

Requested by Senator LINTHICUM

**PROPOSED MINORITY REPORT AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 3170**

1 On page 1 of the printed A-engrossed bill, line 3, before the period insert  
2 “and 243.682”.

3 On page 4, delete lines 39 through 41 and insert:

4 **“SECTION 2.** ORS 243.682 is amended to read:

5 “243.682. (1) If a question of representation exists, the Employment Re-  
6 lations Board shall:

7 “(a) Upon application of a public employer, a public employee or a labor  
8 organization, designate the appropriate bargaining unit, and in making its  
9 determination shall consider such factors as community of interest, wages,  
10 hours and other working conditions of the employees involved, the history  
11 of collective bargaining, and the desires of the employees. The board may  
12 determine a unit to be the appropriate unit in a particular case even though  
13 some other unit might also be appropriate. **Unless a labor organization  
14 and a public employer agree otherwise, the board may not designate  
15 as appropriate a bargaining unit that includes:**

16 **“(A) A faculty member described in ORS 243.650 (23)(c)(C) who  
17 supervises one or more other faculty members; and**

18 **“(B) Any faculty member who is supervised by a faculty member  
19 described in subparagraph (A) of this paragraph.**

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

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

4       “(B) A labor organization alleging that 30 percent of the employees in an  
5 appropriate bargaining unit assert that the designated exclusive represen-  
6 tative is no longer the representative of the majority of the employees in the  
7 unit;

8       “(C) A public employer alleging that one or more labor organizations has  
9 presented a claim to the public employer requesting recognition as the ex-  
10 clusive representative in an appropriate bargaining unit; or

11       “(D) An employee or group of employees alleging that 30 percent of the  
12 employees assert that the designated exclusive representative is no longer  
13 the representative of the majority of employees in the unit.

14       “(2)(a) Notwithstanding subsection (1) of this section, when an employee,  
15 group of employees or labor organization acting on behalf of the employees  
16 files a petition alleging that a majority of employees in a unit appropriate  
17 for the purpose of collective bargaining wish to be represented by a labor  
18 organization for that purpose, or when a group of unrepresented employees  
19 files a petition stating that the unrepresented employees seek to be included  
20 in an existing bargaining unit, the board shall investigate the petition. If the  
21 board finds that a majority of the employees in a unit appropriate for bar-  
22 gaining or in a group of unrepresented employees seeking to be included in  
23 an existing bargaining unit have signed authorizations designating the labor  
24 organization specified in the petition as the employees’ bargaining represen-  
25 tative and that no other labor organization is currently certified or recog-  
26 nized as the exclusive representative of any of the employees in the unit or  
27 in the group of unrepresented employees seeking to be included in an exist-  
28 ing bargaining unit, the board may not conduct an election but shall certify  
29 the labor organization as the exclusive representative unless a petition for  
30 a representation election is filed as provided in subsection (3) of this section.

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

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

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

10 “(C) Procedures to be used by the board to notify affected employees of  
11 the filing of a petition requesting certification under subsection (3) of this  
12 section;

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

17 “(E) Procedures for expedited resolution of any dispute about the scope  
18 of the appropriate bargaining unit. The resolution of the dispute may occur  
19 after an election is conducted.

20 “(c) Solicitation and rescission of a signed authorization designating  
21 bargaining representatives are subject to the provisions of ORS 243.672.

22 “(3)(a) Notwithstanding subsection (2) of this section, when a petition  
23 requesting certification has been filed under subsection (2) of this section,  
24 an employee or a group of employees in the unit designated by the petition,  
25 or one or more of the unrepresented employees seeking to be included in an  
26 existing bargaining unit, may file a petition with the board to request that  
27 a representation election be conducted.

28 “(b) The petition requesting a representation election must be supported  
29 by at least 30 percent of the employees in the bargaining unit designated by  
30 the petition, or 30 percent of the unrepresented employees seeking to be in-

1 cluded in an existing bargaining unit.

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

4 “(4) Except as provided in ORS 243.692, if the board finds in a hearing  
5 conducted pursuant to subsection (1)(b) of this section that a question of  
6 representation exists, the board shall conduct an election by secret ballot,  
7 at a time and place convenient for the employees of the jurisdiction and also  
8 within a reasonable period of time after the filing has taken place, and cer-  
9 tify the results of the election.

10 **“SECTION 3. Section 4 of this 2017 Act is added to and made a part  
11 of ORS 243.650 to 243.782.**

12 **“SECTION 4. (1) As used in this section, “faculty member” means  
13 a faculty member described in ORS 243.650 (23)(c)(C).**

14 **“(2) Notwithstanding the provisions of ORS 243.666 (1), a faculty  
15 member may choose whether to join a labor organization certified by  
16 the Employment Relations Board or recognized by the public employer  
17 as the exclusive representative of faculty members in an appropriate  
18 bargaining unit. A faculty member who desires to join a labor organ-  
19 ization shall provide written consent to be a member of the labor or-  
20 ganization.**

21 **“(3) Notwithstanding the provisions of ORS 243.650 (10) and 243.672  
22 (1)(c), a faculty member who does not provide written consent under  
23 subsection (2) of this section is not required to pay any amounts in  
24 lieu of dues, fees, assessments or other charges regularly required of  
25 members of a labor organization.**

26 **“(4) A labor organization is not required to provide services to fac-  
27 ulty members who do not provide written consent under subsection (2)  
28 of this section.**

29 **“SECTION 5. Section 4 of this 2017 Act and the amendments to ORS  
30 243.650 and 243.682 by sections 1 and 2 of this 2017 Act apply to bar-**

1 **gaining units certified or recognized on or after the effective date of**  
2 **this 2017 Act.”.**

3

---