Chapter 663

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Labor Relations Generally

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ELECTIONS

663.005 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Employment Relations Board.

(2) "Conciliator" means the head of the State Conciliation Service.

(3) "Employee" includes any employee, and is not limited to the employees of a particular employer unless this chapter 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 in agricultural labor as defined in ORS 657.045;

(b) Employed by the parent or spouse of the individual;

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

(g) Employed in the building and construction industry;

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

(i) Employed by an employer subject to the jurisdiction of the National Labor Relations Board under its existing jurisdictional standards, pursuant to the Labor Management Relations Act of 1947, as amended (29 U.S.C. 141 to 187).

(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.

(e) Any person involved in the building and construction industry.

(f) Any person subject to the jurisdiction of the National Labor Relations Board under its existing jurisdictional standards, pursuant to the Labor Management Relations Act of 1947, as amended (29 U.S.C. 141 to 187).

(5) "Labor dispute" includes any controversy concerning terms, tenure 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 the disputants stand in the proximate relation of employer and employee.

(6) "Labor organization" means an organization of any kind, or an agency or an 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.

(7) "Professional employee" means:

(a) An employee 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 employee who:

(A) Has completed the courses of specialized intellectual instruction and study described in paragraph (a)(D) of this subsection; and

(B) Is performing related work under the supervision of a professional person to qualify the employee to become a professional employee as defined in paragraph (a) of this subsection.

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

(9) "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 employees, 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.

(10) "Unfair labor practice" means any unfair labor practice listed in ORS 663.120 to 663.165. [Formerly 662.505; 1975 c.147 §12; 1975 c.163 §2; 2003 c.14 §408]

663.010 "Collective bargaining" defined. For the purposes of this chapter, "collective bargaining" is the performance of the mutual obligation of the employer and the representative of the employees 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. [Formerly 662.515]

663.015 Designated collective bargaining representatives to be exclusive; grievances excepted. Representatives designated or selected for the purposes of collective bargaining, by the majority of the employees in a unit appropriate for such purposes, are the exclusive representatives of all the employees 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 employee or a group of employees 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. [Formerly 662.525]

663.020 Determination of appropriate unit for purposes of collective bargaining. (1) The Employment Relations 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 employees and employees who are not professional employees, unless a majority of the professional employees 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 employees in the proposed craft unit vote against separate representation; or

(c) A unit is appropriate for such purposes if it includes, together with other employees, an individual employed as a guard to enforce against employees 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 employees 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, employees 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 employees have organized is not controlling. [Formerly 662.545]

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

(a) By an employee or group of employees, or any individual or labor organization acting in their behalf, alleging that a substantial number of employees:

(A) Wish to be represented for collective bargaining and that their employer declines to recognize their representative as the representative defined in ORS 663.015; or

(B) Assert that the individual or labor organization that has been certified or is being currently recognized by their employer as the bargaining representative is no longer a representative as defined in ORS 663.015; or

(b) By an employer, alleging that one or more individuals or labor organizations have presented to the employer a claim to be recognized as the representative defined in ORS 663.015.

(2) The board shall investigate the petition and if, upon the basis of its 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 conduct an election by secret ballot

marked at the place of election and 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 this chapter 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. [Formerly 662.555; 1975 c.147 §13; 2003 c.14 §409]

663.030 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. Employees engaged in an economic strike who are not entitled to reinstatement are eligible to vote, under regulations of the Employment Relations Board consistent with the purposes and provisions of this chapter, 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 board, the ballot providing for a selection between the two choices receiving the largest and second largest number of valid votes cast in the election. [Formerly 662.565; 1975 c.147 §13a]

663.035 Filing of deauthorization petition; election; limitation. (1) Upon the filing with the Employment Relations Board by 40 percent or more of the employees 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 employees 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. [Formerly 662.575]

663.040 Filing charge of illegal election practice; investigation; new election. Any person may file with the Employment Relations Board a charge that employees eligible to vote in an election under this chapter have been coerced or restrained in the exercise of this right. The board shall investigate the charge. If, upon the basis of its findings, the board concludes that employees eligible to vote in the election were so coerced or restrained, the board may order another election. [Formerly 662.585; 1975 c.147 §14]

