

**PROPOSED AMENDMENTS TO
HOUSE BILL 3342**

1 On page 1 of the printed bill, line 2, after “ORS” insert “243.672, 243.676
2 and”.

3 In line 5, delete “2 and 3” and insert “3 and 4”.

4 After line 6, insert:

5 **“SECTION 2. Section 4 of this 2013 Act is added to and made a part
6 of ORS 243.650 to 243.782.”.**

7 In line 7, delete “2” and insert “3”.

8 In line 14, delete “3” and insert “4”.

9 Delete lines 17 through 26.

10 On page 2, delete lines 1 through 43 and insert:

11 **“SECTION 4. (1) As used in this section:**

12 **“(a) ‘Assist, promote or deter union organizing’ means any attempt
13 by a public employer to influence the decision of any or all of its em-
14 ployees or the employees of its subcontractors regarding:**

15 **“(A) Whether to support or oppose a labor organization that re-
16 presents or seeks to represent those employees; or**

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

18 **“(b) ‘Public funds’ means moneys drawn from the State Treasury
19 or any special or trust fund of the state government, including any
20 moneys appropriated by the state government and transferred to any
21 public body, as defined in ORS 174.109, and any other moneys under
22 the control of a public official by virtue of office.**

1 “(c) ‘Public property’ means any real property or facility owned or
2 leased by a public employer.

3 “(2) A public employer may not:

4 “(a) Use public funds to support actions to assist, promote or deter
5 union organizing; or

6 “(b) Discharge, demote, harass or otherwise take adverse action
7 against any individual because the individual seeks to enforce this
8 section or testifies, assists or participates in any manner in an inves-
9 tigation, hearing or other proceeding to enforce this section.

10 “(3) If an employee requests the opinion of the employee’s employer
11 or supervisor about union organizing, nothing in this section prohibits
12 the employer or supervisor from responding to the request of the em-
13 ployee.

14 “(4) This section does not apply to an activity performed, or to an
15 expense incurred, in connection with:

16 “(a) Addressing a grievance or negotiating or administering a col-
17 lective bargaining agreement.

18 “(b) Allowing a labor organization or its representatives access to
19 the public employer’s facilities or property.

20 “(c) Performing an activity required by federal or state law or by
21 a collective bargaining agreement.

22 “(d) Negotiating, entering into or carrying out an agreement with
23 a labor organization.

24 “(e) Paying wages to a represented employee while the employee is
25 performing duties if the payment is permitted under a collective bar-
26 gaining agreement.

27 “(5)(a) This section shall be enforced by the Employment Relations
28 Board, which shall adopt rules necessary to implement and administer
29 compliance. A resident of this state may intervene as a plaintiff in any
30 action brought under this section.

1 **“(b) Nothing in this section prohibits a public employer from**
2 **spending public funds for the purpose of representing the public em-**
3 **ployer in a proceeding before the board or in a judicial review of that**
4 **proceeding.**

5 **“SECTION 5. A petition for representation filed under ORS 243.682**
6 **(2) alleging that a majority of employees in the unit appropriate for**
7 **the purpose of collective bargaining wish to be represented by a labor**
8 **organization for that purpose must include a statement of a desire by**
9 **the employees to be represented for the purpose of collective bargain-**
10 **ing and must be signed and dated by 30 percent of the employees in**
11 **the unit during the 180 days prior to the filing of the petition with the**
12 **Employment Relations Board.**

13 **“SECTION 6. ORS 243.672 is amended to read:**

14 “243.672. (1) It is an unfair labor practice for a public employer or its
15 designated representative to do any of the following:

16 “(a) Interfere with, restrain or coerce employees in or because of the ex-
17 ercise of rights guaranteed in ORS 243.662.

18 “(b) Dominate, interfere with or assist in the formation, existence or ad-
19 ministration of any employee organization.

20 “(c) Discriminate in regard to hiring, tenure or any terms or condition
21 of employment for the purpose of encouraging or discouraging membership
22 in an employee organization. Nothing in this section is intended to prohibit
23 the entering into of a fair-share agreement between a public employer and
24 the exclusive bargaining representative of its employees. If a ‘fair-share’
25 agreement has been agreed to by the public employer and exclusive repre-
26 sentative, nothing prohibits the deduction of the payment-in-lieu-of-dues from
27 the salaries or wages of the employees.

28 “(d) Discharge or otherwise discriminate against an employee because the
29 employee has signed or filed an affidavit, petition or complaint or has given
30 information or testimony under ORS 243.650 to 243.782.

1 “(e) Refuse to bargain collectively in good faith with the exclusive rep-
2 resentative.

3 “(f) Refuse or fail to comply with any provision of ORS 243.650 to 243.782.

4 “(g) Violate the provisions of any written contract with respect to em-
5 ployment relations including an agreement to arbitrate or to accept the
6 terms of an arbitration award, where previously the parties have agreed to
7 accept arbitration awards as final and binding upon them.

8 “(h) Refuse to reduce an agreement, reached as a result of collective
9 bargaining, to writing and sign the resulting contract.

10 “(i) **Violate section 4 (2) of this 2013 Act.**

11 “(2) Subject to the limitations set forth in this subsection, it is an unfair
12 labor practice for a public employee or for a labor organization or its des-
13 ignated representative to do any of the following:

14 “(a) Interfere with, restrain or coerce any employee in or because of the
15 exercise of any right guaranteed under ORS 243.650 to 243.782.

16 “(b) Refuse to bargain collectively in good faith with the public employer
17 if the labor organization is an exclusive representative.

18 “(c) Refuse or fail to comply with any provision of ORS 243.650 to 243.782.

