

House Bill 2607

Sponsored by Representative SCHAUFLER (at the request of AFSCME Council 75) (Pre-session filed.)

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 **as introduced**.

Repeals expedited bargaining process in collective bargaining between public employers and employees.

A BILL FOR AN ACT

Relating to collective bargaining; amending ORS 243.702 and 243.726; and repealing ORS 243.698.

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

SECTION 1. ORS 243.698 is repealed.

SECTION 2. ORS 243.702 is amended to read:

243.702. [(1)] In the event any words or sections of a collective bargaining agreement are declared to be invalid by any court of competent jurisdiction, by ruling by the Employment Relations Board, by statute or constitutional amendment or by inability of the employer or the employees to perform to the terms of the agreement, then upon request by either party the invalid words or sections of the collective bargaining agreement shall be reopened for negotiation.

[(2) *Renegotiation of a collective bargaining agreement pursuant to this section is subject to ORS 243.698.*]

SECTION 3. ORS 243.726 is amended to read:

243.726. (1) Participation in a strike shall be unlawful for any public employee who is not included in an appropriate bargaining unit for which an exclusive representative has been certified by the Employment Relations Board or recognized by the employer; or is included in an appropriate bargaining unit that provides for resolution of a labor dispute by petition to final and binding arbitration; or when the strike is not made lawful under ORS 240.060, 240.065, 240.080, 240.123, 243.650 to 243.782, 292.055 and 341.290.

(2) It shall be lawful for a public employee who is not prohibited from striking under subsection (1) of this section and who is in the appropriate bargaining unit involved in a labor dispute to participate in a strike over mandatory subjects of bargaining provided:

(a) The requirements of ORS 243.712 and 243.722 relating to the resolution of labor disputes have been complied with in good faith;

(b) Thirty days have elapsed since the board has made public the fact finder's findings of fact and recommendations or the mediator has made public the parties' final offers;

(c) The exclusive representative has given 10 days' notice by certified mail of its intent to strike and stating the reasons for its intent to strike to the board and the public employer;

(d) The collective bargaining agreement has expired, or the labor dispute arises pursuant to a reopener provision in a collective bargaining agreement or renegotiation under ORS 243.702 [(1) or *renegotiation under ORS 243.698*]; and

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 (e) The union's strike does not include unconventional strike activity not protected under the
 2 National Labor Relations Act on June 6, 1995, and does not constitute an unfair labor practice un-
 3 der ORS 243.672 (2)(f).

4 (3)(a) Where the strike occurring or is about to occur creates a clear and present danger or
 5 threat to the health, safety or welfare of the public, the public employer concerned may petition the
 6 circuit court of the county in which the strike has taken place or is to take place for equitable relief
 7 including but not limited to appropriate injunctive relief.

8 (b) If the strike is a strike of state employees the petition shall be filed in the Circuit Court of
 9 Marion County.

10 (c) If, after hearing, the court finds that the strike creates a clear and present danger or threat
 11 to the health, safety or welfare of the public, it shall grant appropriate relief. Such relief shall in-
 12 clude an order that the labor dispute be submitted to final and binding arbitration within 10 days
 13 of the court's order pursuant to procedures in ORS 243.746.

14 (4)(a) No labor organization shall declare or authorize a strike of public employees that is or
 15 would be in violation of this section. When it is alleged in good faith by the public employer that
 16 a labor organization has declared or authorized a strike of public employees that is or would be in
 17 violation of this section, the employer may petition the board for a declaration that the strike is or
 18 would be unlawful. The board, after conducting an investigation and hearing, may make such dec-
 19 laration if it finds that such declaration or authorization of a strike is or would be unlawful.

20 (b) When a labor organization or individual disobeys an order of the appropriate circuit court
 21 issued pursuant to enforcing an order of the board involving this section and ORS 243.736, they shall
 22 be punished according to the provisions of ORS 33.015 to 33.155, except that the amount of the fine
 23 shall be at the discretion of the court.

24 (5) An unfair labor practice by a public employer shall not be a defense to a prohibited strike.
 25 The board upon the filing of an unfair labor charge alleging that a public employer has committed
 26 an unfair labor practice during or arising out of the collective bargaining procedures set forth in
 27 ORS 243.712 and 243.722, shall take immediate action on such charge and if required, petition the
 28 court of competent jurisdiction for appropriate relief or a restraining order.

29 (6) As used in this section, "danger or threat to the health, safety or welfare of the public" does
 30 not include an economic or financial inconvenience to the public or to the public employer that is
 31 normally incident to a strike by public employees.

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