663.045 Obtaining advisory opinions on assertion of federal jurisdiction; findings of board to be public records. (1) In carrying out this chapter, the Employment Relations 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 this chapter shall be public records. [Formerly 662.595]

UNFAIR LABOR PRACTICES

663.100 Determination of agent. For the purposes of this chapter, in determining whether a person is acting as an "agent" of a second person so as to make the second person responsible for the acts of the first person, the question of whether the specific acts performed were actually authorized or subsequently ratified is not controlling. [1971 c.729 §3; 1987 c.158 §133]

663.105 Supervisory personnel as union members. Nothing in this chapter prohibits an individual employed as a supervisor from becoming or remaining a member of a labor organization, but no employer subject to this chapter is compelled to treat as employees, for the purpose of collective bargaining, individuals defined as supervisors in ORS 663.005. [1971 c.729 §4]

663.110 Employee organization, bargaining rights; union security agreements; payments to charitable institutions in lieu of union dues and other fees. Employees have the right to self-organization; to form, join or assist labor organizations; to bargain collectively through representatives of their own choosing; and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. Employees also have the right to refrain from any or all of such activities except to the extent that this right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized by ORS 663.125. However, agreements involving union security including an all-union agreement or agency agreement must safeguard the rights of nonassociation of employees, based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member. Such employee must pay an amount of money equivalent to regular union dues and initiation fees and assessments, if any, to a nonreligious charity or to another charitable organization mutually agreed upon by the employee affected and the representative of

the labor organization to which such employee would otherwise pay dues. The employee shall furnish written proof that this has been done. If the employee and representative of the labor organization do not reach agreement on the matter, the Employment Relations Board shall designate such organization. [1971 c.729 §5; 2003 c.14 §410]

663.115 Right to strike. Nothing in this chapter, except as specifically provided for therein, either interferes with, impedes or diminishes in any way the right to strike, or affects the limitations or qualifications on that right. [1971 c.729 §6]

663.120 Employer unfair labor practices. It is an unfair labor practice for an employer:

(1) To interfere with, restrain or coerce employees in the exercise of the rights guaranteed in ORS 663.110;

(2) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it. However, subject to rules published by the Employment Relations Board pursuant to ORS chapter 183, an employer may permit employees to confer with the employer during working hours without loss of time or pay;

(3) To discharge or otherwise discriminate against an employee because the employee has filed charges or given testimony under this chapter; or

(4) To refuse to bargain collectively with the employees' exclusive representative, as defined in ORS 663.015. [1971 c.729 §7; 1975 c.83 §1]

663.125 Other employer unfair labor practices. It is an unfair labor practice for an employer, by discrimination in regard to hire or tenure of employment or any term or condition of employment, to encourage or discourage membership in a labor organization. However:

(1) Nothing in this chapter or in any other statute of this state precludes an employer from making an agreement with a labor organization (not established, maintained or assisted by any action defined in this section or in ORS 663.120 as an unfair labor practice) to require as a condition of employment membership therein on or after the 30th day following the beginning of such employment or the effective date of such agreement, whichever is the later:

(a) If the labor organization is the representative of the majority of the employees in the appropriate collective-bargaining unit covered by the agreement when made; and

(b) Unless following an election held within one year preceding the effective date of the agreement, at least a majority of the employees eligible to vote in the election have voted to rescind the authority of the labor organization to make such an agreement.

