Chapter 662

1965 REPLACEMENT PART

Labor Disputes

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LIMITATIONS ON JUDICIAL AUTHORITY IN LABOR DISPUTES

662.010 Definitions for ORS 662.010 to 662.130. 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 employe.

(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 employes of the same employer, or who are members of the same or an affiliated organization of employers or employes, whether such dispute is: (a) Between one or more employers or associations of employers and one or more employes or associations of employes; (b) between one or more employers or associations of employers and one or more employers or associations of employers; or (c) between one or more employes or associations of employes and one or more employes or associations of employes; 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 employes 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; therefore, 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 employe or prospective employe 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 enjoinable. 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, patroling 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 caused 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 for ORS 662.210 to 662.240. As used in ORS 662.210 to 662.240:

(1) "Employe" 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 employes to handle goods or to perform any services for their employer because of a dispute between some other employer and his employes 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 employes or a labor organization.

(4) "Labor organization" means any organization of any kind, or any agency or employe representation committee or plan, in which employes 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" means any combination or agreement to cease performing, or to cause any employe to cease performing any services for any employer, or to cause any loss or injury to such employer, or to his employes, 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 employes 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 employes, 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 employes 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]

662.310 [Repealed by 1953 c.723 §22]

662.320 [Repealed by 1953 c.723 §22]

662.330 [Repealed by 1953 c.723 §22]

662.340 [Repealed by 1953 c.723 §22]

662.350 to 662.400 [Reserved for expansion]

STATE CONCILIATION SERVICE

662.405 Declaration of policy. It hereby is declared to be the public policy of the State of Oregon that the best interests of the people of this state are served by fostering collective bargaining and by the prevention of or the prompt settlement of labor controversies, strikes and lockouts; that sound and stable industrial peace and the advancement of the general welfare of the state and of the best interests of employers and employes can most satisfactorily be secured by the settlement of issues between employers and employes through the processes of conference and collective bargaining between employers and employes; that the settlement of issues between employers and employes through collective bargaining may be advanced by making available full and adequate government facilities for conciliation, mediation and voluntary arbitration to aid and encourage employers and employes to reach and maintain agreements concerning rates of pay, hours and working conditions and to make all reasonable efforts to settle their differences by mutual agreement reached through conferences and collective bargaining.
[1957 c.122 §1]

662.410 [Repealed by 1957 c.122 §5]

662.415 State Conciliation Service established; purpose. A State Conciliation Service hereby is established within the Bureau of Labor with primary responsibility for fostering collective bargaining by rendering voluntary assistance to employers and employes in resolving their differences without resort to strikes, lockouts or other forms of industrial conflict.
[1957 c.122 §2(1)]

662.420 [Repealed by 1957 c.122 §5]

662.425 Mediation services. (1) When any party to a labor controversy notifies the State Conciliation Service that a labor controversy exists or is imminent, the Labor Conciliator, if he determines that a labor controversy exists or is imminent, shall immediately set a time and place for a mediation conference and invite the parties to attend to participate in mediation of their differences.

(2) When it comes to the attention of the Labor Conciliator that a labor controversy exists or is imminent, the Labor Conciliator may offer mediation services if he deems it to be in the public interest.
[1957 c.122 §3]

662.430 [Repealed by 1957 c.122 §5]

662.435 Services for state agencies and political subdivisions. The services and facilities of the State Conciliation Service and the Labor Conciliator shall be made available to the State of Oregon or any of its agencies, boards, commissions or other branches or any of the political subdivisions of the state and to the public employes of the State of Oregon in all its agencies, boards, commissions or other branches or its political subdivisions in the same manner as such facilities are available to private employers and their employes.
[1957 c.122 §4; 1959 c184 §1]

662.440 [Repealed by 1957 c.122 §5]

662.445 List of qualified arbitrators. The State Conciliation Service shall maintain a list of qualified arbitrators who may be available to the parties to a labor controversy if the parties so request.
[1957 c.122 §2(3)]

662.450 [Repealed by 1957 c.122 §5]

