

House Bill 3009

Sponsored by Representatives PILUSO, BARKER, Senator HANSELL; Representatives BONHAM, EVANS, GOMBERG, GORSEK, HELM, LEIF, MARSH, MCLAIN, MITCHELL, POWER, PRUSAK, REARDON, SALINAS, SOLLMAN, WILDE, WITT, Senators BEYER, BOQUIST, GOLDEN, MONNES ANDERSON, RILEY, THOMSEN, WAGNER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires public employer to provide exclusive bargaining representative reasonable access to new employees in appropriate bargaining unit within 90 days of employee becoming part of bargaining unit.

Clarifies ways that employer may provide reasonable access.

Prohibits employer from requiring employee to attend or participate in part of orientation, presentation or other meeting that is reserved for exclusive representative to present or communicate information about exclusive representative.

Permits employees who are not union members to voluntarily consent to make in-lieu-of-dues payment to labor organization for organization's representation of nonmember employees in employment relations with public employer.

Prohibits compulsory payments to labor organizations by nonmember employees.

Makes certain actions unfair labor practices. Provides that labor organization's charging certain employees reasonable fees and costs for representation that is unrelated to negotiation of collective bargaining agreement is not unfair labor practice.

Allows deduction from salary or wages of nonmember employee for payment to labor organization upon employee's voluntary, written consent authorizing deduction.

A BILL FOR AN ACT

1
2 Relating to labor organization representation; creating new provisions; and amending ORS 243.650,
3 243.656, 243.666, 243.672, 243.676, 243.726 and 292.055.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 243.650 to**
6 **243.782.**

7 **SECTION 2. (1) For the purpose of providing an opportunity for the exclusive represen-**
8 **tative of an appropriate bargaining unit to present or otherwise communicate information**
9 **about the exclusive representative to new employees in the bargaining unit, a public em-**
10 **ployer shall provide the exclusive representative reasonable access to the new employees**
11 **within 90 days of the employees' initial start date in a position that is included in the bar-**
12 **gaining unit.**

13 **(2) An employer shall provide the exclusive representative reasonable access to the new**
14 **employees:**

15 **(a)(A) By reserving not less than a 30-minute period during a new employee orientation**
16 **process in which the exclusive representative may present or otherwise communicate infor-**
17 **mation about the exclusive representative; or**

18 **(B) In any manner that is mutually agreed upon by the employer and the exclusive rep-**
19 **resentative, provided that the minimum period of time reserved for the exclusive represen-**
20 **tative to communicate the information is not less than 30 minutes; and**

21 **(b) During the employees' regular work hours at the employees' regular work location,**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **unless another location has been mutually agreed to by the employer and the exclusive rep-**
2 **resentative.**

3 **(3) A public employer may not require an employee to attend any part of any orientation,**
4 **presentation or other meeting that is reserved for the exclusive representative to present**
5 **or otherwise communicate information about the exclusive representative.**

6 **SECTION 3.** ORS 243.650 is amended to read:

7 243.650. As used in ORS 243.650 to 243.782, unless the context requires otherwise:

8 (1) "Appropriate bargaining unit" means the unit designated by the Employment Relations Board
9 or voluntarily recognized by the public employer to be appropriate for collective bargaining. How-
10 ever, an appropriate bargaining unit may not include both academically licensed and unlicensed or
11 nonacademically licensed school employees. Academically licensed units may include but are not
12 limited to teachers, nurses, counselors, therapists, psychologists, child development specialists and
13 similar positions. This limitation does not apply to any bargaining unit certified or recognized prior
14 to June 6, 1995, or to any school district with fewer than 50 employees.

15 (2) "Board" means the Employment Relations Board.

16 (3) "Certification" means official recognition by the board that a labor organization is the ex-
17 clusive representative for all of the employees in the appropriate bargaining unit.

18 (4) "Collective bargaining" means the performance of the mutual obligation of a public employer
19 and the representative of its employees to meet at reasonable times and confer in good faith with
20 respect to employment relations for the purpose of negotiations concerning mandatory subjects of
21 bargaining, to meet and confer in good faith in accordance with law with respect to any dispute
22 concerning the interpretation or application of a collective bargaining agreement, and to execute
23 written contracts incorporating agreements that have been reached on behalf of the public employer
24 and the employees in the bargaining unit covered by such negotiations. The obligation to meet and
25 negotiate does not compel either party to agree to a proposal or require the making of a concession.
26 This subsection may not be construed to prohibit a public employer and a certified or recognized
27 representative of its employees from discussing or executing written agreements regarding matters
28 other than mandatory subjects of bargaining that are not prohibited by law as long as there is mu-
29 tual agreement of the parties to discuss these matters, which are permissive subjects of bargaining.

