

Section 1. Title

This 2016 Act shall be known as the “No Politics From My Pay, Without My Say” Act.

Section 2. Findings

The people of Oregon find that:

(1) It is important to protect the free speech and association rights of individual public employees.

(2) The right of public employees in a bargaining unit to fully participate in collective bargaining activities with their employer, historically, has been conditioned upon becoming a member of a labor organization. The recognition of a labor organization as the exclusive representative of all public employees within a bargaining unit has inadvertently enabled labor organizations to compel public employees to financially support political and ideological activities unrelated to collective bargaining as a condition of membership.

(3) The people have determined there is a compelling governmental interest in ensuring that no public employee should be required to financially support political or ideological activities or expenditures of a labor organization that are not related to collective bargaining with their employer in order to exercise their right to join and participate in collective bargaining activities through an exclusive representative on matters concerning employment relations.

Section 3. ORS 243.662 is amended to read:

243.662 Rights of public employees to join labor organizations. (1)
Public employees have the right to form, join and participate in the activities of

labor organizations of their own choosing for the purpose of representation and collective bargaining with their public employer on matters concerning employment relations.

(2) Each individual public employee within an appropriate bargaining unit has the following rights:

(a) The right to refrain from financially supporting or subsidizing any political or ideological activity or any expenditure by or through an exclusive representative that is not necessarily or reasonably incurred for the purpose of representation and collective bargaining with their employer on matters concerning employment relations.

(b) The right to join and participate as a member in all activities and expenditures of an exclusive representative that are necessarily or reasonably incurred for the purpose of representation and collective bargaining with their employer on matters concerning employment relations without having that right conditioned upon the payment of member dues, or other money, that may be used by the exclusive representative to financially support, or subsidize, any political or ideological activity or expenditure that is not necessarily or reasonably incurred for the purpose of representation and collective bargaining with their employer on matters concerning employment relations.

(c) The right to cancel membership in a labor organization recognized as an exclusive representative, and discontinue paying all member dues or other money required as a condition of membership, at any time.

Section 4. ORS 243.666 is amended to read:

243.666 Certified or recognized labor organization as exclusive employee group representative; protection of employee nonassociation rights. (1) A labor organization certified by the Employment Relations Board or

recognized by the public employer is the exclusive representative of the employees of a public employer for the purposes of collective bargaining with respect to employment relations. **No labor organization may be certified to serve as an exclusive representative by the Employment Relations Board unless it offers a membership structure that protects the rights of individual public employees under ORS 243.662(2).** Nevertheless any agreements entered into involving union security including an all-union agreement or agency shop agreement must safeguard the rights of nonassociation of employees, based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member. Such employee shall pay an amount of money equivalent to regular union dues and initiation fees and assessments, if any, to a nonreligious charity or to another charitable organization mutually agreed upon by the employee affected and the representative of the labor organization to which such employee would otherwise be required to pay dues. The employee shall furnish written proof to the employer of the employee that this has been done.

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

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

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

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

Section 5. Violation of public employee's individual rights

(1) An exclusive representative violates a public employee's rights under ORS 243.662 if it compels any public employee to pay member dues or other money as a condition of joining and participating as a member in the representation and collective bargaining activities of the labor organization if any portion of those dues may be used by the labor organization to pay for, or subsidize, political or ideological activities or any expenditures that are not necessarily and reasonably incurred for the purpose of representation and collective bargaining with the employee's public employer on matters concerning employment relations.

(2) An exclusive representative violates a public employee's rights under ORS 243.622 if it denies a public employee's exercise of any of his or her rights thereunder or conditions a public employee's membership in the labor organization upon the public employee's waiver of rights thereunder.

Section 6. Savings Clause

(1) An exclusive representative does not violate a public employee's individual rights under ORS 243.662 by engaging in otherwise lawful political or ideological activities or expenditures that are not necessarily or reasonably incurred for the purpose of collective bargaining with a public employee's employer on matters concerning employment relations and financing those activities with voluntary dues, fees, or other money that are:

(a) Separately deducted and itemized by a public employer pursuant to ORS 652.610,

(b) Additional to any other member dues or other money a public employee is required to pay to the labor organization as a condition of joining and participating as a member in all activities of the labor organization that are necessarily and reasonably incurred for the

purpose of representation and collective bargaining with their employer on matters concerning employment relations, and

(c) Obtained with the public employee's affirmative written consent as provided in subsection (3) of this section.

(2) An exclusive representative does not violate a public employee's individual rights under ORS 243.662 by making an expenditure that is not necessarily or reasonably incurred for the purpose of representation and collectively bargaining with their employer on matters concerning employment relations by providing, purchasing or contracting with third-parties to provide additional incidental member benefits so long as any such member benefits are designed to inure to the benefit of individual members, do not involve political or ideological activities, and are not provided at a cost exceeding fair-market value.

(3) The written consent described in subsection (1) of this section shall be on a form provided by the Employment Relations Board for the sole purpose of documenting the public employee's consent to allowing a specified amount of money to be voluntarily collected from the public employee's wages or salary and paid to the labor organization to be used for political and ideological activities or expenditures not directly related to collective bargaining with their employer. The form provided by the Employment Relations Board shall comply with the following additional requirements:

(a) The form's title shall read, in at least 18-point bold type:

"Voluntary Consent To Payment Of Additional Dues, Fees, Or Other Money For Political Or Ideological Purposes Not Directly Related To Collective Bargaining With My Employer."

(b) The form shall state, immediately above the signature line:

“By signing this form you are voluntarily agreeing to pay money to [insert name of labor organization] for political or ideological purposes not directly related to collective bargaining and contract enforcement with your employer. You are not obligated to sign this authorization and may revoke this authorization at any time. Your signature below is completely voluntary and cannot in any way affect your employment or your right to join and participate as a represented member of [insert name of labor organization] in collective bargaining with your employer.

Section 7. Private Right of Action To Enforce Rights Of Individual Public Employees

(1) Every public employee within an appropriate bargaining unit represented by an exclusive representative shall have the right to commence a civil action in any circuit court of this state where the exclusive representative has members to enforce the rights recognized by this 2016 Act. In such an action, a court may grant injunctive and other equitable relief as well as actual damages. A prevailing public employee shall be entitled to award of reasonable costs and attorney fees.

Section 8. Definitions and Interpretation

(1) As used in Sections 1-9 of this 2016 Act, the terms “appropriate bargaining unit,” “collective bargaining,” “employment relations,” “exclusive representative,” “labor organization,” “public employee,” and “public employer” shall have the meanings provided in ORS 243.650 (2015). The meaning of these terms shall not be altered or changed by any amendment to ORS 243.650 (2015) unless the amendment to ORS 243.650 (2015) has been submitted to the people for approval or rejection at a statewide election presented with neutral ballot title language drafted by the Attorney General.

(2) The phrase “necessarily and reasonably incurred for the purpose of representation and collective bargaining” is a term of legal art intended to refer, depending on context, to activities and expenditures that either are or are not germane to collective bargaining.

(3) If any provision of this 2016 Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this 2016 Act are severable.

(4) This 2016 Act supersedes any statute or subordinate law with which it conflicts. After the passage of this 2016 Act, no person or entity may act as the exclusive representative of an appropriate bargaining unit in contract negotiations with a public employer unless it guarantees the rights secured by ORS 243.662 to all members of the appropriate bargaining unit. This Act shall not be interpreted to impair the obligation of any contract in existence prior to its passage and shall be construed consistently with the state and federal constitutions.

Section 9. Effective Date

(1) This Act shall be included and made a part of ORS 243.650 to 243.782 and takes effect on passage.

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