



LEGISLATIVE UPDATE 2009



*UNIONS, UNIONS,
UNIONS*

Presented to you by:



LOCAL GOVERNMENT
PERSONNEL INSTITUTE

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Oregon Legislature

- Citizen Legislature
- Senate
 - 30 members
 - elected to serve four-year terms
- House of Representatives
 - 60 members
 - elected for two-year terms.

Oregon Legislature

- Convenes every 2 years in regular session
- On the second Monday in January
- During odd-numbered years
- Constitution does not specify a limitation on session length
 - Most sessions last approximately 6 months.

Oregon Legislative Update

Currently there are this many bills that have been introduced in the 2009 Oregon legislative session:

- A) 2,873
- B) 3,127
- C) 4,085
- D) 5,707

Oregon Legislative Update

How many of those will we be discussing today?

- A) All of them
- B) None of them
- C) 16 of them

Oregon Legislative Update

- 2 Family Leave
- 4 Public Safety Officer related
- 1 Contracting Out work
- 1 Disclosure of employee information
- 8 PECBA related

Family Leave Bills

- HB 2821:

- Prohibits employer from requiring employee to use accrued vacation leave when taking OFLA leave.

Family Leave HB 2821

Current language:

- “Subject to the terms of any agreement between the eligible employee and the covered employer or the terms of a collective bargaining agreement”,
- the employer may determine the particular order in which accrued leave is to be used in circumstances in which more than one type of accrued leave is available to the employee.

Family Leave HB 2821

Proposed language:

- “Subject to the terms of any agreement between the eligible employee and the covered employer or the terms of a collective bargaining agreement”,
- a covered employer may not require an eligible employee to use accrued vacation leave or any other paid leave in lieu of vacation leave.

Family Leave SB 638

- Requires granting of “school activity” leave to employees in same manner as provided for with family leave.
- Requires granting of 35 hours of school activity leave within any one-year period.
- May not take more than 5 hours of school leave in any one calendar month.

Family Leave SB 638

- “School Activity” means
- An activity sponsored or sanctioned by the school attended by a child
- In a grade from kindergarten through grade 12
- Regardless of whether the activity is on or off the school premises.

Public Safety Officer bills

- HB 2400:
 - Directs county sheriff's departments and municipal police departments to adopt policy
 - Addressing whether members may appear in uniform while off-duty.

Public Safety Officer HB 2400

- Adopt a policy that addresses whether a member of that department may publicly appear in uniform while off-duty.
- All members of each department must be subject to that department's policy.

Public Safety Officer SB 708

- If person applies for employment with law enforcement agency all former and current employers, upon request
- Must provide all information available relating to person.
- Limits use of information received by law enforcement agency under Act.

Public Safety Officer SB 708

Includes:

- All records and reports relating to discipline of the person.
- A statement of why the person was terminated, a statement of whether the termination was voluntary or involuntary, and all records and reports relating to the termination.

Public Safety Officer SB 708

And here is the biggy:

- “Any provision of an employment termination agreement or severance agreement that conflicts with the requirements of this section is void.”

Public Safety Officer HB 2713

- Applies disciplinary action provisions to all public safety officers.
- Provides safeguards for public safety officers under investigation.
- Provides procedures for placement of adverse comment in personnel records.

Public Safety Officer HB 2713

- Includes Corrections, Parole & Probation officers.
- Requires “on duty” interviews.
- Requires a union representative.
- Limits employer to 2 interviewers.
- Allows officer to refuse to answer questions until given “facts reasonably sufficient” to inform of circumstances.

Public Safety Officer HB 2713

- Requires employer to give officer copies of any notes made during interview.
- Requires that officer be given copies of all notes and transcripts prior to any subsequent interviews.
- Requires the giving of “constitutional rights” if officer *MAY* be criminally charged.
- Requires investigation to be completed within 6 months from the date of the misconduct.

Public Safety Officer HB 2501

- Defines “comparable” for purposes relating to arbitration of wages for Department of State Police troopers.
- Would take effect January of 2013.

