

## Chapter 662

### Labor Disputes

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**LIMITATIONS ON JUDICIAL INTERFERENCE WITH LABOR DISPUTES**

**662.010 Definitions.** As used in ORS 662.010 to 662.130 and for the purposes of those sections:

(1) "Labor dispute" includes any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee.

(2) A case involves or grows out of a labor dispute when the case involves persons who are engaged in the same industry, trade, craft or occupation, or who have direct or indirect interests therein, or who are employees of the same employer, or who are members of the same or an affiliated organization of employers or employees, whether such dispute is: (a) between one or more employers or associations of employers and one or more employees or associations of employees; (b) between one or more employers or associations of employers and one or more employees or associations of employees; or (c) between one or more employees or associations of employees and one or more employees or associations of employees; or when the case involves any conflicting or competing interests in a labor dispute of persons participating or interested therein.

(3) A person or association is a person participating or interested in a labor dispute if relief is sought against him or it, and if he or it:

(a) Is engaged in the same industry, trade, craft or occupation in which such dispute occurs.

(b) Has a direct or indirect interest therein.

(c) Is a member, officer or agent of any association composed in whole or in part of employers or employees engaged in such industry, trade, craft or occupation.

**662.020 Declaration of policy as to labor organizations.** In the interpretation of ORS 662.010 to 662.130, and in determining the jurisdiction and authority of the courts of this state, as such jurisdiction and authority are defined and limited in those statutes, the public policy of Oregon is declared as follows: Whereas under prevailing economic conditions, developed with the aid of governmental authority for owners of property

to organize in a corporate and other forms of ownership association, the individual unorganized worker is commonly helpless to exercise actual liberty of contract and to protect his freedom of labor and thereby to obtain acceptable terms and conditions of employment, wherefor, though he should be free to decline to associate with his fellows, it is necessary that he have full freedom of association, self-organization and designation of representatives of his own choosing to negotiate the terms and conditions of his employment and that he shall be free from the interference, restraint or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; therefor, the definitions of and limitations contained in ORS 662.010 to 662.130 upon the jurisdiction and authority of the courts of this state hereby are enacted.

**662.030 Restrictions in employment contracts on affiliation with a labor or employer organization as unenforceable.** Any undertaking or promise described in this section or any other undertaking or promise in conflict with the public policy declared in ORS 662.020 is declared to be contrary to the public policy of Oregon and is not enforceable in any court of this state and does not afford any basis for the granting of legal or equitable relief by any such court, including specifically, every undertaking or promise made after June 6, 1931, whether written or oral, express or implied, constituting or contained in any contract or agreement of hiring or employment between any individual, firm, company, association or corporation, and any employee or prospective employee of the same, whereby:

(1) Either party to such contract or agreement undertakes or promises not to join, become or remain a member of any labor organization or of any employer organization.

(2) Either party to such contract or agreement undertakes or promises that he will withdraw from an employment relation in the event that he joins, becomes or remains a member of any labor organization or of any employer organization.

**662.040 Injunctions in labor disputes generally restricted.** No court, nor any judge thereof, shall have jurisdiction to issue any restraining order or temporary or permanent

injunction in a case involving or growing out of a labor dispute, except in strict conformity with ORS 662.010 to 662.130, nor shall any such restraining order or temporary or permanent injunction be issued contrary to the public policy declared in ORS 662.020.

**662.050 Specific acts which are not enjoined.** No court, nor any judge thereof, shall have jurisdiction to issue any restraining order or temporary or permanent injunction in any case involving or growing out of any labor dispute to prohibit any person or persons participating or interested in such dispute from doing, whether singly or in concert, any of the following acts:

(1) Ceasing or refusing to perform any work or to remain in any relation of employment.

(2) Becoming or remaining a member of any labor organization or of any employer organization, regardless of any undertaking or promise, as is described in ORS 662.030.

