

HB 2016 B STAFF MEASURE SUMMARY**Carrier:** Sen. Taylor**Senate Committee On Workforce****Action Date:** 05/21/19**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)**Vote:** 3-2-0-0**Yeas:** 3 - Golden, Monnes Anderson, Taylor**Nays:** 2 - Hansell, Knopp**Fiscal:** Fiscal impact issued**Revenue:** No revenue impact**Prepared By:** Ellen Osoinach, LPRO Analyst**Meeting Dates:** 4/18, 5/21**WHAT THE MEASURE DOES:**

Makes changes to Public Employee Collective Bargaining Act. **Designated Representative:** Requires public employer to allow employee who is designated representative to engage in specified activities during employee's regularly scheduled work hours without loss of pay, seniority, or other benefits. Requires collective bargaining agreement be reopened, upon request of labor union, to negotiate terms and conditions for designated representative's release time, which is leave of absence to engage in labor union business. Requires labor union to reimburse employer for compensation paid to designated representative on release time unless otherwise agreed to. Entitles designated representative to receive retirement credit for release time and reinstatement to same position and location. **Access and Communication:** Requires public employer to provide exclusive representative reasonable access to employees within bargaining unit. Requires employer provide exclusive representative with specified personal information about employees in bargaining unit, including phone, address, title, and salary. Allows exclusive representative to use employer's electronic mail system to communicate with employees in unit. Makes labor organization's access to and communication with represented employees a mandatory subject of bargaining. Adds to Legislative Assembly's policy statement on collective bargaining the importance of exclusive representative's direct access to and communication with represented employees. **Dues and Fees:** Allows parties to agree to authorize public employer to deduct union dues and fees from employee's pay. Requires labor organization to provide employer with list of employees who provided authorization for deductions. Requires employer to deduct amount authorized by employee and remit payments to designated organization or entity. Requires labor organization to defend and indemnify employer who relied on list but made unauthorized deduction. Deletes requirement that employee make payment in lieu of dues to a charitable organization if employee does not associate with labor organization for religious reasons. Deletes requirement that employer deduct amount from employee's pay and remit to labor organization in accordance with fair-share agreement. **Unfair Labor Practices:** Makes it an unfair labor practice for public employer to attempt to negatively influence employee membership decision or encourage employee to revoke union dues authorization.

ISSUES DISCUSSED:

- Release of public employee's personally identifiable information
- Administration of dues collection and cancellations
- Rationale for mandating minimum provisions in collective bargaining agreement regarding union access
- Typical practices regarding release time
- Scope of *Janus* decision

EFFECT OF AMENDMENT:

Removes from list of acts constituting unfair labor practice by public employer: (1) permitting use of employer's e-mail system to discourage union membership, and (2) providing personally identifiable information regarding

HB 2016 B STAFF MEASURE SUMMARY

public employees to any private entity.

BACKGROUND:

Oregon's Public Employee Collective Bargaining Act (PECBA), enacted in 1973, codifies the laws governing employment relations and public employers and employees in the state, counties, cities, school districts, transportation districts, and other local governments, as well as private employers not subject to the jurisdiction of the National Labor Relations Board. PECBA gives public sector employees the right to organize, join labor organizations, and be free from restraint when exercising their protected rights. Public employers and labor organizations are required to bargain collectively in good faith and abide by collective bargaining agreements.

PECBA also authorizes the recognized bargaining representative and a public employer to collectively bargain a fair-share agreement requiring employees who are not members of the employee organization to make a payment-in-lieu-of-dues. It is an unfair labor practice for a public employer to refuse to withhold from wages the amounts authorized by a valid collective bargaining or fair-share agreement.

In 2018, the U.S. Supreme Court held that a state's collection of agency fees from nonconsenting public employees violates the First Amendment (*Janus v. AFSCME Council 31*, 138 S Ct 2448 (2018)). According to an advisory opinion issued by the Oregon Department of Justice in July 2018, under *Janus*, public employers may not deduct agency fees from a nonmember's wages without the employee's affirmative consent.

House Bill 2016B repeals the Oregon statute mandating that employees provide written notice to the public employer when authorizing or revoking payroll deductions for union dues or payment in-lieu-of-dues. House Bill 2016B allows the employee to enter into an agreement with the labor organization to authorize deductions (which may be accomplished via telephone or in writing) and the agreement may also specify the manner of revocation. House Bill 2016B also makes changes to PECBA regarding the authorized activities and compensation of designated representatives, union access to employees included in a bargaining unit, and union use of employer facilities and equipment.