Public Safety Officer HB 2501

- Except as otherwise provided in subparagraph (D) of this paragraph, for the State of Oregon, “comparable” includes comparison to other states; and
- **(D) For the Department of State Police troopers, “comparable” includes the base pay for city police officers employed by the five most populous cities in this state.**

Contracting Out Work

- SB 806
- Specifies requirements and conditions for public sector entity to enter into contract with private sector entity.

Contracting Out SB 806

Limits ability to contract out:

- A public sector entity
- may enter into a contract with a contractor
- for work customarily performed by employees of the public sector entity
- only if all of the requirements of this section are met.

Contracting Out SB 806

- Must “demonstrate that the proposed contract will result in actual overall cost savings to the public sector entity.”
- “May not approve a contract solely on the basis that savings will result from lower contractor pay rates or benefits.”

Contracting Out SB 806

- Must be able to show that the savings resulting from the contract are large enough to ensure that the savings will not be eliminated by private sector cost fluctuations that can normally be expected during the time period of the contract.

Contracting Out SB 806

- Must include a provision that requires the contractor to offer any employee who is displaced by the contract a position with the contractor that maintains the employee's existing wages and benefits.

Contracting Out SB 806

- Must include a provision that requires the contractor to agree to a majority sign-up recognition process for employees who perform work pursuant to the contract.

Contracting Out SB 806

- The employee or the employee's exclusive representative may submit an allegation of noncompliance and a request for arbitration.
- The costs of the arbitration are the responsibility of the public sector entity.

Disclosure of Information

SB 707

- Provides that employer who discloses information about current or former employee's job performance to prospective employer
- is presumed to be acting in good faith and immune from civil liability
- unless presumption is rebutted by clear and convincing evidence.

PECBA Related Bills

HB 3135

- Authorizes unemployment insurance benefits for striking worker.

HB 2546

- Prohibits public employer from hiring permanent replacements for public employees engaged in lawful strike.

PECBA Related Bills

HB 2709

&

HB 2866

- Repeals expedited bargaining process.
- It could also eliminate interim bargaining altogether.

PECBA Related Bills

HB 2545

- Includes temporary employees in definition of “appropriate bargaining unit” for purposes of collective bargaining between public employers and public employees.

PECBA Bills HB 2545

- Includes temporary, seasonal, and limited duration employees
- if such employees perform substantially the same work as other employees in the bargaining unit.

PECBA Bills HB 2545

- Not considered casual employees unless the employee has worked less than an average of 4 hours per week during the employee's employment
- or the quarter preceding the filing of a unit clarification or representation petition,
- whichever period is shorter.

PECBA Bills HB 3130

- “Managerial employee” means [~~an employee of the State of Oregon~~] **a public employee who**
- possesses authority to formulate and carry out management decisions
- or who represents management’s interest
- by taking or effectively recommending

PECBA Bills HB 3130

- discretionary actions that control or implement employer policy,
- and who has discretion in the performance of these management responsibilities
- beyond the routine discharge of duties.

PECBA Bills

**AND NOW
FOR THE
BAD NEWS!!!**

PECBA Bills HB 2633

- This bill just made it out of committee on 4/15th and is heading to the House floor!
- There was no referral to Ways and Means despite the fiscal impacts that were submitted.
- It's important for you to make contacts with legislators ASAP to let them know your concerns about this bill.

PECBA Bills HB 2633

- “Supervisory employee” means any individual having **independent authority** to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline or responsibly to direct them, or to adjust their grievances,
- or effectively to recommend such action

PECBA Bills HB 2633

- if in connection therewith, the exercise of the authority is not of a merely routine or clerical nature but requires the use of independent judgment

AND

PECBA Bills HB 2633

- a public safety officer who merely assigns, transfers or directs the work of other employees but does not have the authority to impose **economic discipline** on those employees, is not a supervisory employee.

PECBA Bills HB 2831

AND NOW FOR THE
REALLY
BAD NEWS!!!

PECBA Bills HB 2831

Combines:

- Temporary, seasonal employee bill
- Removes Managerial employees from exclusion
- Allows for discretion to include supervisors in union
- Eliminates expedited bargaining
- Prohibits permanent strike replacements

Member Organizations



LOCAL GOVERNMENT
PERSONNEL INSTITUTE

- If you are a member of LGPI,
- No Cost technical assistance
- Analyzing impact of new laws
- 503 – 588 – 2251