

HB 2944 -3, -4 STAFF MEASURE SUMMARY

House Committee On Labor and Workplace Standards

Prepared By: Erin Seiler, LPRO Analyst

Meeting Dates: 2/17, 4/7

WHAT THE MEASURE DOES:

Permits labor organization to file civil action against public employer for certain violations of public employee collective bargaining act (PECBA). Directs Employment Relations Board (ERB) to impose civil penalties against public employer that fails to comply with certain requirements of PECBA.

Detailed Summary:

The measure permits labor organization to file civil action against public employer to:

- enforce requirement that public employer provide name and date of hire; contact information; and employment information about employee in appropriate bargaining within designated timelines.
- enforce right to receive full amount of remittance for deductions authorized by employees.

The measure requires ERB to impose civil penalty on public employer for violation of:

- requirement that public employer provide name and date of hire; contact information; and employment information about employee in appropriate bargaining within designated timelines.
- labor organizations right to receive full amount of remittance for deductions authorized by employees.

Civil penalties must be imposed as follows:

- First violation, ERB must issue written notice to public employer that notifies employer of violation and provides time period for employer to correct violation that does not exceed 30 days after date of issuance of notice.
- Second violation, ERB must impose penalty of \$5,000 and provide written notice to employer informing employer that failure to correct violation within 30 days following issuance of penalty will subject employer to additional penalties.
- Third and subsequent violation, ERB must impose penalty of \$10,000 and provide written notice to employer informing employer that failure to correct violation within 30 days following issuance of penalty will subject employer to additional penalties.

Civil penalties are deposited in ERB Administrative Account.

Fiscal impact: Statement not yet issued

Revenue impact: Statement not yet issued

ISSUES DISCUSSED:

- Purpose of legislation to provide structure and accountability for timelines adopted in 2019
- Experiences with public employers who are consistently late
- Relationship to Employment Relations Board and resolution of disputes
- Discretion or alignment of civil penalties with size of public employer
- Scope of the problem
- Role and purpose of the Wage Security Fund
- Process for filing and adjudicating an unfair labor practices

EFFECT OF AMENDMENT:

This summary has not been adopted or officially endorsed by action of the committee.

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-3 Replaces the measure.

Requires the Employment Relation Board (ERB) to impose a civil penalty of not less than \$1,000 nor more than \$5,000 if the board finds that the public employer named in an unfair labor practices complaint has violated:

- requirement that public employer provide name and date of hire; contact information; and employment information about employee in appropriate bargaining within designated timelines.
- right to receive full amount of remittance for deductions authorized by employees.

For any subsequent violation, the ERB is required to impose a civil penalty of not less than \$5,000 nor more than \$10,000.

Requires the ERB to consider extenuating circumstances that the employer has proven contributed to or caused the violation when determining the amount of the civil penalty.

States that an extenuating circumstance is not an affirmative defense to a violation.

Requires public employer to make the authorized deductions and to remit payment to the labor organization within a time period that aligns with a payroll processing schedule established by the employer not to exceed 30 calendar days following the date of the deduction.

Fiscal impact: Minimal fiscal impact

Revenue impact: No revenue impact

-4 Replaces the measure.

Requires the Employment Relation Board (ERB) to impose a civil penalty of not less than \$1,000 nor more than \$5,000 if the board finds that the public employer named in an unfair labor practices complaint has violated:

- requirement that public employer provide name and date of hire; contact information; and employment information about employee in appropriate bargaining within designated timelines.
- right to receive full amount of remittance for deductions authorized by employees.

For any subsequent violation, the ERB is required to impose a civil penalty of not less than \$5,000 nor more than \$10,000.

Requires the ERB to consider extenuating circumstances that the employer has proven contributed to or caused the violation when determining the amount of the civil penalty.

States that an extenuating circumstance are an affirmative defense to a violation and indemnifies a public employer from any civil penalties.

Requires public employer to make the authorized deductions and to remit payment to the labor organization within a time period that aligns with a payroll processing schedule established by the employer not to exceed 30 calendar days following the date of the deduction.

Fiscal impact: Statement not yet issued

Revenue impact: Statement not yet issued

BACKGROUND:

The Public Employee Collective Bargaining Act (PECBA), ORS Chapter 243.650-243.806, recognizes the right of public employees to organize and engage in collective bargaining, and establishes a uniform process for employees to join and be represented by labor organizations. PECBA also establishes a collective bargaining process for Oregon's public employers and unions representing public employees. Employers covered by PECBA

include the State of Oregon and its political subdivisions, such as cities, counties, school districts, community colleges, public universities, public hospitals, mass transit districts, metropolitan service districts, special districts, and other public and quasi-public corporations.

Under PECBA, if a public employer has specific information about an employee in an appropriate bargaining unit, the employer is required to provide the information to the exclusive representative, in an editable digital file format agreed to by the exclusive representative. The public employer must provide the information to the exclusive representative within 10 calendar days from the date of hire for newly hired employees and every 120 calendar days for employees, who are not newly hired employees, in an appropriate bargaining unit. The information the public employer is required to provide includes: name and date of hire; contact information including cell, home and work telephone numbers, work or personal email address, and home or personal mailing address; and employment information, including the employee's job title, salary and work site location. Currently, there is no penalty if a public employer does not provide the required information about an employee to an exclusive representative in the prescribed timeframe.

House Bill 2944 permits a labor organization to file a civil action against the public employer to enforce the right to receive the information.

PECBA requires a labor organization to provide each public employer a list of the public employees who have authorized a public employer to make deductions from the public employee's salary or wages to pay dues, fees and any other assessments or authorized deductions to the labor organization. A public employer uses the list to make the authorized deductions and remit payments to the labor organization. If a labor organization provides a public employer with the list and the employer fails to make an authorized deduction and remit payment to the labor organization, the public employer is liable to the labor organization, without recourse against the employee who authorized the deduction, for the full amount that the employer failed to deduct and remit to the labor organization.

HB 2944 requires the public employer to remit payment to the labor organization within a time period that aligns with a payroll processing schedule established by the employer not to exceed 30 calendar days following the date of the deduction. The measure permits a labor organization to file a civil action against the public employer to enforce the right to receive the full amount of the remittance.

HB 2944 also requires the Employment Relations Board (ERB) to impose civil penalties against a public employer for failing to comply with the designated timelines for which a public employer must provide the required information to the labor organization and newly established timelines to remit payment of an authorized deduction to the labor organization.