

A-Engrossed
Senate Bill 5556

Ordered by the Senate June 2
Including Senate Amendments dated June 2

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Budget and Management Division, Oregon Department of Administrative Services)

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.

[Appropriates moneys from General Fund to ____ for biennial expenses.]
[Limits biennial expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by ____.]
[Limits biennial expenditures of ____ from federal funds.]

Creates fee schedule for mediation sessions provided by Employment Relations Board.
Increases fees related to unfair labor practice proceedings.
Declares emergency, effective July 1, 2011.

A BILL FOR AN ACT

1
2 Relating to state financial administration; amending ORS 240.610, 243.672, 662.425, 663.180 and
3 663.185; and declaring an emergency.

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

5 **SECTION 1.** ORS 240.610 is amended to read:

6 240.610. (1) Notwithstanding ORS 662.435, when the Employment Relations Board assigns a
7 mediator under ORS 243.712 or 662.425 to resolve a labor dispute or labor controversy between a
8 local public employer and the exclusive representative of the public employees of that employer, the
9 board may charge a fee for the mediation services provided by the board. **The local public em-**
10 **ployer and the exclusive representative shall each pay one-half of the amount of the fee to**
11 **the board.**

12 *[(2) Notwithstanding any other law, the fee charged by the board under this section shall not ex-*
13 *ceed \$1,000, and the local public employer and the exclusive representative shall each pay one-half of*
14 *the amount of the fee to the board. Notwithstanding any other law, in addition to the initial fee charged*
15 *for mediation services, the board may charge a second fee, in an amount not to exceed \$1,000, for me-*
16 *diation services performed subsequent to those services performed at one mediation session after a no-*
17 *tice of intent to strike or notice of intent to implement the employer's last offer has been given.]*

18 **(2) Notwithstanding any other law, the fee charged by the board under this section may**
19 **not exceed:**

20 **(a) \$1,000 for the first two mediation sessions;**

21 **(b) \$500 for the third mediation session;**

22 **(c) \$750 for the fourth mediation session; and**

23 **(d) \$1,000 for each additional mediation session.**

24 (3) Notwithstanding any other law, in addition to fees for mediation services, the board may

Note: For budget, see 2011-2013 Biennial Budget

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 establish fees for training in interest-based problem solving. [Such] **The** fees are not subject to the
2 provisions of subsection (2) of this section.

3 (4) Fees received by the board under this section shall be deposited to the credit of the Em-
4 ployment Relations Board Administrative Account.

5 (5) As used in this section:

6 (a) “Exclusive representative” and “labor dispute” have the meanings given those terms in ORS
7 243.650.

8 (b) “Local public employer” means any political subdivision in this state, including a city,
9 county, community college, school district, special district and a public and quasi-public corporation.

10 **SECTION 2.** ORS 243.672 is amended to read:

11 243.672. (1) It is an unfair labor practice for a public employer or its designated representative
12 to do any of the following:

13 (a) Interfere with, restrain or coerce employees in or because of the exercise of rights guaran-
14 teed in ORS 243.662.

15 (b) Dominate, interfere with or assist in the formation, existence or administration of any em-
16 ployee organization.

17 (c) Discriminate in regard to hiring, tenure or any terms or condition of employment for the
18 purpose of encouraging or discouraging membership in an employee organization. Nothing in this
19 section is intended to prohibit the entering into of a fair-share agreement between a public employer
20 and the exclusive bargaining representative of its employees. If a “fair-share” agreement has been
21 agreed to by the public employer and exclusive representative, nothing prohibits the deduction of
22 the payment-in-lieu-of-dues from the salaries or wages of the employees.

23 (d) Discharge or otherwise discriminate against an employee because the employee has signed
24 or filed an affidavit, petition or complaint or has given information or testimony under ORS 243.650
25 to 243.782.

26 (e) Refuse to bargain collectively in good faith with the exclusive representative.

27 (f) Refuse or fail to comply with any provision of ORS 243.650 to 243.782.

28 (g) Violate the provisions of any written contract with respect to employment relations including
29 an agreement to arbitrate or to accept the terms of an arbitration award, where previously the
30 parties have agreed to accept arbitration awards as final and binding upon them.

31 (h) Refuse to reduce an agreement, reached as a result of collective bargaining, to writing and
32 sign the resulting contract.

33 (2) Subject to the limitations set forth in this subsection, it is an unfair labor practice for a
34 public employee or for a labor organization or its designated representative to do any of the fol-
35 lowing:

36 (a) Interfere with, restrain or coerce any employee in or because of the exercise of any right
37 guaranteed under ORS 243.650 to 243.782.

38 (b) Refuse to bargain collectively in good faith with the public employer if the labor organization
39 is an exclusive representative.

40 (c) Refuse or fail to comply with any provision of ORS 243.650 to 243.782.

41 (d) Violate the provisions of any written contract with respect to employment relations, includ-
42 ing an agreement to arbitrate or to accept the terms of an arbitration award, where previously the
43 parties have agreed to accept arbitration awards as final and binding upon them.

44 (e) Refuse to reduce an agreement, reached as a result of collective bargaining, to writing and
45 sign the resulting contract.

