

February 17, 2025

Chair Frederick, Vice-Chair Weber, honored committee members, I'm Michael Dembrow, formerly chair of this committee, and I'm grateful for this opportunity to speak to you in support of SB 310, a committee bill that was drafted for your consideration. It's a bill that makes a small but important change to the Public Employees Collective Bargaining Act (PECBA) to make it easier for education workers and management to reach agreement without having to go through the divisive and injurious experiences that a strike can bring.

First, a bit of history. Prior to the big reforms of PECBA imposed by SB 750 in 1995, there was a mandatory step in the contract bargaining process called "fact-finding." After labor and management had gone through months of initial negotiations and then state mediation, if they were still unable to reach agreement, they would declare impasse and could proceed to a strike after a 30-day "cooling-off period." However, during that 30-day period, there was one more required tool to reach agreement, the step of fact-finding.

The two sides would jointly agree to (and pay for) a fact-finder, someone on the state list of eligible arbitrators, who would then hold a hearing or hearings to determine the facts of the case, ideally to separate rhetoric and positioning from fact. The PECBA statute lists the factors the fact-finder is required to consider: e.g., the employer's ability to pay, what comparable districts were paying for comparable work, cost-of-living, comparable working conditions, etc. These are all laid out in ORS 243.746(4).

The fact-finder then uses the information gathered in these hearings, along with their own research, to develop a fact-finding report, which is effectively a proposal for settlement. This proposal is non-binding, that is, the parties can choose to ignore it, or they can agree to it in whole or in part, and use it to help settle upon a final agreement to avoid a strike.

The other provisions laying out the process for fact-finding are found in ORS 243.712 and ORS 243.722.

During my 16 years as the faculty union president at Portland Community College before coming into the Legislature, we only got to the point of fact-finding once, in the early 1990s, and that turned out to be a positive one, helping us to avoid what would have been the first strike in PCC's history. We wound up agreeing to parts of the fact-finder's recommended settlement and using the neutral information that she provided to help resolve other elements of the dispute.

Unfortunately, in 1995, the Legislature eliminated mandatory fact finding. In the introduced bill it eliminated fact-finding entirely. In the enrolled version of the bill, it turned fact-finding into a last-ditch voluntary step before a strike, **but only if both parties agreed** to it. Because of the dynamics of a potential strike situation, it has proven rare that both

parties are on the same page at the same time, and as a result, fact-finding is rarely used now.

That, I would suggest, is a shame, particularly given what we have been seeing recently in K-12 and post-secondary labor disputes. I really believe that fact-finding would have helped those situations, and I believe that there would have been one party (though unfortunately not both) that would have seen the benefits of this step.

So, what SB 610 seeks is to restore the likelihood that this tool is there to be used when necessary. It allows fact-finding to occur **as long as one of the parties requests it**. It applies only to educational institutions. It thus takes us partially back to the status quo ante before 1995. This is a model that we see in other states, notably Delaware, which you'll find at <https://perb.delaware.gov/wp-content/uploads/sites/127/2017/06/PSERAFact-finding.pdf> and also posted on OLIS.

Mr. Chair, committee members, I believe that having such an analysis, with a clear, objective articulation of the facts, and recommendations coming from a neutral third party who has been jointly selected by the two sides will lead to a more fair and just settlement and help restore the public's faith in the process overall. It would definitely be an important step in the right direction.

I urge its passage, and I'm happy to answer any questions.