662.455 Labor Conciliator and other employes. The head of the State Conciliation Service shall be the Labor Conciliator who shall be appointed by the Commissioner of the Bureau of Labor. The Commissioner of the Bureau of Labor shall appoint such other employes of the State Conciliation Service as may be necessary to assist the Labor Conciliator. The Labor Conciliator and all other employes of the State Conciliation Service shall be subject to the State Civil Service Law.
[1957 c.122 §2(2)]

662.460 [Repealed by 1957 c.122 §5]

662.470 [Repealed by 1957 c.122 §5]

662.480 [Repealed by 1957 c.122 §5]

662.490 [Repealed by 1957 c.122 §5]

662.500 [Repealed by 1957 c.122 §5]

DESIGNATION OF COLLECTIVE BARGAINING REPRESENTATIVE

662.505 Definitions for ORS 662.505 to 662.655. As used in ORS 662.505 to 662.655 and 662.990, unless the context requires otherwise:

(1) "Board" means the State Labor-Management Relations Board.

(2) "Conciliator" means the State Labor Conciliator.

(3) "Employe" includes any employe, and is not limited to the employes of a particular employer unless ORS 662.505 to 662.655 explicitly states otherwise, and includes any

individual whose work has ceased as a consequence of, or in connection with, a current labor dispute and who has not obtained any other regular and substantially equivalent employment, but does not include an individual:

(a) Employed as an agricultural laborer;

(b) Employed by his parent or spouse;

(c) Employed in the domestic service of any family or person at his home;

(d) Having the status of an independent contractor;

(e) Employed as a supervisor;

(f) Employed by an employer subject to the Railway Labor Act, as amended (45 U.S.C. 151 to 163 and 181 to 188); or

(g) Employed by any other person who is not an employer as defined in subsection (4) of this section.

(4) "Employer" includes any person acting as an agent of an employer, directly or indirectly, but does not include:

(a) The United States or any wholly owned government corporation, or any Federal Reserve Bank.

(b) This state, or any county, city or political subdivision or agency thereof.

(c) Any person subject to the Railway Labor Act, as amended (45 U.S.C. 151 to 163 and 181 to 188).

(d) Any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of a labor organization.

(5) "Labor organization" means an organization of any kind, or an agency or employe representation committee or plan, in which employes 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.

(6) "Professional employe" means:

(a) An employe engaged in work (A) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work; (B) involving the consistent exercise of discretion and judgment in its performance; (C) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (D) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical processes; or

(b) An employe who (A) has completed the courses of specialized intellectual instruction and study described in subparagraph (D) of paragraph (a) of this subsection, and (B) is performing related work under the supervision of a professional person to qualify himself to become a professional employe as defined in paragraph (a) of this subsection.

(7) "Representative" includes an individual or labor organization.

(8) "Supervisor" means any individual, other than a licensed professional or practical nurse, having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employes, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

[1961 c.690 §1]

662.510 [Repealed by 1957 c.122 §5]

662.515 "Collective bargaining" defined. For the purposes of ORS 662.505 to 662.655, "collective bargaining" is the performance of the mutual obligation of the employer and the representative of the employes to meet at reasonable times and confer in good faith with respect to wages, hours and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party. However, this obligation does not compel either party to agree to a proposal or require the making of a concession.

[1961 c.690 §2]

662.520 [Repealed by 1957 c.122 §5]

662.525 Designated collective bargaining representatives to be exclusive; grievances excepted. Representatives designated or selected for the purposes of collective bargaining, by the majority of the employes in a unit appropriate for such purposes, are the exclusive representatives of all the employes in that unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment or other conditions of employment. However, an individual employe

or a group of employes may at any time present grievances to their employer and have such grievances adjusted, without the intervention of the bargaining representative, if:

(1) The adjustment is not inconsistent with the terms of a collective-bargaining contract or agreement then in effect; and

(2) The bargaining representative has been given opportunity to be present at the adjustment.