1 (f) For any labor organization to engage in unconventional strike activity not protected for pri-
 2 vate sector employees under the National Labor Relations Act on June 6, 1995. This provision ap-
 3 plies to sitdown, slowdown, rolling, intermittent or on-and-off again strikes.

4 (g) For a labor organization or its agents to picket or cause, induce, or encourage to be
 5 picketed, or threaten to engage in such activity, at the residence or business premises of any indi-
 6 vidual who is a member of the governing body of a public employer, with respect to a dispute over
 7 a collective bargaining agreement or negotiations over employment relations, if an objective or ef-
 8 fect of such picketing is to induce another person to cease doing business with the governing body
 9 member's business or to cease handling, transporting or dealing in goods or services produced at the
 10 governing body's business. For purposes of this paragraph, a member of the Legislative Assembly is
 11 a member of the governing body of a public employer when the collective bargaining negotiation or
 12 dispute is between the State of Oregon and a labor organization. The Governor and other statewide
 13 elected officials are not considered members of a governing body for purposes of this paragraph.
 14 Nothing in this [*unfair labor practice provision shall*] **paragraph may** be interpreted or applied in
 15 a manner that violates the right of free speech and assembly as protected by the Constitution of the
 16 United States or the Constitution of the State of Oregon.

17 (3) An injured party may file a written complaint with the Employment Relations Board not
 18 later than 180 days following the occurrence of an unfair labor practice. For each unfair labor
 19 practice complaint filed, a fee of [~~\$250~~] **\$300** is imposed. For each answer to an unfair labor practice
 20 complaint filed with the board, a fee of [~~\$250~~] **\$300** is imposed. The board may allow any other per-
 21 son to intervene in the proceeding and to present testimony. A person allowed to intervene shall
 22 pay a fee of [~~\$250~~] **\$300** to the board. The board may, in its discretion, order fee reimbursement to
 23 the prevailing party in any case in which the complaint or answer is found to have been frivolous
 24 or filed in bad faith. The board shall deposit fees received under this section to the credit of the
 25 Employment Relations Board Administrative Account.

26 **SECTION 3.** ORS 662.425 is amended to read:

27 662.425. (1) When any party to a labor controversy notifies the State Conciliation Service that
 28 a labor controversy exists or is imminent, the conciliator, if the conciliator determines that a labor
 29 controversy exists or is imminent, shall immediately set a time and place for a mediation
 30 [*conference*] **session** and invite the parties to attend to participate in mediation of their differences.
 31 **The State Conciliation Service shall charge a fee in the amount described in ORS 240.610 for**
 32 **each mediation session conducted under this section. Each party to the mediation shall pay**
 33 **one-half of the applicable fee.**

34 (2) When it comes to the attention of the conciliator that a labor controversy exists or is im-
 35 minent, the conciliator may offer mediation services if the conciliator deems it to be in the public
 36 interest.

37 (3) At the request of the Governor, the Employment Relations Board shall instruct the
 38 conciliator to investigate any existing or imminent labor dispute, or controversy in the public sector
 39 and report the facts of the dispute and the matters in issue to the Governor.

40 **SECTION 4.** ORS 663.180 is amended to read:

41 663.180. (1) A person may file with the Employment Relations Board a charge that another
 42 person has engaged in or is engaging in an unfair labor practice. The person filing the charge shall
 43 pay a fee of [~~\$250~~] **\$300** to the board. The board shall deposit fees received under this section to the
 44 credit of the Employment Relations Board Administrative Account.

45 (2) If it is charged that a person has engaged in or is engaging in an unfair labor practice, the

1 board shall cause an investigation to be made. If, on the basis of this investigation, it appears to the
2 board that an issue of fact or law exists as to a violation of ORS 663.120 to 663.165, the board shall
3 issue a complaint. The complaint shall contain a notice of hearing before the board, at a place fixed
4 in the notice, not less than five days after the serving of the complaint.

5 (3) Notwithstanding subsection (2) of this section, the board may not issue a complaint based
6 upon an unfair labor practice occurring more than six months before the filing of the charge with
7 the board, and the service of a copy of the charge upon the person against whom the charge is made,
8 unless the person aggrieved by the unfair labor practice was prevented from filing the charge by
9 reason of service in the Armed Forces of the United States, in which event the six-month period
10 shall be computed from the day of discharge.

11 **SECTION 5.** ORS 663.185 is amended to read:

12 663.185. (1) The Employment Relations Board may amend a complaint at any time before the
13 issuance of an order based on the complaint.

14 (2) The person so complained of may file an answer to the original or amended complaint and
15 appear in person or otherwise and give testimony at the place and time fixed in the complaint. The
16 person filing the answer shall pay a fee of [~~\$250~~] **\$300** to the board. The board may allow any other
17 person to intervene in the proceeding and to present testimony. A person allowed to intervene shall
18 pay a fee of [~~\$250~~] **\$300** to the board.

19 (3) As far as practicable, the board shall conduct the proceeding in accordance with the rules
20 of evidence applicable to civil actions.

21 (4) The board shall deposit fees received under this section to the credit of the Employment
22 Relations Board Administrative Account.

23 **SECTION 6. This 2011 Act being necessary for the immediate preservation of the public**
24 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
25 **July 1, 2011.**