(3) Paying or giving to, or withholding from, any person participating or interested in such labor dispute, any strike or unemployment benefits or insurance, or other moneys or things of value.

(4) By all lawful means aiding any person participating or interested in any labor dispute who is being proceeded against in, or is prosecuting, any action or suit in any court of the United States or of any state.

(5) Giving publicity to the existence of, or facts involved in, any labor dispute, whether by advertising, speaking, patrolling or by any other method not involving fraud or violence or intimidation.

(6) Assembling peaceably to act or to organize to act in promotion of their interests in a labor dispute.

(7) Advising or notifying any person of any intention to do any of the acts specified in subsections (1) to (6) of this section.

(8) Agreeing with other persons to do or not to do any of the acts specified in subsections (1) to (7) of this section.

(9) Advising, urging or otherwise causing or inducing without fraud or violence or intimidation, the acts specified in subsections (1) to (8) of this section, regardless of any undertaking or promise, as is described in ORS 662.030.

**662.060 Restrictions on injunctions to prohibit the doing in concert of the acts enumerated in ORS 662.050.** No court, nor

any judge thereof, shall have jurisdiction to issue a restraining order or temporary or permanent injunction upon the ground that any of the persons participating or interested in a labor dispute constitute or are engaged in an unlawful combination or conspiracy because of the doing in concert of the acts enumerated in ORS 662.050.

**662.070 Liability of associations and officers and members of associations for unlawful acts of individuals.** No officer or member of any association or organization, and no association or organization participating or interested in a labor dispute, shall be held responsible or liable in any court of this state for the unlawful acts of individual officers, members or agents, except upon clear proof of actual participation in, or actual authorization of, such acts, or of ratification of such acts after actual knowledge thereof.

**662.080 Hearing and findings of certain facts are prerequisites to injunction.** No court, nor any judge thereof, shall have jurisdiction to issue a temporary or permanent injunction in any case involving or growing out of a labor dispute, except after hearing the testimony of witnesses in open court, with opportunity for cross-examination, in support of the allegations of a complaint made under oath, and testimony in opposition thereto, if offered, and except after findings of fact by the court, to the effect:

(1) That unlawful acts have been threatened and will be committed unless restrained, or have been committed and will be continued unless restrained, but no injunction or temporary restraining order shall be issued on account of any threat or unlawful act excepting against the persons, association or organization making the threat or committing the unlawful act or actually authorizing or ratifying the same after actual knowledge thereof.

(2) That substantial and irreparable injury to complainant's property will follow.

(3) That as to each item of relief granted greater injury will be inflicted upon complainant by the denial of relief than will be inflicted upon defendants by the granting of relief.

(4) That complainant has no adequate remedy at law.

(5) That the public officers charged with the duty to protect complainant's prop-

erty are unable or unwilling to furnish adequate protection.

**662.090 Notice of hearing; issuance of temporary injunction without notice.** (1) The hearing shall be held after due and personal notice thereof has been given, in such manner as the court shall direct, to all known persons against whom relief is sought, and also to the chief of those public officials of the county and city within which the unlawful acts have been threatened or committed charged with the duty to protect complainant's property. However, if a complainant also alleges that, unless a temporary restraining order is issued without notice, a substantial and irreparable injury to complainant's property will be unavoidable, such a temporary restraining order may be issued upon testimony under oath, sufficient, if sustained, to justify the court in issuing a temporary injunction upon a hearing after notice. Such a temporary restraining order shall be effective for no longer than five days and shall become void at the expiration of the five days.

(2) No temporary restraining order or temporary injunction shall be issued except on condition that complainant first files an undertaking with adequate security in an amount to be fixed by the court sufficient to recompense those enjoined for any loss, expense or damage cause by the improvident or erroneous issuance of such order or injunction, including all reasonable costs, together with a reasonable attorney's fee and expense of defense against the order or against the granting of any injunctive relief sought in the same proceeding and subsequently denied by the court.