30 (5) "Compulsory arbitration" means the procedure whereby parties involved in a labor dispute
31 are required by law to submit their differences to a third party for a final and binding decision.

32 (6) "Confidential employee" means one who assists and acts in a confidential capacity to a per-
33 son who formulates, determines and effectuates management policies in the area of collective bar-
34 gaining.

35 (7)(a) "Employment relations" includes, but is not limited to, matters concerning direct or indi-
36 rect monetary benefits, hours, vacations, sick leave, grievance procedures and other conditions of
37 employment.

38 (b) "Employment relations" does not include subjects determined to be permissive, nonmanda-
39 tory subjects of bargaining by the Employment Relations Board prior to June 6, 1995.

40 (c) After June 6, 1995, "employment relations" does not include subjects that the Employment
41 Relations Board determines to have a greater impact on management's prerogative than on employee
42 wages, hours, or other terms and conditions of employment.

43 (d) "Employment relations" does not include subjects that have an insubstantial or de minimis
44 effect on public employee wages, hours, and other terms and conditions of employment.

45 (e) For school district bargaining, "employment relations" excludes class size, the school or ed-

1 ucational calendar, standards of performance or criteria for evaluation of teachers, the school cur-
2 riculum, reasonable dress, grooming and at-work personal conduct requirements respecting smoking,
3 gum chewing and similar matters of personal conduct, the standards and procedures for student
4 discipline, the time between student classes, the selection, agendas and decisions of 21st Century
5 Schools Councils established under ORS 329.704, requirements for expressing milk under ORS
6 653.077, and any other subject proposed that is permissive under paragraphs (b), (c) and (d) of this
7 subsection.

8 (f) For employee bargaining involving employees covered by ORS 243.736 and employees of the
9 Department of Corrections who have direct contact with inmates, "employment relations" includes
10 safety issues that have an impact on the on-the-job safety of the employees or staffing levels that
11 have a significant impact on the on-the-job safety of the employees.

12 (g) For all other employee bargaining except school district bargaining and except as provided
13 in paragraph (f) of this subsection, "employment relations" excludes staffing levels and safety issues
14 (except those staffing levels and safety issues that have a direct and substantial effect on the on-
15 the-job safety of public employees), scheduling of services provided to the public, determination of
16 the minimum qualifications necessary for any position, criteria for evaluation or performance ap-
17 praisal, assignment of duties, workload when the effect on duties is insubstantial, reasonable dress,
18 grooming, and at-work personal conduct requirements respecting smoking, gum chewing, and similar
19 matters of personal conduct at work, and any other subject proposed that is permissive under par-
20 agraphs (b), (c) and (d) of this subsection.

21 (8) "Exclusive representative" means the labor organization that, as a result of certification by
22 the board or recognition by the employer, has the right to be the collective bargaining agent of all
23 employees in an appropriate bargaining unit.

24 (9) "Fact-finding" means identification of the major issues in a particular labor dispute by one
25 or more impartial individuals who review the positions of the parties, resolve factual differences and
26 make recommendations for settlement of the dispute.

27 (10) "Fair-share agreement" means an agreement between the public employer and the recog-
28 nized or certified bargaining representative of public employees whereby employees who are not
29 members of the employee organization *[are required to] may voluntarily consent to* make an in-
30 lieu-of-dues payment to an employee organization. *[except as provided in ORS 243.666. Upon the filing*
31 *with the board of a petition by 30 percent or more of the employees in an appropriate bargaining unit*
32 *covered by such union security agreement declaring they desire that the agreement be rescinded, the*
33 *board shall take a secret ballot of the employees in the unit and certify the results thereof to the re-*
34 *cognized or certified bargaining representative and to the public employer. Unless a majority of the*
35 *votes cast in an election favor the union security agreement, the board shall certify deauthorization of*
36 *the agreement. A petition for deauthorization of a union security agreement must be filed not more than*
37 *90 calendar days after the collective bargaining agreement is executed. Only one such election may be*
38 *conducted in any appropriate bargaining unit during the term of a collective bargaining agreement*
39 *between a public employer and the recognized or certified bargaining representative.]*

40 (11) "Final offer" means the proposed contract language and cost summary submitted to the
41 mediator within seven days of the declaration of impasse.

