

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2544**

1 On page 1 of the printed bill, line 2, after the semicolon insert “creating  
2 new provisions; and”.

3 Delete lines 5 through 30.

4 Delete pages 2 and 3 and insert:

5 **“SECTION 1. ORS 243.698 is amended to read:**

6 “243.698. (1) When the employer is obligated to bargain over employment  
7 relations during the term of a collective bargaining agreement and the ex-  
8 clusive representative demands to bargain, the bargaining may not, without  
9 the consent of both parties and provided the parties have negotiated in good  
10 faith, continue past 90 calendar days after the date the notification specified  
11 in subsection (2) of this section is received.

12 “(2) The employer shall notify the exclusive representative in writing of  
13 anticipated changes that impose a duty to bargain.

14 “(3) Within 14 calendar days after the employer’s notification of antic-  
15 ipated changes specified in subsection (2) of this section is sent, the exclusive  
16 representative may file a demand to bargain. If a demand to bargain is not  
17 filed within 14 days of the notice, the exclusive representative waives its  
18 right to bargain over the change or the impact of the change identified in  
19 the notice.

20 “(4) The expedited bargaining process shall cease 90 calendar days after  
21 the written notice described in subsection (2) of this section is sent[, *and the*  
22 *employer may implement the proposed changes without further obligations to*

1 *bargain*]. At any time during the 90-day period, the parties jointly may agree  
2 to mediation, but that mediation [*shall*] **may** not continue past the 90-day  
3 period from the date the notification specified in subsection (2) of this sec-  
4 tion is sent. Neither party may seek binding arbitration during the 90-day  
5 period.

6 **“(5) If the parties fail to reach an agreement through bargaining  
7 or mediation, upon expiration of the 90-day period:**

8 **“(a) The matter shall be submitted to the State Conciliation Service  
9 for mediation as provided in ORS 662.405 to 662.455 for a period of up  
10 to 15 days from the date of the first mediation session.**

11 **“(b) If the parties fail to reach an agreement through the mediation  
12 required by paragraph (a) of this subsection, the matter shall be sub-  
13 mitted to the Employment Relations Board for binding arbitration as  
14 provided in ORS 243.742 and 243.746.**

15 **“(c) The employees in the bargaining unit subject to the binding  
16 arbitration may not strike.**

17 **“SECTION 2.** ORS 243.698, as amended by section 1 of this 2015 Act, is  
18 amended to read:

19 “243.698. (1) When the employer is obligated to bargain over employment  
20 relations during the term of a collective bargaining agreement and the ex-  
21 clusive representative demands to bargain, the bargaining may not, without  
22 the consent of both parties and provided the parties have negotiated in good  
23 faith, continue past 90 calendar days after the date the notification specified  
24 in subsection (2) of this section is received.

25 **“(2) The employer shall notify the exclusive representative in writing of  
26 anticipated changes that impose a duty to bargain.**

27 **“(3) Within 14 calendar days after the employer’s notification of antic-  
28 ipated changes specified in subsection (2) of this section is sent, the exclusive  
29 representative may file a demand to bargain. If a demand to bargain is not  
30 filed within 14 days of the notice, the exclusive representative waives its**

1 right to bargain over the change or the impact of the change identified in  
2 the notice.

3 “(4) The expedited bargaining process shall cease 90 calendar days after  
4 the written notice described in subsection (2) of this section is sent, **and the**  
5 **employer may implement the proposed changes without further obli-**  
6 **gations to bargain.** At any time during the 90-day period, the parties jointly  
7 may agree to mediation, but that mediation may not continue past the 90-day  
8 period from the date the notification specified in subsection (2) of this sec-  
9 tion is sent. Neither party may seek binding arbitration during the 90-day  
10 period.

11 “[5] *If the parties fail to reach an agreement through bargaining or medi-*  
12 *ation, upon expiration of the 90-day period:]*

13 “[a] *The matter shall be submitted to the State Conciliation Service for*  
14 *mediation as provided in ORS 662.405 to 662.455 for a period of up to 15 days*  
15 *from the date of the first mediation session.]*

16 “[b] *If the parties fail to reach an agreement through the mediation re-*  
17 *quired by paragraph (a) of this subsection, the matter shall be submitted to the*  
18 *Employment Relations Board for binding arbitration as provided in ORS*  
19 *243.742 and 243.746.]*

20 “[c] *The employees in the bargaining unit subject to the binding arbi-*  
21 *tration may not strike.]*

22 “**SECTION 3.** ORS 243.742 is amended to read:

23 “243.742. (1) It is the public policy of the State of Oregon that where the  
24 right of employees to strike is by law prohibited, it is requisite to the high  
25 morale of such employees and the efficient operation of such departments to  
26 afford an alternate, expeditious, effective and binding procedure for the re-  
27 solution of labor disputes and to that end the provisions of ORS 240.060,  
28 240.065, 240.080, 240.123, 243.650 to 243.782, 292.055 and 341.290, providing for  
29 compulsory arbitration, shall be liberally construed.