(3) The undertaking mentioned in subsection (2) of this section shall be understood to signify an agreement entered into by the complainant and the surety upon which a decree may be rendered in the same suit or proceeding against the complainant and surety, upon a hearing to assess damages of which hearing complainant and surety shall have reasonable notice, the complainant and surety submitting themselves to the jurisdiction of the court for that purpose. This section does not deprive any party having a claim or cause of action under or upon such undertaking from electing to pursue his ordinary remedy by suit at law or in equity.

**662.100 Compliance with obligations involved in dispute and making reasonable effort to settle as prerequisites to injunctive relief.** No restraining order or injunctive relief shall be granted to any complainant who has failed to comply with any obligation imposed by law which is involved in the labor dispute in question, or who has failed to make every reasonable effort to settle such dispute, either by negotiation or with the aid of any available governmental machinery of mediation or voluntary arbitration.

**662.110 Findings of fact prerequisite to injunction; scope of injunction.** (1) No restraining order or temporary or permanent injunction shall be granted in a case involving or growing out of a labor dispute, except on the basis of findings of fact made and filed by the court in the record of the case prior to the issuance of such restraining order or injunction.

(2) Every restraining order or injunction granted in a case involving or growing out of a labor dispute shall include only a prohibition of such specific acts as may expressly be complained of in the bill of complaint or petition filed in such case and as shall expressly be included in the findings of fact made and filed by the court.

**662.120 Appeal to Supreme Court.** Whenever any court or judge thereof issues or denies any temporary injunction in a case involving or growing out of a labor dispute, the court shall, upon the request of any party to the proceedings and on his filing the usual bond for costs, forthwith certify, as in ordinary cases, the record of the case to the Supreme Court for its review. Upon the filing of such record in the Supreme Court, the appeal shall be heard and the temporary injunctive order affirmed, modified or set aside with the greatest possible expedition, giving the proceedings precedence over all other matters, except older matters of the same character.

**662.130 Contempt proceedings; jury trial; change of judge.** (1) In all cases arising under ORS 662.010 to 662.130 in which a person is charged with contempt in a court of this state, the accused shall enjoy the right to a speedy and public trial by an impartial jury wherein the contempt has been committed; provided, this right shall not apply to contempts committed in the presence of the court or so near thereto

as to interfere directly with the administration of justice or to the misbehavior, misconduct or disobedience of any officer of the court in respect to the writs, orders or process of the court.

(2) The defendant in any proceeding for contempt of court may file with the court a demand for the retirement of the judge sitting in the proceeding, if the contempt arises from an attack upon the character or conduct of such judge and if the attack occurred elsewhere than in the presence of the court or so near thereto as to interfere directly with the administration of justice. Upon the filing of any such demand the judge shall thereupon proceed no further, but another judge shall be designated as provided by law. The demand shall be filed prior to the hearing in the contempt proceeding.

**662.140 to 662.200** [Reserved for expansion]

### **HOT CARGO AND SECONDARY BOYCOTT**

**662.210 Definitions.** As used in ORS 662.210 to 662.240:

(1) "Employee" includes any natural person who works for any person for compensation.

(2) "Employer" includes any person acting in the interest of an employer, directly or indirectly, and any association of employers, including growers and other hirers of labor.

(3) "Hot cargo" means any combination or agreement resulting in a refusal by employees to handle goods or to perform any services for their employer because of a dispute between some other employer and his employees or a labor organization or any combination or agreement resulting in a refusal by employers to handle goods or perform any services for another employer because of an agreement between such other employer and his employees or a labor organization.

(4) "Labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(5) "Secondary boycott" mean any combination or agreement to cease performing,

or to cause any employee to cease performing any services for any employer, or to cause any loss or injury to such employer, or to his employees, for the purpose of inducing or compelling such employer to refrain from doing business with, or handling the products of any other employer because of a dispute between the latter and his employees or a labor organization or any combination or agreement to cease performing, or to cause any employer to cease performing any services for another employer, or to cause any loss or injury to such other employer, or to his employees, for the purpose of inducing or compelling such other employer to refrain from doing business with, or handling the products of any other employer, because of an agreement between the latter and his employees or a labor organization.