[1961 c.690 §3]

662.530 [Repealed by 1957 c.122 §5]

662.535 When picketing unlawful; enjoining violations. (1) A labor organization or its agents may not picket or cause to be picketed, or threaten to picket or cause to be picketed, any employer where an object thereof is forcing or requiring an employer to recognize or bargain with a labor organization as the representative of his employes, or forcing or requiring the employes of an employer to accept or select such labor organization as their collective-bargaining representative, if:

(a) A valid election has been conducted under ORS 662.505 to 662.655 or under federal law within the preceding 12 months, and

(b) Such labor organization is not currently certified under ORS 662.505 to 662.655 or under federal law as the representative of such employes, or

(c) If an election has been directed and scheduled as provided in subsection (2) of ORS 662.555.

(2) Notwithstanding any other provision of law, the circuit court for the county in which the labor organization maintains its principal office, or in which its duly authorized officers and agents are engaged in promoting or protecting the interests of employe members, has jurisdiction to enjoin any violation of this section by appropriate order or decree. The proceeding shall be conducted as in the case of a suit in equity, but shall be given precedence over all other civil actions.

[1961 c.690 §20]

662.540 [Repealed by 1957 c.122 §5]

662.545 Determination of appropriate unit for purposes of collective bargaining. (1) The board shall decide in each case whether the unit appropriate for the purposes of collective bargaining is the employer unit, craft unit, plant unit, or subdivision thereof. However, the board shall not decide that:

(a) A unit is appropriate for such purposes if the unit includes both professional employes and employes who are not professional employes, unless a majority of the professional employes vote for inclusion in the unit;

(b) A craft unit is inappropriate for such purposes on the ground that a different unit has been established by a prior determination of the board unless a majority of the employes in the proposed craft unit vote against separate representation; or

(c) A unit is appropriate for such purposes if it includes, together with other employes, an individual employed as a guard to enforce against employes and other persons rules to protect property of the employer or to protect the safety of persons on the employer's premises. However, no labor organization shall be certified as the representative of employes in a bargaining unit of guards if such organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employes other than guards.

(2) In determining whether a unit is appropriate for the purposes specified in subsection (1) of this section, the extent to which the employes have organized is not controlling.

[1961 c.690 §4]

662.550 [Repealed by 1957 c.122 §5]

662.555 Filing of representation petition; investigation; hearing; election. (1) A petition may be filed with the board, in accordance with regulations prescribed by the board;

(a) By an employe or group of employes, or any individual or labor organization acting in their behalf, alleging that a substantial number of employes (A) wish to be represented for collective bargaining and that their employer declines to recognize their representative as the representative defined in ORS 662.525, or (B) assert that the individual or labor organization which has been certified or is being currently recognized by their employer as the bargaining representative, is no longer a representative as defined in ORS 662.525; or

(b) By an employer, alleging that one or more individuals or labor organizations have presented to him a claim to be recognized as the representative defined in ORS 662.525.

(2) The Attorney General shall investigate the petition and report his findings to the board. If, upon the basis of his findings, the board has reasonable cause to believe that a question of representation exists, it shall

provide for an appropriate hearing before the board itself, a member thereof or its agent appointed for that purpose. Written notice of the hearing shall be mailed by certified mail to the parties named in the petition not less than seven days before the hearing. If the board finds upon the record of the hearing that a question of representation exists, it shall direct the conciliator to conduct an election by secret ballot marked at the place of election, and to certify the results thereof.

(3) In determining whether or not a question of representation exists, the same regulations and rules of decision apply irrespective of the identity of the persons filing the petition or the kind of relief sought.

(4) Nothing in ORS 662.505 to 662.655 prohibits the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules of decision of the board.
[1961 c.690 §5]

662.565 Conduct of representation election. No election shall be directed in any bargaining unit or any subdivision within which, in the preceding 12 months, a valid election has been held. Employes engaged in an economic strike who are not entitled to reinstatement are eligible to vote, under regulations of the board consistent with the purposes and provisions of ORS 662.505 to 662.655, in any election conducted within 12 months after the commencement of the strike. In any election where none of the choices on the ballot receives a majority, a run-off shall be conducted by the conciliator, the ballot providing for a selection between the two choices receiving the largest and second largest number of valid votes cast in the election.
[1961 c.690 §6]

662.575 Filing of deauthorization petition; election; limitation. (1) Upon the filing with the board by 40 percent or more of the employes in a bargaining unit covered by an agreement between their employer and a labor organization requiring membership as a condition of employment, of a petition alleging that they desire that the authority of the labor organization to make such an agreement be rescinded, the board shall direct the conciliator to take a secret ballot, marked at the place of election, of the employes in the unit and to certify the results thereof to the labor organization and to the employer.