42 (12) "Labor dispute" means any controversy concerning employment relations or concerning the
43 association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to
44 arrange terms or conditions of employment relations, regardless of whether the disputants stand in
45 the proximate relation of employer and employee.

1 (13) "Labor organization" means any organization that has as one of its purposes representing
2 employees in their employment relations with public employers.

3 (14) "Last best offer package" means the offer exchanged by parties not less than 14 days prior
4 to the date scheduled for an interest arbitration hearing.

5 (15) "Legislative body" means the Legislative Assembly, the city council, the county commission
6 and any other board or commission empowered to levy taxes.

7 (16) "Managerial employee" means an employee of the State of Oregon or a public university
8 listed in ORS 352.002 who possesses authority to formulate and carry out management decisions or
9 who represents management's interest by taking or effectively recommending discretionary actions
10 that control or implement employer policy, and who has discretion in the performance of these
11 management responsibilities beyond the routine discharge of duties. A "managerial employee" need
12 not act in a supervisory capacity in relation to other employees. Notwithstanding this subsection,
13 "managerial employee" does not include faculty members at a community college, college or uni-
14 versity.

15 (17) "Mediation" means assistance by an impartial third party in reconciling a labor dispute
16 between the public employer and the exclusive representative regarding employment relations.

17 (18) "Payment-in-lieu-of-dues" means an assessment to defray the cost for services by the exclu-
18 sive representative in negotiations and contract administration of all persons in an appropriate
19 bargaining unit who are not members of the organization serving as exclusive representative of the
20 employees. The payment must be equivalent to regular union dues and assessments, if any, or must
21 be an amount agreed upon by the public employer and the exclusive representative of the employees.

22 (19) "Public employee" means an employee of a public employer but does not include elected
23 officials, persons appointed to serve on boards or commissions, incarcerated persons working under
24 section 41, Article I of the Oregon Constitution, or persons who are confidential employees, super-
25 visory employees or managerial employees.

26 (20) "Public employer" means the State of Oregon, and the following political subdivisions:
27 Cities, counties, community colleges, school districts, special districts, mass transit districts, metro-
28 politan service districts, public service corporations or municipal corporations and public and
29 quasi-public corporations.

30 (21) "Public employer representative" includes any individual or individuals specifically desig-
31 nated by the public employer to act in its interests in all matters dealing with employee represen-
32 tation, collective bargaining and related issues.

33 (22) "Strike" means a public employee's refusal in concerted action with others to report for
34 duty, or his or her willful absence from his or her position, or his or her stoppage of work, or his
35 or her absence in whole or in part from the full, faithful or proper performance of his or her duties
36 of employment, for the purpose of inducing, influencing or coercing a change in the conditions,
37 compensation, rights, privileges or obligations of public employment; however, nothing shall limit
38 or impair the right of any public employee to lawfully express or communicate a complaint or
39 opinion on any matter related to the conditions of employment.

40 (23)(a) "Supervisory employee" means any individual having authority in the interest of the
41 employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline
42 other employees, or responsibly to direct them, or to adjust their grievances, or effectively to re-
43 commend such action, if in connection therewith, the exercise of the authority is not of a merely
44 routine or clerical nature but requires the use of independent judgment. Failure to assert supervi-
45 sory status in any Employment Relations Board proceeding or in negotiations for any collective

1 bargaining agreement does not thereafter prevent assertion of supervisory status in any subsequent
 2 board proceeding or contract negotiation.

3 (b) "Supervisory employee" includes a faculty member of a public university listed in ORS
 4 352.002 or the Oregon Health and Science University who:

5 (A) Is employed as a president, vice president, provost, vice provost, dean, associate dean, as-
 6 sistant dean, head or equivalent position; or

7 (B) Is employed in an administrative position without a reasonable expectation of teaching, re-
 8 search or other scholarly accomplishments.