30 “(2) When the procedures set forth in ORS **243.698**, 243.712 and 243.722,

1 relating to mediation of a labor dispute, have not culminated in a signed  
2 agreement between the parties who are prohibited from striking, the public  
3 employer and exclusive representative of its employees shall include with the  
4 final offer filed with the mediator a petition to the Employment Relations  
5 Board in writing which initiates binding arbitration for bargaining units  
6 with employees referred to in ORS 243.736 (1). Arbitration shall be scheduled  
7 by mutual agreement not earlier than 30 days following the submission of  
8 the final offer packages to the mediator. Arbitration shall be scheduled in  
9 accordance with the procedures prescribed in ORS 243.746.

10 **“SECTION 4.** ORS 243.742, as amended by section 3 of this 2015 Act, is  
11 amended to read:

12 “243.742. (1) It is the public policy of the State of Oregon that where the  
13 right of employees to strike is by law prohibited, it is requisite to the high  
14 morale of such employees and the efficient operation of such departments to  
15 afford an alternate, expeditious, effective and binding procedure for the re-  
16 solution of labor disputes and to that end the provisions of ORS 240.060,  
17 240.065, 240.080, 240.123, 243.650 to 243.782, 292.055 and 341.290, providing for  
18 compulsory arbitration, shall be liberally construed.

19 “(2) When the procedures set forth in ORS [243.698,] 243.712 and 243.722,  
20 relating to mediation of a labor dispute, have not culminated in a signed  
21 agreement between the parties who are prohibited from striking, the public  
22 employer and exclusive representative of its employees shall include with the  
23 final offer filed with the mediator a petition to the Employment Relations  
24 Board in writing which initiates binding arbitration for bargaining units  
25 with employees referred to in ORS 243.736 (1). Arbitration shall be scheduled  
26 by mutual agreement not earlier than 30 days following the submission of  
27 the final offer packages to the mediator. Arbitration shall be scheduled in  
28 accordance with the procedures prescribed in ORS 243.746.

29 **“SECTION 5.** ORS 243.746 is amended to read:

30 “243.746. (1) In carrying out the arbitration procedures authorized in ORS

1 **243.698**, 243.712 (2)(e), 243.726 (3)(c) and 243.742, the public employer and the  
2 exclusive representative may select their own arbitrator.

3 “(2) Where the parties have not selected their own arbitrator within five  
4 days after notification by the Employment Relations Board that arbitration  
5 is to be initiated, the board shall submit to the parties a list of seven qual-  
6 ified, disinterested, unbiased persons. A list of Oregon interest arbitrations  
7 and fact-findings for which each person has issued an award shall be in-  
8 cluded. Each party shall alternately strike three names from the list. The  
9 order of striking shall be determined by lot. The remaining individual shall  
10 be designated the ‘arbitrator’:

11 “(a) When the parties have not designated the arbitrator and notified the  
12 board of their choice within five days after receipt of the list, the board shall  
13 appoint the arbitrator from the list. However, if one of the parties strikes  
14 the names as prescribed in this subsection and the other party fails to do so,  
15 the board shall appoint the arbitrator only from the names remaining on the  
16 list.

17 “(b) The concerns regarding the bias and qualifications of the person  
18 designated by lot or by appointment may be challenged by a petition filed  
19 directly with the board. A hearing shall be held by the board within 10 days  
20 of filing of the petition and the board shall issue a final and binding decision  
21 regarding the person’s neutrality within 10 days of the hearing.

22 “(3) The arbitrator shall establish dates and places of hearings. Upon the  
23 request of either party or the arbitrator, the board shall issue subpoenas.  
24 Not less than 14 calendar days prior to the date of the hearing, each party  
25 shall submit to the other party a written last best offer package on all un-  
26 resolved mandatory subjects, and neither party may change the last best of-  
27 fer package unless pursuant to stipulation of the parties or as otherwise  
28 provided in this subsection. The date set for the hearing may thereafter be  
29 changed only for compelling reasons or by mutual consent of the parties. If  
30 either party provides notice of a change in its position within 24 hours of

1 the 14-day deadline, the other party will be allowed an additional 24 hours  
2 to modify its position. The arbitrator may administer oaths and shall afford  
3 all parties full opportunity to examine and cross-examine all witnesses and  
4 to present any evidence pertinent to the dispute.

