

I'm writing to you to provide a neutral position on Senate Bill 916. I'm raising these considerations as a former labor representative. I think it is admirable for our State Legislature to seek to even the playing field and support labor organizations. However, SB916 bill is flawed, and that it may create more problems than it solves.

In the last six years of my career, I have negotiated approximately fifteen collective bargaining agreements for unions. Many of these were negotiated under the creation and appearance of a credible strike threat. Many of the unions I worked for did not actually intend to support a strike; strikes are huge logistical undertakings that require careful planning, in addition to the engagement, support, and pledged participation of bargaining unit members. Effective and carefully planned strikes sometimes do not extend beyond two weeks.

For union members who participate in strike picket lines, labor organizations offer picket pay as an incentive to work the strike line and a membership benefit to temporarily alleviate the hardship of going without wages. SB916 makes no consideration for strike participation, largely because it's my understanding that our state cannot discriminate on the basis of union membership status. It stands to reason that if SB916 passes, unions would no longer have incentive for participation in labor strike lines beyond two weeks. Many unions see an increase in membership before a strike for this reason.

SB916 seeks to incentivize management negotiators to avoid long labor disputes, to avoid paying unemployment benefits en masse. But it does so at the cost of losing the discernment of union membership status, and for those benefits being extended to bargaining unit members regardless of their union membership status or active participation in the strike. Oregon Employment Department can't discriminate for UI benefits based on union activity, like participation in a picket line. Oregon's labor organizations are asking you to trade their membership benefit, and a substantial motivation for engagement, in this bill.

For public employees, it is unlawful under the Public Employee Collective Bargaining Act for employers to discriminate on the basis of union activity or union membership status. For private employees, this form of discrimination is prohibited under the National Labor Relations Act. Ostensibly, this prohibition may be found to extend to our state's administration of benefits. It could be costly and unlawful to find that our Employment Department cannot rely on union activity or membership status to provide these unemployment benefits. As such, SB916 would instead provide unemployment benefits for entire bargaining units, which is much more expensive than labor organizations paying their own members from their dues money to take active roles in resolving the dispute by participating in pressure on the employer.

Because of this, SB916 has the unforeseen consequence of prolonging active labor disputes. Nowhere in this bill does it have a mechanism for verifying participation in the active labor dispute, so one could simply stay home to observe the strike and begin collecting unemployment if the strike goes on longer than two weeks, perhaps due to lack of frontline pressure.

Every union I've worked for has had a dedicated strike fund, ranging from tens of thousands to a million dollars, normally commiserate with size. This is what members believe their dues money is for.

I have ended negotiations without everything I was bargaining for. For instance, I knew membership would not strike over gaining an improved grievance and dispute resolution process. It is a management strategy in protracted negotiations to resolve financial disagreements first to the greatest extent to take away the union's ability to engage in a strike over noneconomic items. Negotiations for strike-permitted employees are often positional, and those positions can get dug in. I learned very quickly that if you win everything you ask for, you didn't ask for enough; it isn't valuable to keep the dispute going after major interests are satisfied, even if it pertains to a mandatory subject of bargaining by which a strike could be based upon. The availability of UI benefits after two weeks may create conditions where active labor disputes are not around issues that have broad membership support, but issues at the behest of the labor organization.

I worked for Laborers' Local 483 after the end of a strike of Portland Bureau of Transportation, Parks, and Wastewater employees in 2023. It took the City of Portland a full year to implement all of the benefits within that agreement. I've also negotiated with Yamhill County, whose Human Resources Department consists of five people. Polk County's Human Resources Department, where I negotiated three contracts, is even smaller. For these Human Resources Departments to calculate UI overpayments and withholdings in addition to bargained benefits would be a true burden on both small departments in rural areas, as well as our largest, bureaucratically-siloed municipal governments.

This bill also doesn't address the state as an employer. It does nothing to address the prohibitions for public employers complying with the Public Employee Collective Bargaining Agreement, or private business compliance with the National Labor Relations Act. As one of Oregon's largest employers, the Legislature must make efforts to exclude the State of Oregon for committing an unfair labor practice as it pertains to administration of unemployment insurance. Because both the PECBA and the NLRA prohibit discrimination on the participation of, or non-participation in, union activity, it would be wise to include in this bill that for the purposes of unfair labor practice allegations within the state's jurisdiction, approval or denial of unemployment because of an active labor dispute does not create a new form of unfair labor practice or alleged differential treatment on the basis of union activity.

I am a third-generation union member. I have worked for labor organizations and received the highest wages I've ever been paid because of labor organizations. I'm not simply opposing this bill because I don't like the idea. I'm opposing this bill based on my experience, as there are several unforeseen consequences of the bill as-written, and it must undergo improvements to be a concept we should support.

Thank you for reading,
Paige Barton

