

**To:** The Honorable Paul Holvey  
Chair, House Committee on Business and Labor

**From:** Ben Straka, Labor Policy Analyst

**Date:** March 1, 2021

**Re:** House Bill 3029

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Chair Holvey and Members of the Committee,

Thank you for the opportunity to testify on HB 3029, a bill that directs the Employment Relations Board (ERB) to develop procedures for the creation of electronic authorization forms when using the “card check” method of union organizing.

### **Background**

There are several different types of petitions that can be filed with the ERB to determine whether public employees in Oregon will be represented by a labor union, and if so, which union will represent them. Broadly speaking, these petitions can be used by public employees or labor organizations to either certify, modify, or remove a union.

Often, the petitions must be accompanied by proof of employee support, called a “showing of interest.”

“Card check,” as it’s commonly called, is one type of petition. In brief, the card check method enables a union to become certified without an ERB-administered secret ballot election if organizers collect signed authorization cards (showings of interest) from a majority of employees in a proposed bargaining unit, or from those seeking to be added to an existing unit.

Conceptually, however, the showing of interest requirement for card check petitions does not differ from that of any other type of petition. While the required language and overall threshold for support may be different, the nature of what constitutes an individual’s valid proof of consent is exactly the same.

The ERB made this very clear when it rewrote virtually the entire chapter of its rulebook on public employee union representation just last year.

Specifically, the ERB’s 2020 rulemaking changes included the creation of a new rule on showing of interest requirements, which allows public employees and labor organizations to file electronic copies of showings of interest. However, the rule also requires that they “provide original documents to the Board within ten (10) days of the filing of the petition.”<sup>1</sup>

The new rule applies to all types of petitions equally – and the ERB clearly intended it to.

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<sup>1</sup> See OAR 115-025-0021, adopted by the ERB on September 15, 2020 and effective January 7, 2021.

## **HB 3029**

Unfortunately, HB 3029 appears to apply the opposite standard.

The bill directs the ERB to develop procedures for “preparing and signing authorizations... using an electronic record and an electronic signature,” yet does so only for the designation of bargaining representatives via “card check” campaigns.

To be clear: HB 3029, requested by the labor union AFSCME, does not simply ask for procedures related to the ERB’s current practice of accepting electronic *copies* – a standard which is applied evenly. Rather, it specifically asks the Legislature for special treatment of union card check authorizations – above and beyond that which any other petition would receive – through the use of electronic records and electronic signatures, as defined in ORS Chapter 85, the Uniform Electronic Transactions Act.

Simply put, implementing electronic transactions for card check campaigns while not doing so for any other petitions is blatantly inequitable.

Furthermore, one can’t help but wonder whether it opens the door for a variety of potential abuses by those conducting card check campaigns. Perhaps this is one reason why, even in 2020, the ERB chose to maintain its longstanding requirement that petitioners also submit the original documents as proof of valid employee support.

As currently written, HB 3029 appears to serve no broader purpose than to carve out a special place in Oregon law where union-supported card check campaigns can utilize the convenience of electronic transactions while others, such as employee attempts to change or decertify a union, cannot. This is poor public policy, and lawmakers should not adopt HB 3029 simply because they are asked to.

On behalf of the Freedom Foundation, I respectfully urge the committee to either:

- [1] Reject HB 3029; or
- [2] Completely rewrite it to apply equally to all types of union representation and decertification petitions.

Thank you,



**Ben Straka**

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