9 (c) "Supervisory employee" does not include:

10 (A) A nurse, charge nurse or nurse holding a similar position if that position has not tradi-
 11 tionally been classified as supervisory;

12 (B) A firefighter prohibited from striking by ORS 243.736 who assigns, transfers or directs the
 13 work of other employees but does not have the authority to hire, discharge or impose economic
 14 discipline on those employees; or

15 (C) A faculty member of a public university listed in ORS 352.002 or the Oregon Health and
 16 Science University who is not a faculty member described in paragraph (b) of this subsection.

17 (24) "Unfair labor practice" means the commission of an act designated an unfair labor practice
 18 in ORS 243.672.

19 (25) "Voluntary arbitration" means the procedure whereby parties involved in a labor dispute
 20 mutually agree to submit their differences to a third party for a final and binding decision.

21 **SECTION 4.** ORS 243.656 is amended to read:

22 243.656. The Legislative Assembly finds and declares that:

23 (1) The people of this state have a fundamental interest in the development of harmonious and
 24 cooperative relationships between government and its employees;

25 (2) Recognition by public employers of the right of public employees to organize and full ac-
 26 ceptance of the principle and procedure of collective negotiation between public employers and
 27 public employee organizations can alleviate various forms of strife and unrest. Experience in the
 28 private and public sectors of our economy has proved that unresolved disputes in the public service
 29 are injurious to the public, the governmental agencies, and public employees;

30 (3) Experience in private and public employment has also proved that protection by law of the
 31 right of employees to organize and negotiate collectively safeguards employees and the public from
 32 injury, impairment and interruptions of necessary services, and removes certain recognized sources
 33 of strife and unrest, by encouraging practices fundamental to the peaceful adjustment of disputes
 34 arising out of differences as to wages, hours, terms and other working conditions, and by establish-
 35 ing greater equality of bargaining power between public employers and public employees;

36 (4) The state has a basic obligation to protect the public by attempting to assure the orderly
 37 and uninterrupted operations and functions of government; and

38 (5) It is the purpose of ORS 243.650 to 243.782 to **prohibit compulsory payments to labor**
 39 **organizations by employees who are not members of the labor organization. It is also the**
 40 **purpose of ORS 243.650 to 243.782** to obligate public employers, public employees and their rep-
 41 resentatives to enter into collective negotiations with willingness to resolve grievances and disputes
 42 relating to employment relations and to enter into written and signed contracts evidencing agree-
 43 ments resulting from such negotiations. It is also the purpose of ORS 243.650 to 243.782 to promote
 44 the improvement of employer-employee relations within the various public employers by providing
 45 a uniform basis for recognizing the right of public employees to join organizations of their own

1 choice, and to be represented by such organizations in their employment relations with public em-
 2 ployers.

3 **SECTION 5.** ORS 243.666 is amended to read:

4 243.666. (1) A labor organization certified by the Employment Relations Board or recognized by
 5 the public employer is the exclusive representative of the employees of a public employer for the
 6 purposes of collective bargaining with respect to employment relations. *[Nevertheless any agreements*
 7 *entered into involving union security including an all-union agreement or agency shop agreement must*
 8 *safeguard the rights of nonassociation of employees, based on bona fide religious tenets or teachings*
 9 *of a church or religious body of which such employee is a member. Such employee shall pay an amount*
 10 *of money equivalent to regular union dues and initiation fees and assessments, if any, to a nonreligious*
 11 *charity or to another charitable organization mutually agreed upon by the employee affected and the*
 12 *representative of the labor organization to which such employee would otherwise be required to pay*
 13 *dues. The employee shall furnish written proof to the employer of the employee that this has been*
 14 *done.]*

15 (2) Notwithstanding the provisions of subsection (1) of this section, an individual employee or
 16 group of employees at any time may present grievances to their employer and have such grievances
 17 adjusted, without the intervention of the labor organization, if:

18 (a) The adjustment is not inconsistent with the terms of a collective bargaining contract or
 19 agreement then in effect; and

20 (b) The labor organization has been given opportunity to be present at the adjustment.

21 (3) Nothing in this section prevents a public employer from recognizing a labor organization
 22 which represents at least a majority of employees as the exclusive representative of the employees
 23 of a public employer when the board has not designated the appropriate bargaining unit or when the
 24 board has not certified an exclusive representative in accordance with ORS 243.686.

