

House Bill 2866

Sponsored by COMMITTEE ON BUSINESS AND LABOR

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**.

Eliminates expedited process for collective bargaining between public employer and certain employees.

A BILL FOR AN ACT

1
2 Relating to expedited process for public sector collective bargaining; amending ORS 243.702 and
3 243.726; and repealing ORS 243.698.

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

5 **SECTION 1. ORS 243.698 is repealed.**

6 **SECTION 2.** ORS 243.702 is amended to read:

7 243.702. [(1)] In the event any words or sections of a collective bargaining agreement are de-
8 clared to be invalid by any court of competent jurisdiction, by ruling by the Employment Relations
9 Board, by statute or constitutional amendment or by inability of the employer or the employees to
10 perform to the terms of the agreement, then upon request by either party the invalid words or
11 sections of the collective bargaining agreement shall be reopened for negotiation.

12 [(2) *Renegotiation of a collective bargaining agreement pursuant to this section is subject to ORS*
13 *243.698.*]

14 **SECTION 3.** ORS 243.726 is amended to read:

15 243.726. (1) Participation in a strike shall be unlawful for any public employee who is not in-
16 cluded in an appropriate bargaining unit for which an exclusive representative has been certified
17 by the Employment Relations Board or recognized by the employer; or is included in an appropriate
18 bargaining unit that provides for resolution of a labor dispute by petition to final and binding arbi-
19 tration; or when the strike is not made lawful under ORS 240.060, 240.065, 240.080, 240.123, 243.650
20 to 243.782, 292.055 and 341.290.

21 (2) It shall be lawful for a public employee who is not prohibited from striking under subsection
22 (1) of this section and who is in the appropriate bargaining unit involved in a labor dispute to par-
23 ticipate in a strike over mandatory subjects of bargaining provided:

24 (a) The requirements of ORS 243.712 and 243.722 relating to the resolution of labor disputes
25 have been complied with in good faith;

26 (b) Thirty days have elapsed since the board has made public the fact finder's findings of fact
27 and recommendations or the mediator has made public the parties' final offers;

28 (c) The exclusive representative has given 10 days' notice by certified mail of its intent to strike
29 and stating the reasons for its intent to strike to the board and the public employer;

30 (d) The collective bargaining agreement has expired, or the labor dispute arises pursuant to a
31 reopener provision in a collective bargaining agreement or renegotiation under ORS 243.702 [(1) or

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 *renegotiation under ORS 243.698*]; and

2 (e) The union’s strike does not include unconventional strike activity not protected under the
 3 National Labor Relations Act on June 6, 1995, and does not constitute an unfair labor practice un-
 4 der ORS 243.672 (2)(f).

5 (3)(a) Where the strike occurring or is about to occur creates a clear and present danger or
 6 threat to the health, safety or welfare of the public, the public employer concerned may petition the
 7 circuit court of the county in which the strike has taken place or is to take place for equitable relief
 8 including but not limited to appropriate injunctive relief.

9 (b) If the strike is a strike of state employees the petition shall be filed in the Circuit Court of
 10 Marion County.

11 (c) If, after hearing, the court finds that the strike creates a clear and present danger or threat
 12 to the health, safety or welfare of the public, it shall grant appropriate relief. Such relief shall in-
 13 clude an order that the labor dispute be submitted to final and binding arbitration within 10 days
 14 of the court’s order pursuant to procedures in ORS 243.746.

15 (4)(a) No labor organization shall declare or authorize a strike of public employees that is or
 16 would be in violation of this section. When it is alleged in good faith by the public employer that
 17 a labor organization has declared or authorized a strike of public employees that is or would be in
 18 violation of this section, the employer may petition the board for a declaration that the strike is or
 19 would be unlawful. The board, after conducting an investigation and hearing, may make such dec-
 20 laration if it finds that such declaration or authorization of a strike is or would be unlawful.

21 (b) When a labor organization or individual disobeys an order of the appropriate circuit court
 22 issued pursuant to enforcing an order of the board involving this section and ORS 243.736, they shall
 23 be punished according to the provisions of ORS 33.015 to 33.155, except that the amount of the fine
 24 shall be at the discretion of the court.

25 (5) An unfair labor practice by a public employer shall not be a defense to a prohibited strike.
 26 The board upon the filing of an unfair labor charge alleging that a public employer has committed
 27 an unfair labor practice during or arising out of the collective bargaining procedures set forth in
 28 ORS 243.712 and 243.722, shall take immediate action on such charge and if required, petition the
 29 court of competent jurisdiction for appropriate relief or a restraining order.

30 (6) As used in this section, “danger or threat to the health, safety or welfare of the public” does
 31 not include an economic or financial inconvenience to the public or to the public employer that is
 32 normally incident to a strike by public employees.

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