**662.220 Statement of purpose.** The purpose of ORS 662.210 to 662.240 is to preserve tranquility among the citizens of this state and to insure the unobstructed production and distribution of the products of our factories and fields, and for the continued protection and preservation of our democratic way of life and for the general welfare of the people of this state.

**662.230 Unlawful labor practices.** (1) Hot cargo and secondary boycott hereby are declared to be unlawful.

(2) Any act, combination or agreement which directly or indirectly causes, induces or compels a violation of this section, or inflicts any loss, injury or damage on anyone because of his refusal to violate this section is unlawful.

**662.240 Legal and equitable relief.** Any person injured or threatened with injury by any violation of ORS 662.230 is entitled to injunctive relief therefrom in a proper case, and may recover any damages resulting therefrom in any courts having jurisdiction in this state.

**662.250 to 662.300** [Reserved for expansion]

### **ELECTIONS FOR TERMINATION OF LABOR DISPUTES**

**662.310 Definitions.** As used in ORS 662.310 to 662.340, "collective bargaining unit" means all the employees of an employer or those who are members of a single craft,

or either of the aforesaid who are employed in separate departments or premises.

**662.320 Authority of Commissioner of Bureau of Labor.** The Commissioner of the Bureau of Labor shall determine whether or not a labor dispute shall be continued or terminated between an employer and his employes in the manner provided in ORS 662.330 and 662.340.

**662.330 Procedure to have commissioner conduct election for the continuation or termination of a labor dispute and selection of collective bargaining unit.** (1) An employer, any of his employes in a collective bargaining unit, or a labor union may petition the Commissioner of the Bureau of Labor to hold an election by secret ballot at an appropriate place on the premises of the employer for the purpose of voting upon the continuation or the termination of a labor dispute. Upon the receipt of the petition, the commissioner shall hold the election forthwith. A labor dispute shall be deemed to exist when the petition is filed with the commissioner.

(2) If the petition so requests, the matter of the selection of a collective bargaining agent shall be included on the ballot.

(3) The notice of and the method of conducting the election shall be in such form and manner as the commissioner determines. The costs of the election shall be assessed against the parties petitioning for the holding of the same. Costs shall be based on actual costs plus \$10 a day for the services of the commissioner or members of his staff.

(4) The eligibility of an employee to vote shall continue 30 days after the termination of his employment.

(5) After the election has been held, the results thereof shall be certified to the interested parties.

**662.340 Effect of vote on continuation or termination of labor dispute.** (1) If a majority of the employes in the collective bargaining unit vote to continue the labor dispute, or if they choose a collective bargaining agent, the labor dispute shall be deemed to continue in existence subject to the limitations in this section.

(2) If a majority of the employes vote against the continuation of the labor dispute, or if, having voted in favor of continuance and a collective bargaining agree-

ment is entered into, the labor dispute shall be deemed to be terminated.

(3) A majority vote for the termination of and against the continuation of the labor dispute shall be binding for a period of one year from the date of the holding of the election.

**662.350 to 662.400** [Reserved for expansion]

## **ARBITRATION OF LABOR DISPUTES; STATE BOARD OF CONCILIATION**

**662.410 Definitions.** As used in ORS 662.420 to 662.550, unless the context requires otherwise, "board" means the State Board of Conciliation.