(2) No election shall be conducted pursuant to this section in a bargaining unit or a subdivision within which, in the preceding 12 months, a valid election has been held.
[1961 c.690 §7]

662.585 Filing charge of illegal election practices; investigation; new election. Any person may file with the board a charge that employes eligible to vote in an election under ORS 662.505 to 662.655 have been coerced or restrained in the exercise of this right. The Attorney General shall investigate the charge. If, upon the basis of his findings, the board concludes that employes eligible to vote in the election were so coerced or restrained, the board may order another election and may institute proceedings under ORS 662.535.
[1961 c.690 §8(1)]

662.595 Obtaining advisory opinions on assertion of federal jurisdiction; findings of board to be public records. (1) In carrying out ORS 662.505 to 662.655, the board may, pursuant to any applicable federal law, rule or regulation, petition the National Labor Relations Board for an advisory opinion as to whether that agency will assert jurisdiction over a labor dispute which is the subject of a proceeding then pending before the board.

(2) All findings, conclusions, and determinations of the board under ORS 662.505 to 662.655 shall be public records.
[1961 c.690 §8(2), (3)]

662.605 State Labor-Management Relations Board; appointment; confirmation; terms. (1) The State Labor-Management Relations Board consists of three members, appointed by the Governor by and with the advice and consent of the Senate. Not more than two members shall be of the same political party. The term of office of a member is four years. Before the expiration of the term of a member, the Governor shall appoint a successor to assume his duties on January 1 next following. An individual is eligible for reappointment. In case the office becomes vacant for any reason, the Governor shall make an appointment to become immediately effective for the unexpired term, subject to confirmation by the Senate as provided in subsection (2) of this section. A member may be removed by the Governor, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.

(2) The appointment of each member is subject to confirmation by the Senate by the affirmative vote of two-thirds of the Senators voting on the confirmation, a quorum being

present. If the appointment is made in the interim between legislative sessions, the Senate shall act through the Committee on Executive Appointments provided by ORS 171.560 in the manner provided in that section. The member so appointed is subject to confirmation by the Senate when it next convenes.

(3) If an appointment is not confirmed by the Senate, the appointee ceases to hold office, and the Governor shall make another appointment subject to confirmation by the Senate as provided in subsection (2) of this section.

[1961 c.690 §9]

662.610 [1953 c.723 §1; repealed by 1959 c.55 §1]

662.615 Organization of board; meetings; compensation and expenses of members; annual report. (1) The board shall select one of its members as chairman, and another as vice chairman, for such terms and with such powers and duties necessary for the performance of their offices as the board determines.

(2) A majority of the board constitutes a quorum for the transaction of business.

(3) The board shall meet at such times and places as are specified by the call of the chairman or of a majority of the members of the board.

(4) A member, other than one employed in full-time public service, may receive a payment of $20 for each day or portion thereof during which he is actually engaged in the performance of his official duties. In addition, all members may receive actual and necessary travel and other expenses incurred in the performance of their official duties within limits as provided by law or by the Department of Finance and Administration under ORS 292.220 and 292.230.

(5) The board shall at the close of each fiscal year make a report in writing to the Governor stating in detail the cases it has heard, the decisions it has rendered, the names, salaries and duties of all employes and officers in its employ or under its supervision, and an account of all money it has disbursed.

[1961 c.690 §§11, 13, 15; 1965 c.195 §2]

662.620 [1953 c.723 §2; repealed by 1959 c.55 §1]

662.625 Administrative assistance; expenses. (1) Subject to any applicable provision of the State Civil Service Law, the board may appoint professional and clerical assistants, prescribe their duties and fix their compensation.

