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TESTIMONY OPPOSING HB 2544

For nearly two decades the Public Employee Collective Bargaining Act has provided public employers and labor organizations representing public employees an efficient mechanism to engage in bargaining over changes in mandatory subjects while a collective bargaining agreement is in place. Typically, the need to bargain mid-term arises because of significant, unanticipated changes in financial circumstances, legal rulings or other unanticipated circumstances in mandatory subjects of bargaining that create urgent need to make a change. Under current law (ORS 243.698), if no agreement is reached following the maximum bargaining period of 90 days, the public employer may implement the needed change.

House Bill 2544 would turn the current process, which works, into one that does not by requiring unresolved mid-term bargaining disputes to be submitted to mandatory mediation and binding arbitration if an agreement could not be reached within 90 days. These additional requirements are burdensome, unnecessary and undermine the concept of good faith collective bargaining between the parties on which the PECBA is based.

Current expedited bargaining procedures provide a balanced mechanism to efficiently address employment relations issues that arise during the term on an existing collective bargaining agreement. Adding mediation and interest arbitration components would unreasonably extend bargaining timeframes, hamstringing public employers and potentially force them to choose between compliance with new regulations and compliance with the collective bargaining requirements. In the meantime, there is no solution to the problem. The inability to quickly address an economic shortfall in a timely manner, with no guaranteed timeframe for a decision to be made, would stifle creative collaboration and problem solving and delay important operational and programmatic decisions indefinitely.

This legislation is a solution in search of a problem. Matters subject to the existing expedited bargain process are, by definition, mandatory subjects of bargaining. As such, any terms arising out of the interim bargain are subject to renegotiation in the next round of regular bargaining or during negotiations for any successor Agreement.

While binding arbitration has a role where strike-prohibited public safety services are concerned, in reality and practice, binding arbitration is the antithesis of true collective bargaining. It reduces or

eliminates local control of operational and budget decisions by placing the final decision-making authority in the hands of an arbitrator. As a practical matter, with the prospect of binding arbitration looming, parties on both sides of the table approach negotiations differently. Bargaining becomes much more positional. Proposals and counter-proposals are measured not by "What will it take to get a deal?", but by "What is an arbitrator likely to uphold?" and sometimes, "What else might we get an arbitrator to award as long as we're going there?" Human energy and other resources that would otherwise be focused on problem solving are diverted to the process of litigation. In short, it is good for lawyers and bad for labor-management relations.

I urge the Committee and each Legislator to oppose House Bill 2544. Thank you.