

# Minority Report

## B-Engrossed

# House Bill 3789

Ordered by the Senate May 23  
Including House Amendments dated April 4 and Senate Minority  
Report Amendments dated May 23

Sponsored by nonconcurring members of the Senate Committee on Labor and Business: Senators BONHAM,  
HAYDEN

### SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure. The statement includes a measure digest written in compliance with applicable readability standards.

**Digest: The Act makes it illegal to pretend to be a union representative. It says that a union can choose its own representatives by its own rules. The Act stops a union from misrepresenting to public employees that they must join or stay in a union. Allows a person to sue if the laws are not followed. (Flesch Readability Score: 64.2).**

*[Digest: The Act makes it unlawful for a person to falsely impersonate a union representative. The Act says that the union has the sole right to decide its own representatives based on its own rules. The Act allows a union to file a lawsuit against a person who breaks the law. (Flesch Readability Score: 61.3).]*

Makes it unlawful to falsely impersonate a union representative.

Provides that a labor organization shall have, as a matter of internal governance, the sole authority to identify and designate the union representatives associated with the labor organization.

Provides a cause of action for a union representative alleging a violation of the prohibition against falsely impersonating a union representative.

**Clarifies that the provisions of this Act may not be construed to impose liability on any speech, expression or conduct protected by the United States Constitution or the Oregon Constitution.**

**Makes it unlawful for a union representative to knowingly use misrepresentation to mislead a public employee into believing that membership in a labor organization is mandatory or to interfere with the employee's right to decline or withdraw from labor organization membership. Provides a cause of action for a public employee alleging such unlawful activity.**

### A BILL FOR AN ACT

1  
2 Relating to union misrepresentation.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section:**

5 (a) **"Designated representative" has the meaning given that term in ORS 243.796.**

6 (b) **"Exclusive representative" and "labor organization" have the meanings given those**  
7 **terms in ORS 243.650.**

8 (c) **"Falsely impersonate a union representative" means to use fraud or misrepresen-**  
9 **tation to make a verbal or written communication that purports to be authorized or other-**  
10 **wise approved by a labor organization, but that has not, in fact, been so authorized or**  
11 **approved, with the intent to defraud or deceive another person into believing the communi-**  
12 **cation was authorized or approved, for the purpose of undermining, interfering with or oth-**  
13 **erwise negatively impacting the labor organization.**

14 (d) **"Fraud or misrepresentation" has the meaning given that term in ORS 677.188.**

15 (e) **"Union representative" means:**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (A) An exclusive representative.

2 (B) A designated representative.

3 (C) An employee or staff member of a labor organization.

4 (D) A member of a labor organization who serves in an elected or appointed position  
5 within the union.

6 (2) It is unlawful for any person to falsely impersonate a union representative.

7 (3) To protect public employees who are members of a labor organization from fraud or  
8 misrepresentation, including the false impersonation of a union representative, a labor or-  
9 ganization shall have, as a matter of internal governance, the sole authority to identify and  
10 designate the union representatives associated with the labor organization.

11 (4)(a) A union representative alleging a violation of this section may bring a civil action  
12 in a court of appropriate jurisdiction to obtain damages.

13 (b) In addition to and not in lieu of any other damages that may be claimed, a plaintiff  
14 shall receive statutory damages in an amount of \$6,250 per incident in any action in which  
15 the plaintiff establishes that the defendant falsely impersonated a union representative.

16 (5) This section may not be construed to impose liability on any speech, expression or  
17 conduct protected by the First Amendment to the United States Constitution, as made ap-  
18 plicable to the states through the Fourteenth Amendment to the United States Constitution,  
19 or by the Oregon Constitution.

20 **SECTION 2. (1) As used in this section:**

21 (a) "Designated representative" has the meaning given that term in ORS 243.796.

22 (b) "Exclusive representative," "labor organization" and "public employee" have the  
23 meanings given those terms in ORS 243.650.

24 (c) "Misrepresentation" means an intentional misstatement, omission or concealment of  
25 a material fact.

26 (d) "Union representative" means:

27 (A) An exclusive representative.

28 (B) A designated representative.

29 (C) An employee or staff member of a labor organization.

30 (D) A member of a labor organization who serves in an elected or appointed position  
31 within the union.

32 (2) It is unlawful for a union representative to knowingly use misrepresentation to:

33 (a) Mislead or deceive a public employee into believing that membership in a labor or-  
34 ganization is mandatory or that public employees do not have the right to decline or with-  
35 draw from labor organization membership.

36 (b) Hinder or prevent a public employee from exercising, or cause a public employee to  
37 refrain from exercising, the right to decline or withdraw from labor organization member-  
38 ship.

39 (3)(a) A public employee alleging a violation of this section may bring a civil action in a  
40 court of appropriate jurisdiction to obtain damages.

41 (b) In addition to and not in lieu of any other damages that may be claimed, a plaintiff  
42 shall receive statutory damages in an amount of \$6,250 per incident in any action in which  
43 the plaintiff establishes that the defendant engaged in conduct in violation of this section.

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