

SENATE MINORITY REPORT AMENDMENTS TO A-ENGROSSED HOUSE BILL 3789

By Nonconcurring Members of COMMITTEE ON LABOR AND BUSINESS

May 23

On page 1 of the printed A-engrossed bill, delete lines 4 through 19 and delete page 2 and insert:

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

“(a) ‘Designated representative’ has the meaning given that term in ORS 243.796.

“(b) ‘Exclusive representative’ and ‘labor organization’ have the meanings given those terms in ORS 243.650.

“(c) ‘Falsely impersonate a union representative’ means to use fraud or misrepresentation to make a verbal or written communication that purports to be authorized or otherwise approved by a labor organization, but that has not, in fact, been so authorized or approved, with the intent to defraud or deceive another person into believing the communication was authorized or approved, for the purpose of undermining, interfering with or otherwise negatively impacting the labor organization.

“(d) ‘Fraud or misrepresentation’ has the meaning given that term in ORS 677.188.

“(e) ‘Union representative’ means:

“(A) An exclusive representative.

“(B) A designated representative.

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

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

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

“(3) To protect public employees who are members of a labor organization from fraud or misrepresentation, including the false impersonation of a union representative, 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.

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

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

“(5) This section may not be construed to impose liability on any speech, expression or conduct protected by the First Amendment to the United States Constitution, as made applicable to the states through the Fourteenth Amendment to the United States Constitution, or by the Oregon Constitution.

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

“(a) ‘Designated representative’ has the meaning given that term in ORS 243.796.

“(b) ‘Exclusive representative,’ ‘labor organization’ and ‘public employee’ have the meanings given those terms in ORS 243.650.

“(c) ‘Misrepresentation’ means an intentional misstatement, omission or concealment of a material fact.

“(d) ‘Union representative’ means:

“(A) An exclusive representative.

“(B) A designated representative.

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

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

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

“(a) Mislead or deceive a public employee into believing that membership in a labor organization is mandatory or that public employees do not have the right to decline or withdraw from labor organization membership.

“(b) Hinder or prevent a public employee from exercising, or cause a public employee to refrain from exercising, the right to decline or withdraw from labor organization membership.

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

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

/s/ Daniel Bonham
Senator

/s/ Cedric Hayden
Senator