**662.420 Conciliation and investigation of labor controversies.** When a controversy or difference, not involving a question which may be the subject of an action or proceeding in a court of this state, exists between an employer and his employes, or whenever it comes to the knowledge of the State Board of Conciliation that a strike or lockout is seriously threatened in the state, involving an employer and his employes, the board shall immediately put itself in communication with such employer and employes and ascertain the cause of such difference, strike or lockout, and endeavor to persuade such employer and employes to adjust the same. If such employer and employes are unable to adjust the difference existing between them, then either of the parties to the controversy, the Governor, the officials of the city in which such strike or lockout may exist or, if outside any incorporated city or town, the officials of the county in which the same may be, may request the board to make an investigation of the causes of such strike or lockout.

**662.430 Hearing; notice; production of evidence.** (1) Upon receiving a request to investigate a strike or lockout, the board shall immediately proceed to such city or county and make an investigation by a public hearing and issue notice of the time and place and purpose of such hearing to the employer and his employes.

(2) The board may issue subpoenas requiring the attendance of such witnesses and the production of such records, books and papers, as it may deem necessary to make a thorough investigation of the merits and causes of the strike or lockout. Subpenas

may be signed and oaths administered by any member of the board.

(3) The notices and subpoenas shall be delivered to the sheriff of the county in which the board is holding its investigation, and shall be served in the same manner as similar process is served in the circuit courts of this state.

**662.440 Findings and recommendations; submission to board of arbitration.** (1) The board shall proceed with due diligence to complete the investigation of such strike or lockout, and shall make such findings and recommendations to the respective parties as it may deem just.

(2) If either or both of the parties are not satisfied with such findings and recommendations, then either party may make written application to the board to have the controversy or difference submitted to the board of arbitration.

(3) The application shall contain a concise statement of the grievances complained of, and an agreement to abide by such award as the board of arbitration may make.

**662.450 Filing findings in case of refusal to submit to arbitration.** If either of the parties refuses to accept the findings and recommendations of the State Board of Conciliation, or refuses to consent to the appointment of a board of arbitration and to agree to accept and abide by the award of the board of arbitration, then the State Board of Conciliation shall prepare written findings, and determine therein the party who is responsible for the existence or continuance of the strike or lockout and deliver a copy of such findings to each of the parties to the controversy, filing one copy with the clerk of the county court of the county in which the investigation was held and one copy in the office of the Commissioner of the Bureau of Labor. The last two copies shall be public documents.

**662.460 Board of arbitration; selection of members; powers.** (1) The board of arbitration shall consist of three arbitrators. Such board may be mutually agreed upon, or the employer may designate one arbitrator and the employees or their duly authorized agent another, and the arbitrators so designated shall select a third, who shall be chairman of the board. If the two arbitrators are unable to agree upon the third member within two days from the date of their appointment, then the State Board of Con-

ciliation shall appoint such third arbitrator.

(2) The board of arbitration shall have all the powers and authority conferred upon the State Board of Conciliation under ORS 662.520 in investigating such controversy, strike or lockout.

**662.470 Filing of findings and award.**

(1) The board of arbitration shall, within 10 days from the date of the final hearing, file a copy of its findings and award with:

(a) Each party to the controversy.

(b) The clerk of the county court of the county in which the hearing is held.

(c) The State Board of Conciliation.

(d) The Commissioner of the Bureau of Labor.

(2) However, the State Board of Conciliation may allow an extension of time to file such findings and award, not to exceed 20 days.

**662.480 Compensation of board of arbitration.** (1) Each member of a board of arbitration shall receive \$15 for each day of actual service, not exceeding 20 days, for any arbitration, to be certified as due by the chairman of the board. Such claim, upon presentation thereof to the Secretary of State, shall be audited and paid in the manner provided by law out of the moneys appropriated for the purposes of ORS 662.410 to 662.550.

(2) No claim for services shall be allowed any member of the board of arbitration until the findings and award have been filed as required by ORS 662.470.

**662.490 Compensation of witnesses.** (1) Each witness summoned by the State Board of Conciliation, or by the board of arbitration, shall receive compensation in the amounts allowed to persons under ORS 21.730.

