Senate Bill 437

Sponsored by Senator FREDERICK (Presession 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.

Modifies provisions relating to arbitration award that orders reinstatement of public employee or otherwise relieves public employee of responsibility for misconduct.

A BILL FOR AN ACT

Relating to arbitration awards; amending ORS 243.706.

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

SECTION 1. ORS 243.706 is amended to read:

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

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

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

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

(3) In an arbitration proceeding under this section, the arbitrators, or a majority of the arbitrators, may:

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

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

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

(b) Administer oaths or affirmations to witnesses; 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.

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

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

(5) The arbitrators issuing a subpoena under this section may rule on objections to the issuance of the subpoena.

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

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