(2) Subject to any other applicable law regulating travel and other expenses for state officers, all of the expenses of the board incurred in performing its duties, including necessary travel and other expenses incurred by assistants under its orders, shall be paid on presentation of itemized vouchers therefor approved by the chairman or by any individual he designates for that purpose.

[1961 c.690 §14]

662.630 [1953 c.723 §3; repealed by 1959 c.55 §1]

662.635 Powers of board in regard to witnesses and evidence. Any member of the board, or an officer or agent thereof appointed for the purposes of a hearing under ORS 662.555, may administer oaths, take depositions and issue subpenas to compel the attendance of witnesses and the production of books, papers, records, memoranda or other information necessary in carrying out his duties. If any person fails to comply with any subpena issued under this section or refuses to testify on matters on which he may lawfully be interrogated, the procedure provided in ORS 183.440 may be followed to compel obedience.

[1961 c.690 §12]

662.640 [1953 c.723 §4; repealed by 1959 c.55 §1]

662.645 Administrative procedures. (1) Subject to ORS chapter 183, the board, the conciliator and the Attorney General may make, amend and rescind procedural rules necessary to carry out their respective functions under ORS 662.505 to 662.655.

(2) All hearings under ORS 662.505 to 662.655 shall be conducted in compliance with ORS chapter 183.

[1961 c.690 §19]

662.650 [1953 c.723 §5; repealed by 1959 c.55 §1]

662.655 Labor-Management Relations Account. There is established in the General Fund of the State Treasury an account to be known as the Labor-Management Relations Account. This account is appropriated continuously for and shall be used by the board for the purposes authorized by law.

[1961 c.690 §16]

662.660 [1953 c.723 §6; repealed by 1959 c.55 §1]

662.670 [1953 c.723 §7; repealed by 1959 c.55 §1]

662.680 [1953 c.723 §8; repealed by 1959 c.55 §1]

662.690 [1953 c.723 §9; repealed by 1959 c.55 §1]

662.700 [1953 c.723 §10; repealed by 1959 c.55 §1]

NURSES IN HEALTH CARE FACILITIES

662.705 Definitions for ORS 662.705 to 662.795. As used in ORS 662.705 to 662.795, unless the context requires otherwise:

(1) "Appropriate bargaining unit" means a homogeneous group of employes of a health care facility, having similar interests, duties, preparation and qualifications, determined pursuant to ORS 662.745.

(2) "Employe" means a licensed professional or practical nurse performing services for compensation for a health care facility, but does not include a member of a religious order assigned to a health care facility by the order as a part of his obligations to the order.

(3) "Health care facility" means a hospital or nursing home, agency or establishment, whether operated publicly or privately, having as one of its principal purposes the preservation of health or the care of sick or infirm individuals, or both. However, "health care facility" does not include a facility in which terms of employment are governed by the State Civil Service Law or any other system of civil service operated under statute or ordinance, nor a facility employing fewer than four employes.

(4) "Labor Commissioner" means the Commissioner of the Bureau of Labor.
[1961 c.720 §54]

662.710 [1953 c.723 §12; repealed by 1959 c.55 §1]

662.715 Statement of policy. Sufficient competent and dependable care of the ill and infirm is of paramount importance to the general welfare of the people of this state. The Legislative Assembly recognizes that the public interest requires that effective measures be taken to assure uninterrupted continuation of this care. This state encourages the practice of collective bargaining between employers and employes of health care facilities in both publicly and privately operated health care facilities.
[1961 c.720 §53]

662.720 [1953 c.723 §13; repealed by 1959 c.55 §1]

662.725 Strike or work stoppage by employe as unfair labor practice. It is an unfair labor practice for an employe or representative of an employe to encourage, participate in or cause a strike or work stoppage against or directly involving a health care facility.
[1961 c.720 §55]

662.730 [1953 c.723 §14; repealed by 1959 c.55 §1]

662.735 Unfair employment practices by health care facilities. It is an unfair employment practice for a health care facility to do one or more of the following acts:

(1) Interfere with, restrain or coerce employes in any manner in the exercise of their right of self-organization.

