

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

By Nonconcurring Members of COMMITTEE ON EDUCATION

June 9

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

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

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

4 “243.682. (1) If a question of representation exists, the Employment Relations Board shall:

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

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

14 “**(B) Any faculty member who is supervised by a faculty member described in subpara-**
15 **graph (A) of this paragraph.**

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

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

19 “(B) A labor organization alleging that 30 percent of the employees in an appropriate bargaining
20 unit assert that the designated exclusive representative is no longer the representative of the ma-
21 jority of the employees in the unit;

22 “(C) A public employer alleging that one or more labor organizations has presented a claim to
23 the public employer requesting recognition as the exclusive representative in an appropriate bar-
24 gaining unit; or

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

28 “(2)(a) Notwithstanding subsection (1) of this section, when an employee, group of employees or
29 labor organization acting on behalf of the employees files a petition alleging that a majority of em-
30 ployees in a unit appropriate for the purpose of collective bargaining wish to be represented by a
31 labor organization for that purpose, or when a group of unrepresented employees files a petition
32 stating that the unrepresented employees seek to be included in an existing bargaining unit, the
33 board shall investigate the petition. If the board finds that a majority of the employees in a unit
34 appropriate for bargaining or in a group of unrepresented employees seeking to be included in an

1 existing bargaining unit have signed authorizations designating the labor organization specified in
2 the petition as the employees' bargaining representative and that no other labor organization is
3 currently certified or recognized as the exclusive representative of any of the employees in the unit
4 or in the group of unrepresented employees seeking to be included in an existing bargaining unit,
5 the board may not conduct an election but shall certify the labor organization as the exclusive
6 representative unless a petition for a representation election is filed as provided in subsection (3)
7 of this section.

8 “(b) The board by rule shall develop guidelines and procedures for the designation by employees
9 of a bargaining representative in the manner described in paragraph (a) of this subsection. The
10 guidelines and procedures must include:

11 “(A) Model collective bargaining authorization language that may be used for purposes of mak-
12 ing the designations described in paragraph (a) of this subsection;

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

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

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

20 “(E) Procedures for expedited resolution of any dispute about the scope of the appropriate bar-
21 gaining unit. The resolution of the dispute may occur after an election is conducted.

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

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

29 “(b) The petition requesting a representation election must be supported by at least 30 percent
30 of the employees in the bargaining unit designated by the petition, or 30 percent of the unrepre-
31 sented employees seeking to be included in an existing bargaining unit.

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

34 “(4) Except as provided in ORS 243.692, if the board finds in a hearing conducted pursuant to
35 subsection (1)(b) of this section that a question of representation exists, the board shall conduct an
36 election by secret ballot, at a time and place convenient for the employees of the jurisdiction and
37 also within a reasonable period of time after the filing has taken place, and certify the results of the
38 election.

39 “**SECTION 3. Section 4 of this 2017 Act is added to and made a part of ORS 243.650 to**
40 **243.782.**

41 “**SECTION 4. (1) As used in this section, ‘faculty member’ means a faculty member de-**
42 **scribed in ORS 243.650 (23)(c)(C).**

43 “**(2) Notwithstanding the provisions of ORS 243.666 (1), a faculty member may choose**
44 **whether to join a labor organization certified by the Employment Relations Board or recog-**
45 **nized by the public employer as the exclusive representative of faculty members in an ap-**

1 **propriate bargaining unit. A faculty member who desires to join a labor organization shall**
2 **provide written consent to be a member of the labor organization.**

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

7 **“(4) A labor organization is not required to provide services to faculty members who do**
8 **not provide written consent under subsection (2) of this section.**

9 **“SECTION 5. Section 4 of this 2017 Act and the amendments to ORS 243.650 and 243.682**
10 **by sections 1 and 2 of this 2017 Act apply to bargaining units certified or recognized on or**
11 **after the effective date of this 2017 Act.”.**

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/s/ Jeff Kruse
Senator

/s/ Dennis Linthicum
Senator
