

Senate Bill 7

Sponsored by Senator GORSEK

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes the law so that transit workers can strike. (Flesch Readability Score: 87.9).

Repeals the provision of law that prohibits transit workers from striking.

A BILL FOR AN ACT

Relating to strikes by transit workers; amending ORS 243.726, 243.742 and 243.752; and repealing ORS 243.738.

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

SECTION 1. ORS 243.738 is repealed.

SECTION 2. ORS 243.726 is amended to read:

243.726. (1) Participation in a strike shall be unlawful for any public employee who is not included in an appropriate bargaining unit for which an exclusive representative has been certified by the Employment Relations Board or recognized by the employer; or is included in an appropriate bargaining unit that provides for resolution of a labor dispute by petition to final and binding arbitration; or when the strike is not made lawful under ORS 240.060, 240.065, 240.080, 240.123, 243.650 to 243.809 and 341.290.

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

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

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

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

(d) The collective bargaining agreement has expired, or the labor dispute arises pursuant to a reopener provision in a collective bargaining agreement or renegotiation under ORS 243.702 (1) or renegotiation under ORS 243.698; and

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

(3)(a) Where the strike occurring or is about to occur creates a clear and present danger or threat to the health, safety or welfare of the public, the public employer concerned may petition the circuit court of the county in which the strike has taken place or is to take place for equitable relief

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 including but not limited to appropriate injunctive relief.

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

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

8 (4)(a) A labor organization may not declare or authorize a strike of public employees that is or
9 would be in violation of this section. When it is alleged in good faith by the public employer that
10 a labor organization has declared or authorized a strike of public employees that is or would be in
11 violation of this section, the employer may petition the board for a declaration that the strike is or
12 would be unlawful. The board, after conducting an investigation and hearing, may make such dec-
13 laration if it finds that such declaration or authorization of a strike is or would be unlawful.

14 (b) When a labor organization or individual disobeys an order of the appropriate circuit court
15 issued pursuant to enforcing an order of the board involving this section and ORS 243.736 [or
16 243.738], they shall be punished according to the provisions of ORS 33.015 to 33.155, except that the
17 amount of the fine shall be at the discretion of the court.

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

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

26 **SECTION 3.** ORS 243.742 is amended to read:

27 243.742. (1) It is the public policy of the State of Oregon that where the right of employees to
28 strike is by law prohibited, it is requisite to the high morale of such employees and the efficient
29 operation of such departments to afford an alternate, expeditious, effective and binding procedure
30 for the resolution of labor disputes and to that end the provisions of ORS 240.060, 240.065, 240.080,
31 240.123, 243.650 to 243.809 and 341.290, providing for compulsory arbitration, shall be liberally con-
32 strued.

33 (2) When the procedures set forth in ORS 243.712 and 243.722, relating to mediation of a labor
34 dispute, have not culminated in a signed agreement between the parties who are prohibited from
35 striking, the public employer and exclusive representative of its employees shall include with the
36 final offer filed with the mediator a petition to the Employment Relations Board in writing that in-
37 itiates binding arbitration for bargaining units with employees referred to in ORS 243.736 [or
38 243.738]. Arbitration shall be scheduled by mutual agreement not earlier than 30 days following the
39 submission of the final offer packages to the mediator. Arbitration shall be scheduled in accordance
40 with the procedures prescribed in ORS 243.746.

41 **SECTION 4.** ORS 243.752 is amended to read:

42 243.752. (1) A majority decision of the arbitration panel, under ORS 243.706, 243.726, 243.736,
43 [243.738,] 243.742 and 243.746, if supported by competent, material and substantial evidence on the
44 whole record, based upon the factors set forth in ORS 243.746 (4), shall be final and binding upon
45 the parties. Refusal or failure to comply with any provision of a final and binding arbitration award

1 is an unfair labor practice. Any order issued by the Employment Relations Board pursuant to this
2 section may be enforced at the instance of either party or the board in the circuit court for the
3 county in which the dispute arose.

4 (2) The arbitration panel may award increases retroactively to the first day after the expiration
5 of the immediately preceding collective bargaining agreement. At any time the parties, by stipu-
6 lation, may amend or modify an award of arbitration.

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