(2) Initiate, create, dominate, contribute to or interfere with the formation or administration of an employe organization that has collective bargaining as one of its principal functions.

(3) Discriminate in regard to hire, terms or conditions of employment in order to discourage membership in an employe organization that has collective bargaining as one of its principal functions.

(4) Refuse to meet and bargain in good faith with the duly designated representatives of an appropriate bargaining unit of its employes. For the purposes of this subsection, it is a requirement of bargaining in good faith that the parties be willing to reduce to writing, and have their representatives sign, any agreement arrived at through negotiation and discussion.

(5) Institute, cause or declare a lockout.
[1961 c.720 §56]

662.740 [1953 c.723 §15; repealed by 1959 c.55 §1]

662.745 Determination of appropriate bargaining unit. (1) The composition in a health care facility of an appropriate bargaining unit may, for the purposes of ORS 662.705 to 662.795, be determined by common consent between the person or authority in charge of the facility and the employes thereof. If either party applies to the Labor Commissioner, the commissioner or his representative shall make the determination of the composition of the appropriate bargaining unit.

(2) In determining an appropriate bargaining unit under subsection (1) of this section, professional employes may not be included in the same bargaining unit with nonprofessional employes, unless the Labor Commissioner finds that a majority of the professional employes of that bargaining unit desire inclusion within such bargaining unit.
[1961 c.720 §57]

662.750 [1953 c.723 §16; repealed by 1959 c.55 §1]

662.755 Designation of bargaining unit representative. An employe organization is considered to be the duly designated representative of all the employes in an appropriate bargaining unit for the purposes of ORS 662.735 if it can show evidence that bargaining rights have been assigned to it by a majority of the employes in that bargaining unit.
[1961 c.720 §58]

662.760 [1953 c.723 §19; repealed by 1959 c.55 §1]

662.765 Filing of representation petition; investigation; election. (1) If the right of an employe organization to represent the employes in a bargaining unit is questioned by the authority in charge of the facility employing the employes, the employe organization may petition the Labor Commissioner for a determination. The Labor Commissioner or his representative shall investigate and determine the composition of an appropriate bargaining unit, if such determination has not previously been made under ORS 662.745, and shall determine the representative, if any, designated to represent the employes in that bargaining unit.

(2) An employe organization found by the Labor Commissioner to be authorized by at least 30 percent of the employes in an appropriate bargaining unit may apply for an election by secret ballot to determine its right to represent the employes in that bargaining unit. If more than one employe organization claims to represent employes in the bargaining unit, the Labor Commissioner or his representative may conduct an election by secret ballot to determine which is authorized to represent the unit. If an employe organization receives a majority of the valid votes cast at the election, it is considered to be authorized to represent all the employes in that bargaining unit for the purposes of ORS 662.735.

(3) A determination under this section remains in effect for at least one year.
[1961 c.720 §59]

662.770 [1953 c.723 §17; repealed by 1959 c.55 §1]

662.775 Prevention of unfair labor or employment practice. The Labor Commissioner, a health care facility or any employe organization qualified to apply for an election under ORS 662.765 may, in its name or in the name of its members, institute proceedings to restrain the commission of an unfair employment or labor practice listed in ORS 662.725 or 662.735. The proceeding may be instituted in the circuit court for any county in which the health care facility does business. The court in such an action may grant mandatory or prohibitory relief.
[1961 c.720 §60]

662.780 [1953 c.723 §18; repealed by 1959 c.55 §1]

662.785 Procedure when facility and employe representative cannot reach agreement. If a health care facility and the representative of an appropriate bargaining unit of its employes are unable to reach agreement after protracted collective bargaining in good faith, either party may:

(1) Request the State Conciliation Service to mediate the dispute. Both parties shall participate actively and in good faith in the mediation of such dispute by the Labor Conciliator.