(2) The chairman of the State Board of Conciliation or the chairman of the board of arbitration, as the case may be, shall certify the amount due each witness and present a claim therefor to the Secretary of State. Such claim shall be audited and paid in the manner provided by law out of the moneys appropriated for the purposes of ORS 662.410 to 662.550.

**662.500 State Board of Conciliation; appointment, term, qualification of members; oath of office.** (1) The State Board of Conciliation which shall consist of three commissioners hereby is created.

(2) Immediately upon the expiration of



the commissioner's term ending in January 1954, the Governor shall appoint a commissioner who, on account of his previous vocation, employment, affiliation or interests shall be classified as a representative of management.

(3) Immediately upon the expiration of the commissioner's term ending in January 1955, the Governor shall appoint a commissioner who, on account of his previous vocation, employment, affiliation or interests shall be classified as a representative of labor.

(4) The third member of the board shall be chosen by the commissioners appointed by the Governor by the date of expiration of the term of the commissioner whom the third member is to succeed. If the two commissioners appointed by the Governor are unable to agree upon the third member of the board by such date, then the Governor shall appoint such third member of the board.

(5) The commissioners first appointed by the Governor, for full terms commencing after January 1952, shall be appointed for terms expiring on the third Monday in January 1958, and the third Monday in January 1959, respectively, and the term of the third commissioner, first appointed after January 1952, for a full term, shall expire on the first Monday in January 1957. Thereafter the commissioners shall be appointed, in the same manner and from the same classes as provided in this section for terms of four years respectively.

(6) Before entering on the duties of his office, each commissioner shall take and subscribe to an oath or affirmation that he will support the Constitutions of the United States and of this state, and faithfully and honestly discharge the duties of such office of commissioner. The oath or affirmation shall be filed in the office of the Secretary of State.

**662.510 Removal of commissioner; filling vacancy.** (1) The Governor may, at any time, remove any commissioner for inefficiency, neglect of duty or malfeasance in office.

(2) Before such removal he shall give such commissioner a copy of the charges against him and shall fix the time when he can be heard in his own defense, which shall not be less than 10 days thereafter. The hearing shall be open to the public.

(3) If the commissioner is removed, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against the commissioner and his findings thereon, with a record of the proceedings.

(4) Such power of removal shall be absolute, and there shall be no right of review by any court on any condition whatsoever. Upon the removal of the commissioner a successor shall be appointed to fill out the unexpired term, to be selected in the same manner and from the same class as the removed commissioner.

**662.520 Powers of board generally.** (1) The board shall possess all the powers and authority in respect to administering oaths, subpoenaing witnesses and compelling their attendance, preserving order during the sittings of the board, punishing for contempt, and requiring the production of books, papers and writings, and all other powers and privileges, in their nature applicable and necessary in conducting its business, in the same manner as is conferred by law on all the judges of the circuit court of this state in the trial of any cause.

(2) The board shall have access to any reports, documents or records filed with or in the custody of any officer in this state.

**662.530 Organization and meetings.** The board shall meet at the state capital in suitable rooms provided by the state in the offices of the Bureau of Labor. The board shall elect one of its members as chairman and another member as secretary. The board shall establish such rules of procedure as may be necessary to conduct the business of the board.

**662.540 Annual report.** On or before July 31 of each year the State Board of Conciliation shall make a report to the Governor, containing such statements, facts and explanations as will disclose its methods and work, with such suggestions as to legislation conducive to the adjustment of disputes between employers and employes as it may deem proper.

**662.550 Compensation and payment of commissioners.** Each member of the board shall receive \$15 for each day of actual service, and his necessary traveling and other expenses. Each month the chairman of the board shall certify the amount due

each member of the board for services rendered and expenses incurred in the performance of his official duties under ORS 662.410 to 662.540. On presentation of a claim therefor the Secretary of State shall audit same in the manner provided by law and draw his warrant on the State Treasurer out of the moneys appropriated therefor.

**CHAPTERS 663 TO 670****[Reserved for expansion]**