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May 8, 2025

Senator Kathleen Taylor, Chair  
Senate Committee on Labor and Business

**RE: House Bill 3789A – Worker Fraud Protection Act**

Chair Taylor, Vice Chair Bonham, and Members of the Committee:

My name is Sarah Drescher and I'm an attorney with Tedesco Law Group, a law firm that represents public sector labor unions throughout the State of Oregon. Our clients include unions representing fire fighters, police officers, school employees, employees of state agencies and local governments, and more.

Oregon's Public Employee Collective Bargaining Act—the law that provides public employees with the right to organize and join unions—contains a policy statement created by this Legislature. According to that policy statement, “this Legislative Assembly finds and declares that . . . is in the public interest to ensure that labor unions of public employees are able to effectively carry out their statutory duties” because the “people of this state have a fundamental interest in the development of harmonious and cooperative relationships between government and its employees,” and “protection by law of the right of employees to organize and negotiate collectively safeguards employees and the public from injury, avoids impairment and interruptions of necessary services, and removes sources of strife and unrest[.]” (ORS 243.656).

This legislative policy is threatened when outside entities mislead union members into dropping their union membership. Often times these deceptive tactics take the form of communications that appear to be sent from the labor union itself and falsely elude that the member will receive money in exchange for dropping their union membership. These deceptive tactics cause confusion, impair the ability of labor unions to carry out their duties, and create labor strife and unrest – threatening the very things this legislative body has declared to be in the public interest of all Oregonians.

HB 3789 protects these legislative policies and protects our public workers from deceptive tactics from outside, anti-union forces, by prohibiting the use of fraud or misrepresentation in written or verbal communications that purport to be from a labor union with the intent to undermine, interfere with, or negatively impact the labor union. Prohibiting this conduct and providing a private right of action for punishing this conduct is essential to

protecting our public workers and upholding the policies upon which our state's collective bargaining laws are based.

**There is a need for this legislation.** Multiple labor unions and employees report that fraudulent, deceptive tactics are used to induce public employees to drop their union membership. This practice is widely reported and evidenced by the testimony of union leaders during this legislative session and the misleading mailers that appear to be sent from the labor organization to its members.

**The current criminal laws are not a solution.** Oregon's criminal laws don't directly apply to this conduct. As explained in an opinion from Legislative Counsel, ORS 165.815 (criminal impersonation) only applies if the impersonation is of a particular *individual*. Impersonation of a union, as an entity, is not covered by ORS 165.815. Similarly, ORS 165.800 (identity theft) uses different legal standards that may not apply to the deceptive anti-union tactics at issue here, and—more importantly—pursuit of such violations requires *criminal prosecution*. That means the only way to pursue a violation for criminal identity theft is to rely on law enforcement officers and district attorneys to prioritize and prosecute this conduct as a crime. Our criminal justice system is spread very thin and district attorneys throughout our state are unable to pursue these claims. There is very little bandwidth in our criminal justice system to prosecute these crimes. This is precisely why we must create a mechanism for labor unions and public employees – *the ones harmed by this deceptive conduct*—to pursue the violations themselves.

**The -6 Amendments narrow the scope of claims that can be filed.** The -6 amendments narrow the scope of claims that can be brought by adding an element of intent. Under the -6 amendments, a person commits a violation if they use fraud or misrepresentation to make a communication that purports to be authorized or approved by a labor organization “*with the intent to undermine or interfere with the operations of the labor organization, or otherwise negatively impact the labor organization.*” This added requirement of “intent” will limit claims to those where the conscious objective of the individual is to undermine or interfere with the operations of the labor organization or negatively impact the labor organization.

**HB 3789 is good public policy.** HB 3789 serves an important public policy: it ensures that Oregon's public workers know exactly who is telling them to drop their union membership and permits them to discern whether such a communication is actually from their union. It also protects union representatives as a trusted sources of information. Public employees deserve transparency and accountability when deciding whether to join or drop their union membership. HB 3789 provides that transparency and accountability, in alignment with the legislative policies supporting Oregon's Public Employee Collective Bargaining Act.

Sincerely,

***Sarah K. Drescher***

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