



## Oregon AFSCME Support for HB 4126

February 7, 2022

Rep. Paul Holvey, Chair  
Committee Members  
House Committee on Business and Labor

Good afternoon Chair Holvey, Vice Chairs Bonham and Grayber and members of the Committee,

My name is Lane Toensmeier and I am the staff attorney at Oregon AFSCME Council 75. Thank you for hearing this bill today and providing me some time to explain what Labor Harmony is.

HB 4126 is a good governance bill.

It provides that as a participant in the marketplace for critical services to the people in our state, Oregon has an interest in ensuring that those services:

- Are not disrupted
- That the services have a positive impact on the community
- That the workforce is well supported and stable as a key component of consistent, quality care.

The purpose of a bill requiring private state contractors to enter into Labor Harmony Agreements is to ensure that the services the state has purchased are provided at the expected level of outcome without disruption.

A Labor Harmony Agreement is not a collective bargaining agreement and it does not impose terms or conditions of employment. A Labor Harmony Agreement is a negotiated agreement between the state contractor and a union that either seeks to represent the contractors employees or currently represents the contractors employees. Think of these agreements as ground rules for labor relations. Labor Harmony Agreements are negotiated to provide the rules of engagement and dispute resolution between the contractor and the union as a means of preventing disruptions to services that occur during a picket, a boycott or a strike.

This bill would not require that all non-union behavioral health and addictions treatment and services providers' workers join a union. The bill does not even dictate any of the terms of a Labor Harmony Agreement. The bill simply requires that the contractor, as a condition of entering into a contract with the state to provide behavioral health or addiction services on behalf of the State of Oregon, must negotiate and enter into a Labor Harmony Agreement when requested by a union. The terms of that agreement are to be defined by the parties.



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The terms of a Labor Harmony Agreement could include a process for determining whether the majority of the contractor's employees wish to be represented by the union. As a hypothetical example, the parties could agree to require the contractor to provide a list of employees to the union or to allow union organizers access to employees in the workplace. The parties could agree to an employer neutrality agreement or a process to allow a 3rd party to validate the signatures of employees supporting the union as a means of determining whether the union has majority support. The parties could negotiate a process to resolve negotiations over a collective bargaining agreement in the event the contractor and the union are unable to reach agreement. In exchange, the union would agree to refrain from activities that disrupt state services such as pickets, boycotts or strikes. These terms are all hypothetical because HB 4126 does not mandate any of them. The bill simply requires the parties to negotiate over an agreement to ensure the uninterrupted delivery of services.

HB 4216 with the adoption of the -3 amendments is lawful because the bill does not attempt to preempt the National Labor Relations Act by establishing the State as the arbiter of private sector labor policy. Instead, the bill allows the State, acting as a market participant/purveyor of public services, to take steps to ensure the uninterrupted delivery of those services. In 2017, the Ninth Circuit Court of Appeals upheld the legal right of the Los Angeles Worlds Airport to require contractors to enter into Labor Harmony Agreements as a means of protecting the ability of the airport to ensure the uninterrupted delivery of services to the airport's customers. That case is *Airline Service Providers Association v. L.A Worlds Airport* and the citation is 873 F.3d 1074.

Oregon AFSCME Council 75 appreciates the work of Rep Hudson and staff, Emerson and Legislative Council and we concur with the remarks Rep Hudson provided on the amendments.

We urge your support of HB 4126.