12-month period an election was held, nor during the
34 term of any lawful collective bargaining agreement between a public employer and an employee
35 representative. However, a contract with a term of more than three years shall be a bar for only
36 the first three years of its term.

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

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

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

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

1 **“SECTION 3. The amendments to ORS 243.682 and 243.692 by sections 1 and 2 of this 2013**
2 **Act apply to petitions filed with the Employment Relations Board on or after the effective**
3 **date of this 2013 Act.**

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

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/s/ Ted Ferrioli
Senator

/s/ Bruce Starr
Senator