25 **SECTION 6.** ORS 243.672 is amended to read:

26 243.672. (1) It is an unfair labor practice for a public employer or its designated representative
 27 to do any of the following:

28 (a) Interfere with, restrain or coerce employees in or because of the exercise of rights guaran-
 29 teed in ORS 243.662.

30 (b) Dominate, interfere with or assist in the formation, existence or administration of any em-
 31 ployee organization.

32 (c) Discriminate in regard to hiring, tenure or any terms or condition of employment for the
 33 purpose of encouraging or discouraging membership in an employee organization. *[Nothing in this*
 34 *section is intended to prohibit the entering into of a fair-share agreement between a public employer*
 35 *and the exclusive bargaining representative of its employees. If a "fair-share" agreement has been*
 36 *agreed to by the public employer and exclusive representative, nothing prohibits the deduction of the*
 37 *payment-in-lieu-of-dues from the salaries or wages of the employees.]*

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

41 (e) Refuse to bargain collectively in good faith with the exclusive representative.

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

43 (g) Violate the provisions of any written contract with respect to employment relations including
 44 an agreement to arbitrate or to accept the terms of an arbitration award, where previously the
 45 parties have agreed to accept arbitration awards as final and binding upon them.

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

3 (i) Violate ORS 243.670 (2).

4 **(j) Enter into an agreement that requires employees who are not members of the labor**
 5 **organization to make payments to the labor organization.**

6 **(k) Attempt to influence an employee to resign from or decline to obtain membership in**
 7 **a labor organization.**

8 **(L) Encourage an employee to revoke authorization for the deduction of fees, dues or**
 9 **other assessments under ORS 292.055.**

10 (2) Subject to the limitations set forth in this subsection, it is an unfair labor practice for a
 11 public employee or for a labor organization or its designated representative to do any of the fol-
 12 lowing:

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

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

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

18 (d) Violate the provisions of any written contract with respect to employment relations, includ-
 19 ing an agreement to arbitrate or to accept the terms of an arbitration award, where previously the
 20 parties have agreed to accept arbitration awards as final and binding upon them.

21 (e) Refuse to reduce an agreement, reached as a result of collective bargaining, to writing and
 22 sign the resulting contract.

23 **[(f)] (3) It is an unfair labor practice** for any labor organization to engage in unconventional
 24 strike activity not protected for private sector employees under the National Labor Relations Act
 25 on June 6, 1995. This provision applies to sitdown, slowdown, rolling, intermittent or on-and-off again
 26 strikes.

27 **[(g)] (4) It is an unfair labor practice** for a labor organization or its agents to picket or cause,
 28 induce, or encourage to be picketed, or threaten to engage in such activity, at the residence or
 29 business premises of any individual who is a member of the governing body of a public employer,
 30 with respect to a dispute over a collective bargaining agreement or negotiations over employment
 31 relations, if an objective or effect of such picketing is to induce another person to cease doing
 32 business with the governing body member's business or to cease handling, transporting or dealing
 33 in goods or services produced at the governing body's business. For purposes of this paragraph, a
 34 member of the Legislative Assembly is a member of the governing body of a public employer when
 35 the collective bargaining negotiation or dispute is between the State of Oregon and a labor organ-
 36 ization. The Governor and other statewide elected officials are not considered members of a gov-
 37 erning body for purposes of this paragraph. Nothing in this paragraph may be interpreted or applied
 38 in a manner that violates the right of free speech and assembly as protected by the Constitution of
 39 the United States or the Constitution of the State of Oregon.

40 **(5) It is not an unfair labor practice or a violation of subsection (2)(a) of this section for**
 41 **a labor organization to charge employees who are not members of the labor organization and**
 42 **who have not voluntarily entered into a fair-share agreement reasonable fees and costs for**
 43 **representation that is unrelated to the negotiation of a collective bargaining agreement.**

44 **[(3)] (6)** An injured party may file a written complaint with the Employment Relations Board
 45 not later than 180 days following the occurrence of an unfair labor practice. For each unfair labor

1 practice complaint filed, a fee of \$300 is imposed. For each answer to an unfair labor practice
 2 complaint filed with the board, a fee of \$300 is imposed. The board may allow any other person to
 3 intervene in the proceeding and to present testimony. A person allowed to intervene shall pay a fee
 4 of \$300 to the board. The board may, in its discretion, order fee reimbursement to the prevailing
 5 party in any case in which the complaint or answer is found to have been frivolous or filed in bad
 6 faith. The board shall deposit fees received under this section to the credit of the Employment Re-
 7 lations Board Administrative Account.

