

# Senate Bill 747

Sponsored by Senator SHIELDS (at the request of Jason and Greg Kafoury)

## 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**.

Prohibits certain cities from entering into collective bargaining agreement that provides for binding arbitration of issues related to disciplining or termination of city police officer for misconduct involving unlawful use of force.

## A BILL FOR AN ACT

1  
2 Relating to arbitration of issues related to unlawful use of force by city police officers; creating new  
3 provisions; and amending ORS 243.706.

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

5 **SECTION 1.** ORS 243.706 is amended to read:

6 243.706. (1) A public employer may enter into a written agreement with the exclusive represen-  
7 tative of an appropriate bargaining unit setting forth a grievance procedure culminating in binding  
8 arbitration or any other dispute resolution process agreed to by the parties. As a condition of  
9 enforceability, any arbitration award that orders the reinstatement of a public employee or other-  
10 wise relieves the public employee of responsibility for misconduct shall comply with public policy  
11 requirements as clearly defined in statutes or judicial decisions including but not limited to policies  
12 respecting sexual harassment or sexual misconduct, unjustified and egregious use of physical or  
13 deadly force and serious criminal misconduct, related to work. In addition, with respect to claims  
14 that a grievant should be reinstated or otherwise relieved of responsibility for misconduct based  
15 upon the public employer's alleged previous differential treatment of employees for the same or  
16 similar conduct, the arbitration award must conform to the following principles:

17 (a) Some misconduct is so egregious that no employee can reasonably rely on past treatment for  
18 similar offenses as a justification or defense to discharge or other discipline.

19 (b) Public managers have a right to change disciplinary policies at any time, notwithstanding  
20 prior practices, if such managers give reasonable advance notice to affected employees and the  
21 change does not otherwise violate a collective bargaining agreement.

22 (2) In addition to subsection (1) of this section, a public employer may enter into a written  
23 agreement with the exclusive representative of its employees providing that a labor dispute over  
24 conditions and terms of a contract may be resolved through binding arbitration.

25 **(3) Notwithstanding subsections (1) and (2) of this section, a public employer that is a city**  
26 **with a population of more than 300,000 may not enter into a collective bargaining agreement**  
27 **with the exclusive representative of the appropriate bargaining unit representing the police**  
28 **officers of the city that sets forth a grievance procedure that provides for binding arbitration**  
29 **of issues related to the disciplining or the termination of a police officer for misconduct in-**  
30 **volving the unlawful use of force.**

31 [(3)] (4) In an arbitration proceeding under this section, the arbitrators, or a majority of the

**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 arbitrators, may:

2 (a) Issue subpoenas on their own motion or at the request of a party to the proceeding to:

3 (A) Compel the attendance of a witness properly served by either party; and

4 (B) Require from either party the production of books, papers and documents the arbitrators find  
5 are relevant to the proceeding;

6 (b) Administer oaths or affirmations to witnesses; and

7 (c) Adjourn a hearing from day to day, or for a longer time, and from place to place.

8 [(4)] (5) The arbitrators shall promptly provide a copy of a subpoena issued under this section  
9 to each party to the arbitration proceeding.

10 [(5)] (6) The arbitrators issuing a subpoena under this section may rule on objections to the is-  
11 suance of the subpoena.

12 [(6)] (7) If a person fails to comply with a subpoena issued under this section or if a witness  
13 refuses to testify on a matter on which the witness may be lawfully questioned, the party who re-  
14 quested the subpoena or seeks the testimony may apply to the arbitrators for an order authorizing  
15 the party to apply to the circuit court of any county to enforce the subpoena or compel the testi-  
16 mony. On the application of the attorney of record for the party or on the application of the  
17 arbitrators, or a majority of the arbitrators, the court may require the person or witness to show  
18 cause why the person or witness should not be punished for contempt of court to the same extent  
19 and purpose as if the proceedings were pending before the court.

20 [(7)] (8) Witnesses appearing pursuant to subpoena, other than parties or officers or employees  
21 of the public employer, shall receive fees and mileage as prescribed by law for witnesses in ORS  
22 44.415 (2).

23 **SECTION 2. The amendments to ORS 243.706 by section 1 of this 2013 Act apply to col-**  
24 **lective bargaining agreements entered into on or after the effective date of this 2013 Act.**

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