5 “(4) Where there is no agreement between the parties, or where there is  
6 an agreement but the parties have begun negotiations or discussions looking  
7 to a new agreement or amendment of the existing agreement, unresolved  
8 mandatory subjects submitted to the arbitrator in the parties’ last best offer  
9 packages shall be decided by the arbitrator. Arbitrators shall base their  
10 findings and opinions on these criteria giving first priority to paragraph (a)  
11 of this subsection and secondary priority to paragraphs (b) to (h) of this  
12 subsection as follows:

13 “(a) The interest and welfare of the public.

14 “(b) The reasonable financial ability of the unit of government to meet  
15 the costs of the proposed contract giving due consideration and weight to the  
16 other services, provided by, and other priorities of, the unit of government  
17 as determined by the governing body. A reasonable operating reserve against  
18 future contingencies, which does not include funds in contemplation of  
19 settlement of the labor dispute, shall not be considered as available toward  
20 a settlement.

21 “(c) The ability of the unit of government to attract and retain qualified  
22 personnel at the wage and benefit levels provided.

23 “(d) The overall compensation presently received by the employees, in-  
24 cluding direct wage compensation, vacations, holidays and other paid ex-  
25 cused time, pensions, insurance, benefits, and all other direct or indirect  
26 monetary benefits received.

27 “(e) Comparison of the overall compensation of other employees perform-  
28 ing similar services with the same or other employees in comparable com-  
29 munities. As used in this paragraph, ‘comparable’ is limited to communities  
30 of the same or nearest population range within Oregon. Notwithstanding the

1 provisions of this paragraph, the following additional definitions of ‘comparable’  
2 apply in the situations described as follows:

3 “(A) For any city with a population of more than 325,000, ‘comparable’  
4 includes comparison to out-of-state cities of the same or similar size;

5 “(B) For counties with a population of more than 400,000, ‘comparable’  
6 includes comparison to out-of-state counties of the same or similar size;

7 “(C) Except as otherwise provided in subparagraph (D) of this paragraph,  
8 for the State of Oregon, ‘comparable’ includes comparison to other states;  
9 and

10 “(D) For the Department of State Police troopers, ‘comparable’ includes  
11 the base pay for city police officers employed by the five most populous cities  
12 in this state.

13 “(f) The CPI-All Cities Index, commonly known as the cost of living.

14 “(g) The stipulations of the parties.

15 “(h) Such other factors, consistent with paragraphs (a) to (g) of this sub-  
16 section as are traditionally taken into consideration in the determination of  
17 wages, hours, and other terms and conditions of employment. However, the  
18 arbitrator shall not use such other factors, if in the judgment of the  
19 arbitrator, the factors in paragraphs (a) to (g) of this subsection provide  
20 sufficient evidence for an award.

21 “(5) Not more than 30 days after the conclusion of the hearings or such  
22 further additional periods to which the parties may agree, the arbitrator  
23 shall select only one of the last best offer packages submitted by the parties  
24 and shall promulgate written findings along with an opinion and order. The  
25 opinion and order shall be served on the parties and the board. Service may  
26 be personal or by registered or certified mail. The findings, opinions and  
27 order shall be based on the criteria prescribed in subsection (4) of this sec-  
28 tion.

29 “(6) The cost of arbitration shall be borne equally by the parties involved  
30 in the dispute.

1       **“SECTION 6.** ORS 243.746, as amended by section 5 of this 2015 Act, is  
2 amended to read: 243.746. (1) In carrying out the arbitration procedures au-  
3 thorized in ORS [243.698,] 243.712 (2)(e), 243.726 (3)(c) and 243.742, the public  
4 employer and the exclusive representative may select their own arbitrator.

5       “(2) Where the parties have not selected their own arbitrator within five  
6 days after notification by the Employment Relations Board that arbitration  
7 is to be initiated, the board shall submit to the parties a list of seven qual-  
8 ified, disinterested, unbiased persons. A list of Oregon interest arbitrations  
9 and fact-findings for which each person has issued an award shall be in-  
10 cluded. Each party shall alternately strike three names from the list. The  
11 order of striking shall be determined by lot. The remaining individual shall  
12 be designated the ‘arbitrator’:

13       “(a) When the parties have not designated the arbitrator and notified the  
14 board of their choice within five days after receipt of the list, the board shall  
15 appoint the arbitrator from the list. However, if one of the parties strikes  
16 the names as prescribed in this subsection and the other party fails to do so,  
17 the board shall appoint the arbitrator only from the names remaining on the  
18 list.