19 “(d) Violate the provisions of any written contract with respect to em-
20 ployment relations, including an agreement to arbitrate or to accept the
21 terms of an arbitration award, where previously the parties have agreed to
22 accept arbitration awards as final and binding upon them.

23 “(e) Refuse to reduce an agreement, reached as a result of collective bar-
24 gaining, to writing and sign the resulting contract.

25 “(f) For any labor organization to engage in unconventional strike activ-
26 ity not protected for private sector employees under the National Labor Re-
27 lations Act on June 6, 1995. This provision applies to sitdown, slowdown,
28 rolling, intermittent or on-and-off again strikes.

29 “(g) For a labor organization or its agents to picket or cause, induce, or
30 encourage to be picketed, or threaten to engage in such activity, at the res-

1 idence or business premises of any individual who is a member of the gov-
2 erning body of a public employer, with respect to a dispute over a collective
3 bargaining agreement or negotiations over employment relations, if an ob-
4 jective or effect of such picketing is to induce another person to cease doing
5 business with the governing body member's business or to cease handling,
6 transporting or dealing in goods or services produced at the governing body's
7 business. For purposes of this paragraph, a member of the Legislative As-
8 sembly is a member of the governing body of a public employer when the
9 collective bargaining negotiation or dispute is between the State of Oregon
10 and a labor organization. The Governor and other statewide elected officials
11 are not considered members of a governing body for purposes of this para-
12 graph. Nothing in this paragraph may be interpreted or applied in a manner
13 that violates the right of free speech and assembly as protected by the Con-
14 stitution of the United States or the Constitution of the State of Oregon.

15 “(3) An injured party may file a written complaint with the Employment
16 Relations Board not later than 180 days following the occurrence of an un-
17 fair labor practice. For each unfair labor practice complaint filed, a fee of
18 \$300 is imposed. For each answer to an unfair labor practice complaint filed
19 with the board, a fee of \$300 is imposed. The board may allow any other
20 person to intervene in the proceeding and to present testimony. A person
21 allowed to intervene shall pay a fee of \$300 to the board. The board may, in
22 its discretion, order fee reimbursement to the prevailing party in any case
23 in which the complaint or answer is found to have been frivolous or filed in
24 bad faith. The board shall deposit fees received under this section to the
25 credit of the Employment Relations Board Administrative Account.

26 **“SECTION 7.** ORS 243.676 is amended to read:

27 “243.676. (1) Whenever a written complaint is filed alleging that any per-
28 son has engaged in or is engaging in any unfair labor practice listed in ORS
29 243.672 (1) and (2) and 243.752, the Employment Relations Board or its agent
30 shall:

1 “(a) Cause to be served upon such person a copy of the complaint;

2 “(b) Investigate the complaint to determine if a hearing on the unfair la-
3 bor practice charge is warranted. If the investigation reveals that no issue
4 of fact or law exists, the board may dismiss the complaint; and

5 “(c) Set the matter for hearing if the board finds in its investigation made
6 pursuant to paragraph (b) of this subsection that an issue of fact or law ex-
7 ists. The hearing shall be before the board or an agent of the board not more
8 than 20 days after a copy of the complaint has been served on the person.

9 “(2) Where, as a result of the hearing required pursuant to subsection
10 (1)(c) of this section, the board finds that any person named in the complaint
11 has engaged in or is engaging in any unfair labor practice charged in the
12 complaint, the board shall:

13 “(a) State its findings of fact;

14 “(b) Issue and cause to be served on such person an order that the person
15 cease and desist from the unfair labor practice;

16 “(c) Take such affirmative action, including but not limited to the rein-
17 statement of employees with or without back pay, as necessary to effectuate
18 the purposes of ORS 240.060, 240.065, 240.080, 240.123, 243.650 to 243.782,
19 292.055 and 341.290;

20 “(d) Designate the amount and award representation costs, if any, to the
21 prevailing party; and

22 “(e) Designate the amount and award attorney fees, if any, to the pre-
23 vailing party on appeal, including proceedings for Supreme Court review, of
24 a board order.

25 “(3) Where the board finds that the person named in the complaint has
26 not engaged in or is not engaging in an unfair labor practice, the board
27 shall:

28 “(a) Issue an order dismissing the complaint; and

29 “(b) Designate the amount and award representation costs, if any, to the
30 prevailing party.

1 “(4)(a) The board may award a civil penalty to any person as a result of
2 an unfair labor practice complaint hearing, in the aggregate amount of up
3 to \$1,000 per case, without regard to attorney fees, if:

4 “[a] (A) The complaint has been affirmed pursuant to subsection (2) of
5 this section and the board finds that the person who has committed, or who
6 is engaging, in an unfair labor practice has done so repetitively, knowing
7 that the action taken was an unfair labor practice and took the action dis-
8 regarding this knowledge, or that the action constituting the unfair labor
9 practice was egregious; or

10 “[b] (B) The complaint has been dismissed pursuant to subsection (3) of
11 this section, and that the complaint was frivolously filed, or filed with the
12 intent to harass the other person, or both.

13 **“(b) Notwithstanding paragraph (a) of this subsection, if the board**
14 **finds that a public employer named in the complaint violated section**
15 **4 (2) of this 2013 Act, the board shall impose a civil penalty equal to**
16 **triple the amount of funds the public employer expended to assist,**
17 **promote or deter union organizing.**

18 “(5) As used in subsections (1) to (4) of this section, ‘person’ includes but
19 is not limited to individuals, labor organizations, associations and public
20 employers.”.

21 In line 44, delete “4” and insert “8”.

22 On page 4, line 18, delete “5” and insert “9” and delete “4” and insert
23 “8”.

24 In line 21, delete “6” and insert “10”.

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