

SB 1040 STAFF MEASURE SUMMARY

Carrier: Rep. Doherty

House Committee On Business and Labor

Action Date: 05/10/17
Action: Do Pass.
Vote: 6-2-1-0
Yeas: 6 - Bynum, Doherty, Evans, Heard, Holvey, Kennemer
Nays: 2 - Barreto, Hack
Exc: 1 - Fahey
Fiscal: No fiscal impact
Revenue: No revenue impact
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WHAT THE MEASURE DOES:

Establishes policy that private sector labor organizations and employers may enter into union security agreements requiring membership in labor organization as condition of employment to full extent allowed by federal law.
Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Whether union membership contributes to healthy middle class
- Whether local jurisdictions should have control over the issue
- Freedom to associate or not associate with a labor organization
- Comparison of right to work states with union security states
- Fiduciary responsibility of management to maximize shareholder profits

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The National Labor Relations Act (NLRA), enacted in 1935, is the primary law governing relations between unions and employers in the private sector. The NLRA guarantees the right of employees to organize and to bargain collectively with their employers, to engage in other protected activity with or without a union, or to refrain from all such activity. The NLRA also outlines prohibited activities for employers and unions, such as threatening job loss, retaliating against employees who join or support a union, refusing to process grievances of employees who criticize union officials or do not join a union, and taking adverse action against employees who do not support the union.

The NLRA allows employers and unions to enter into union security agreements that require all employees in a bargaining unit to become union members and pay union dues. Employees who object to full union membership may continue as "core" members and pay only that share of dues used directly for representation.

The federal Taft-Hartley Act, enacted in 1947, amended the NLRA to authorize states to ban union security agreements. In the 28 states that have banned union security agreements, each employee at a workplace may decide whether to join the union and pay dues, although all workers are protected by the collective bargaining agreement negotiated by the union. States that have adopted this policy are referred to as "right to work" states.

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Current Oregon law generally does not preclude an employer from making an agreement with a labor organization to require membership in a union as a condition of employment. ORS 663.125; ORS 663.110. In *United Automobile Workers v. Hardin County (KY)*, a recent decision by the Sixth Circuit Court of Appeals, the court recognized the right of local governments to enact ordinances banning union security agreements if the state legislature has given them sufficient home-rule power. Senate Bill 1040 clarifies Oregon's law to allow union security agreements.