8 **SECTION 7.** ORS 243.676 is amended to read:

9 243.676. (1) Whenever a written complaint is filed alleging that any person has engaged in or is
 10 engaging in any unfair labor practice listed in ORS 243.672 (1) [*and (2)*] **to (4)** and 243.752, the
 11 Employment Relations Board or its agent shall:

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

13 (b) Investigate the complaint to determine if a hearing on the unfair labor practice charge is
 14 warranted. If the investigation reveals that no issue of fact or law exists, the board may dismiss the
 15 complaint; and

16 (c) Set the matter for hearing if the board finds in its investigation made pursuant to paragraph
 17 (b) of this subsection that an issue of fact or law exists. The hearing shall be before the board or
 18 an agent of the board not more than 20 days after a copy of the complaint has been served on the
 19 person.

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

23 (a) State its findings of fact;

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

26 (c) Take such affirmative action, including but not limited to the reinstatement of employees
 27 with or without back pay, as necessary to effectuate the purposes of ORS 240.060, 240.065, 240.080,
 28 240.123, 243.650 to 243.782, 292.055 and 341.290;

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

30 (e) Designate the amount and award attorney fees, if any, to the prevailing party on appeal, in-
 31 cluding proceedings for Supreme Court review, of a board order.

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

34 (a) Issue an order dismissing the complaint; and

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

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

39 (A) The complaint has been affirmed pursuant to subsection (2) of this section and the board
 40 finds that the person who has committed, or who is engaging, in an unfair labor practice has done
 41 so repetitively, knowing that the action taken was an unfair labor practice and took the action
 42 disregarding this knowledge, or that the action constituting the unfair labor practice was egregious;
 43 or

44 (B) The complaint has been dismissed pursuant to subsection (3) of this section, and that the
 45 complaint was frivolously filed, or filed with the intent to harass the other person, or both.

1 (b) Notwithstanding paragraph (a) of this subsection, if the board finds that a public employer
 2 named in the complaint violated ORS 243.670 (2), the board shall impose a civil penalty equal to
 3 triple the amount of funds the public employer expended to assist, promote or deter union organiz-
 4 ing.

5 (5) As used in subsections (1) to (4) of this section, “person” includes but is not limited to indi-
 6 viduals, labor organizations, associations and public employers.

7 **SECTION 8.** ORS 243.726 is amended to read:

8 243.726. (1) Participation in a strike shall be unlawful for any public employee who is not in-
 9 cluded in an appropriate bargaining unit for which an exclusive representative has been certified
 10 by the Employment Relations Board or recognized by the employer; or is included in an appropriate
 11 bargaining unit that provides for resolution of a labor dispute by petition to final and binding arbi-
 12 tration; or when the strike is not made lawful under ORS 240.060, 240.065, 240.080, 240.123, 243.650
 13 to 243.782, 292.055 and 341.290.

14 (2) It shall be lawful for a public employee who is not prohibited from striking under subsection
 15 (1) of this section and who is in the appropriate bargaining unit involved in a labor dispute to par-
 16 ticipate in a strike over mandatory subjects of bargaining provided:

17 (a) The requirements of ORS 243.712 and 243.722 relating to the resolution of labor disputes
 18 have been complied with in good faith;

19 (b) Thirty days have elapsed since the board has made public the fact finder’s findings of fact
 20 and recommendations or the mediator has made public the parties’ final offers;

21 (c) The exclusive representative has given 10 days’ notice by certified mail of its intent to strike
 22 and stating the reasons for its intent to strike to the board and the public employer;

23 (d) The collective bargaining agreement has expired, or the labor dispute arises pursuant to a
 24 reopener provision in a collective bargaining agreement or renegotiation under ORS 243.702 (1) or
 25 renegotiation under ORS 243.698; and

26 (e) The union’s strike does not include unconventional strike activity not protected under the
 27 National Labor Relations Act on June 6, 1995, and does not constitute an unfair labor practice un-
 28 der ORS 243.672 [(2)(f)] (3).

29 (3)(a) Where the strike occurring or is about to occur creates a clear and present danger or
 30 threat to the health, safety or welfare of the public, the public employer concerned may petition the
 31 circuit court of the county in which the strike has taken place or is to take place for equitable relief
 32 including but not limited to appropriate injunctive relief.