(2) Apply to the Labor Commissioner for a fact-finding inquiry concerning the dispute, if the parties are not able to settle their dispute within 10 days through mediation and conciliation. Upon such an application, the Labor Commissioner shall forthwith make an investigation of the dispute. The Labor Commissioner may, in compliance with ORS 183.310 to 183.510, hold hearings, issue subpenas, administer oaths and do all things necessary to enable him to make a complete investigation. Upon completion of his investigation the Labor Commissioner shall make written findings of fact and file the original thereof as a part of the record of his investigation. He shall serve a copy of the findings upon each of the parties.
[1961 c.720 §61]

662.790 [1953 c.723 §20; repealed by 1959 c.55 §1]

662.795 Rules and regulations. In compliance with ORS 183.310 to 183.510, the Labor Commissioner may promulgate rules and regulations not inconsistent with ORS 662.705 to 662.795 that are necessary to enable him to carry out ORS 662.705 to 662.795.
[1961 c.720 §62]

PICKETING OF AGRICULTURAL PRODUCTION SITES

662.805 Definitions for ORS 662.805 to 662.825. As used in ORS 662.805 to 662.825, unless the context requires otherwise:

(1) "Perishable agricultural crops" means those products of agriculture which because of their inherent qualities or dependence upon conditions of soil or weather, mature, decompose, decay or deteriorate and in so doing undergo material changes of form and quality which render them unsuitable for the use for which they were produced.

(2) "Labor dispute" includes any controversy between an employer and a regular employe of that employer 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.

(3) "Regular employe" means a person who has been employed by his employer for at least six calendar work days.
[1963 c.543 §2]

662.810 Statement of legislative policy; right to organize and bargain collectively. (1) The Legislative Assembly recognizes and declares that agriculture is of great importance to the economy of the state and to the well-being of its citizens. Because of the perishable nature of agricultural crops, they must be harvested at the proper stage of maturity, and if this harvest is interfered with the crop may become a total loss with a resulting waste or loss of food, adverse effect upon consumer prices, loss of employment to agricultural laborers and severe dislocation of the entire economy of the state. The picketing of farms, ranches or orchards at such times as would prevent the planting or harvesting of such crops directly affects the public welfare and requires regulation by the state in the exercise of its police power.

(2) Nothing in ORS 662.805 to 662.825 shall be construed to prohibit any right of employes to organize and bargain collectively with their employers.
[1963 c.543 §§1, 6]

662.815 Picketing sites where perishable agricultural crops are being harvested restricted. It shall be unlawful for any person to picket or cause to be picketed any farm, ranch or orchard where perishable agricultural crops are produced while such crops are being harvested unless such picket has been a regular employe on such farm, ranch or orchard immediately prior to the commencement of the picketing.
[1963 c.543 §3]

662.820 Employer to display bilingual notices of picketing restriction. An employer of persons employed to harvest perishable agricultural crops shall display, in a conspicuous manner about the farm, ranch or orchard where perishable agricultural crops are being harvested, notices, written in the English and Spanish languages, of sufficient size and number to reasonably inform the employes and stating that ORS 662.815 prohibits any person other than a regular employe, as defined in ORS 662.805, from picketing a farm, ranch or orchard where perishable agricultural crops are produced while such crops are being harvested.
[1963 c.543 §5]

662.825 Jurisdiction to enjoin violations. Notwithstanding any other provision of law, the circuit court for the county in which such unlawful picketing is conducted has jurisdiction to enjoin any violation of ORS 662.805 to 662.825 by appropriate order or decree. The proceedings shall be conducted as in the case of a suit in equity but shall be given precedence over all other civil actions.
[1963 c.543 §4]

662.830 to 662.980 [Reserved for expansion]

PENALTIES

662.990 Penalties. Any person who wilfully resists, prevents, impedes, or interferes with the Attorney General, the conciliator, board or any of their officers, assistants or agents in the performance of their duties pursuant to ORS 662.505 to 662.655 shall be punished by a fine of not more than $5,000, or by imprisonment in the county jail for not more than one year, or both.
[1961 c.690 §21]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on November 15, 1965.

Sam R. Haley
Legislative Counsel

CHAPTERS 663 TO 669

[Reserved for expansion]