19       “(b) The concerns regarding the bias and qualifications of the person  
20 designated by lot or by appointment may be challenged by a petition filed  
21 directly with the board. A hearing shall be held by the board within 10 days  
22 of filing of the petition and the board shall issue a final and binding decision  
23 regarding the person’s neutrality within 10 days of the hearing.

24       “(3) The arbitrator shall establish dates and places of hearings. Upon the  
25 request of either party or the arbitrator, the board shall issue subpoenas.  
26 Not less than 14 calendar days prior to the date of the hearing, each party  
27 shall submit to the other party a written last best offer package on all un-  
28 resolved mandatory subjects, and neither party may change the last best of-  
29 fer package unless pursuant to stipulation of the parties or as otherwise  
30 provided in this subsection. The date set for the hearing may thereafter be



1 changed only for compelling reasons or by mutual consent of the parties. If  
2 either party provides notice of a change in its position within 24 hours of  
3 the 14-day deadline, the other party will be allowed an additional 24 hours  
4 to modify its position. The arbitrator may administer oaths and shall afford  
5 all parties full opportunity to examine and cross-examine all witnesses and  
6 to present any evidence pertinent to the dispute.

7 “(4) Where there is no agreement between the parties, or where there is  
8 an agreement but the parties have begun negotiations or discussions looking  
9 to a new agreement or amendment of the existing agreement, unresolved  
10 mandatory subjects submitted to the arbitrator in the parties’ last best offer  
11 packages shall be decided by the arbitrator. Arbitrators shall base their  
12 findings and opinions on these criteria giving first priority to paragraph (a)  
13 of this subsection and secondary priority to paragraphs (b) to (h) of this  
14 subsection as follows:

15 “(a) The interest and welfare of the public.

16 “(b) The reasonable financial ability of the unit of government to meet  
17 the costs of the proposed contract giving due consideration and weight to the  
18 other services, provided by, and other priorities of, the unit of government  
19 as determined by the governing body. A reasonable operating reserve against  
20 future contingencies, which does not include funds in contemplation of  
21 settlement of the labor dispute, shall not be considered as available toward  
22 a settlement.

23 “(c) The ability of the unit of government to attract and retain qualified  
24 personnel at the wage and benefit levels provided.

25 “(d) The overall compensation presently received by the employees, in-  
26 cluding direct wage compensation, vacations, holidays and other paid ex-  
27 cused time, pensions, insurance, benefits, and all other direct or indirect  
28 monetary benefits received.

29 “(e) Comparison of the overall compensation of other employees perform-  
30 ing similar services with the same or other employees in comparable com-

1 munities. As used in this paragraph, ‘comparable’ is limited to communities  
2 of the same or nearest population range within Oregon. Notwithstanding the  
3 provisions of this paragraph, the following additional definitions of ‘comparable’  
4 apply in the situations described as follows:

5 “(A) For any city with a population of more than 325,000, ‘comparable’  
6 includes comparison to out-of-state cities of the same or similar size;

7 “(B) For counties with a population of more than 400,000, ‘comparable’  
8 includes comparison to out-of-state counties of the same or similar size;

9 “(C) Except as otherwise provided in subparagraph (D) of this paragraph,  
10 for the State of Oregon, ‘comparable’ includes comparison to other states;  
11 and

12 “(D) For the Department of State Police troopers, ‘comparable’ includes  
13 the base pay for city police officers employed by the five most populous cities  
14 in this state.

15 “(f) The CPI-All Cities Index, commonly known as the cost of living.

16 “(g) The stipulations of the parties.

17 “(h) Such other factors, consistent with paragraphs (a) to (g) of this sub-  
18 section as are traditionally taken into consideration in the determination of  
19 wages, hours, and other terms and conditions of employment. However, the  
20 arbitrator shall not use such other factors, if in the judgment of the  
21 arbitrator, the factors in paragraphs (a) to (g) of this subsection provide  
22 sufficient evidence for an award.

23 “(5) Not more than 30 days after the conclusion of the hearings or such  
24 further additional periods to which the parties may agree, the arbitrator  
25 shall select only one of the last best offer packages submitted by the parties  
26 and shall promulgate written findings along with an opinion and order. The  
27 opinion and order shall be served on the parties and the board. Service may  
28 be personal or by registered or certified mail. The findings, opinions and  
29 order shall be based on the criteria prescribed in subsection (4) of this sec-  
30 tion.

1       “(6) The cost of arbitration shall be borne equally by the parties involved  
2 in the dispute.

3       “**SECTION 7. The amendments to ORS 243.698, 243.742 and 243.746**  
4 **by sections 2, 4 and 6 of this 2015 Act become operative on January 1,**  
5 **2020.”.**

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