33 (b) If the strike is a strike of state employees the petition shall be filed in the Circuit Court of
 34 Marion County.

35 (c) If, after hearing, the court finds that the strike creates a clear and present danger or threat
 36 to the health, safety or welfare of the public, it shall grant appropriate relief. Such relief shall in-
 37 clude an order that the labor dispute be submitted to final and binding arbitration within 10 days
 38 of the court’s order pursuant to procedures in ORS 243.746.

39 (4)(a) A labor organization may not declare or authorize a strike of public employees that is or
 40 would be in violation of this section. When it is alleged in good faith by the public employer that
 41 a labor organization has declared or authorized a strike of public employees that is or would be in
 42 violation of this section, the employer may petition the board for a declaration that the strike is or
 43 would be unlawful. The board, after conducting an investigation and hearing, may make such dec-
 44 laration if it finds that such declaration or authorization of a strike is or would be unlawful.

45 (b) When a labor organization or individual disobeys an order of the appropriate circuit court

1 issued pursuant to enforcing an order of the board involving this section and ORS 243.736 or 243.738,
 2 they shall be punished according to the provisions of ORS 33.015 to 33.155, except that the amount
 3 of the fine shall be at the discretion of the court.

4 (5) An unfair labor practice by a public employer shall not be a defense to a prohibited strike.
 5 The board upon the filing of an unfair labor charge alleging that a public employer has committed
 6 an unfair labor practice during or arising out of the collective bargaining procedures set forth in
 7 ORS 243.712 and 243.722, shall take immediate action on such charge and if required, petition the
 8 court of competent jurisdiction for appropriate relief or a restraining order.

9 (6) As used in this section, “danger or threat to the health, safety or welfare of the public” does
 10 not include an economic or financial inconvenience to the public or to the public employer that is
 11 normally incident to a strike by public employees.

12 **SECTION 9.** ORS 292.055 is amended to read:

13 292.055. (1) **Except as provided in subsection (6) of this subsection,** upon receipt of the re-
 14 quest in writing of a state officer or employee so to do, the state official authorized to disburse funds
 15 in payment of the salary or wages of such state officer or employee each month shall deduct from
 16 the salary or wages of such officer or employee the amount of money indicated in such request, for
 17 payment thereof to a labor organization as the same is defined in ORS 243.650.

18 (2) Such state official each month shall pay such amount so deducted to any such labor organ-
 19 ization so designated to receive it.

20 (3) Unless there is a contract to the contrary, upon receipt of the request in writing of such
 21 officer or employee so to do, such state official shall cease making such deductions and payments.

22 (4) In addition to making such deductions and payments to any labor organization certified un-
 23 der the rules of the Employment Relations Board as representatives of employees in a bargaining
 24 unit, any department, board, commission, bureau, institution or other agency of the state shall make
 25 deductions for and payments to noncertified, yet bona fide, labor organizations, if requested to do
 26 so by officers and employees in that department, board, commission, bureau, institution, or other
 27 state agency, and for so long as the requests are not revoked. No deductions for and payments to
 28 any labor organization under this section shall be deemed an unfair labor practice under ORS
 29 243.672.

30 (5) Upon receipt from the Oregon Department of Administrative Services of a copy of a valid
 31 fair-share agreement in a collective bargaining unit, the state official authorized to disburse funds
 32 in payment of the salary or wages of the employees in such unit each month shall deduct from the
 33 salary or wages of the employees covered by the agreement the in-lieu-of-dues payment stated in the
 34 agreement and pay such amount to the labor organization party the agreement in the same manner
 35 as deducted dues are paid to a labor organization. Such deduction and payment shall continue for
 36 the life of the agreement.

37 **(6) No amount of money may be deducted from the salary or wages of an employee who**
 38 **is not a member of a labor organization, as defined in ORS 243.650, for payment to the labor**
 39 **organization unless the employee has provided voluntary, written consent authorizing the**
 40 **deduction.**

41 **SECTION 10.** The amendments to ORS 243.650, 243.656, 243.666, 243.672, 243.676, 243.726
 42 and 292.055 by sections 3 to 9 of this 2019 Act apply to all contracts and agreements entered
 43 into, renewed or extended on or after the effective date of this 2019 Act.