(2) No employer shall justify any discrimination against an employee for nonmembership in a labor organization if the employer has reasonable grounds for believing that membership was:

(a) Not available to the employee on the same terms and conditions generally applicable to other members; or

(b) Denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership. [1971 c.729 §8]

663.130 Union unfair labor practices. It is an unfair labor practice for a labor organization or its agents:

(1) To cause or attempt to cause an employer to discriminate against an employee in violation of ORS 663.125 or to discriminate against an employee with respect to whom membership in such organization has been denied or terminated on some ground other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership;

(2) To refuse to bargain collectively with an employer, if it is the elected and certified representative of the employees;

(3) To cause or attempt to cause an employer to pay or deliver, or agree to pay or deliver, any money or other thing of value, in the nature of an exaction, for services which are not performed or not to be performed; or

(4) To restrain or coerce:

(a) An employer in the selection of representatives for the purposes of collective bargaining or the adjustment of grievances; or

(b) Employees in the exercise of the rights guaranteed in ORS 663.110. However, this paragraph does not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein. [1971 c.729 §9]

663.135 Excessive membership fee. It is an unfair labor practice for a labor organization or its agents to require of employees covered by an agreement authorized under ORS 663.125 the payment, as a condition precedent to becoming a member of the organization, of a fee in an amount which the Employment Relations Board finds excessive or discriminatory under all the circum-

stances. In making such a finding the board shall consider, among other relevant factors, the practices and customs of labor organizations in the particular industry, and the wages currently paid to the employees affected. [1971 c.729 §10]

663.140 Encouraging certain strikes; refusals to handle products. It is an unfair labor practice for a labor organization or its agents to engage in, or to induce or encourage any individual employed by any person to engage in, a strike or a refusal in the course of employment to use, manufacture, process, transport or otherwise handle or work on any goods, articles, materials or commodities or to perform any services; or to threaten, coerce or restrain any person, where in either case an object thereof is forcing or requiring:

(1) An employer or self-employed person to join a labor or employer organization or to enter into an agreement that is prohibited by ORS 663.155;

(2) A person to cease using, selling, handling, transporting or otherwise dealing in the products of any other producer, processor or manufacturer, or to cease doing business with any other person, or forcing or requiring any other employer to recognize or bargain with a labor organization as the representative of employees of the employer unless such labor organization has been certified as the elected representative of such employees. However, nothing in this subsection makes unlawful, where not otherwise unlawful, any primary strike or primary picketing;

(3) An employer to recognize or bargain with a particular labor organization as the representative of employees of the employer if another labor organization has been certified as the elected representative of such employees; or

(4) An employer to assign particular work to employees in a particular labor organization or in a particular trade, craft or class rather than to employees in another labor organization or in another trade, craft or class, unless the employer is failing to conform to an order of the Employment Relations Board or certification of the conciliator determining the bargaining representative for employees performing the work. [1971 c.729 §11; 2005 c.22 §473]

663.145 Refusal to enter upon premises where strike in progress; truthful strike publicity not prohibited. (1) Notwithstanding ORS 663.140, nothing in ORS 663.130 to 663.150 makes unlawful a refusal by any person to enter upon the premises of an employer (other than the person's own employer), if the employees of that employer are engaged in a strike ratified or approved by an elected and certified representative of the employees whom the employer is required to recognize.

(2) For the purposes of ORS 663.140 only, nothing in that section prohibits publicity, other than picketing, for the purpose of truthfully advising the public, including consumers and members of a labor organization, that a product is produced by an employer with whom the labor organization has a primary dispute and is distributed by another employer, as long as such publicity does not have an effect of inducing an individual employed by any person other than the primary employer in the course of employment to refuse to pick up, deliver or transport any goods, or not to perform any services, at the establishment of the employer engaged in such distribution. [1971 c.729 §12]

663.150 Picketing to force recognition of or bargaining with union. (1) It is an unfair labor practice for a labor organization or its agents to picket or cause to be picketed, or threaten to picket or cause to be picketed, any employer when an object thereof is forcing or requiring an employer to recognize or bargain with a labor organization as the representative of the employees, or forcing or requiring the employees of an employer to accept or select such labor organization as their collective-bargaining representative, unless such labor organization is currently certified as the representative of such employees:

(a) Where the employer has lawfully recognized in accordance with this chapter any other labor organization and a petition for a representation election may not appropriately be filed;

(b) Where, within the preceding 12 months, a valid election has been conducted; or

(c) Where the picketing has been conducted without a petition for an election and certification having been filed.

However:

(A) When such a petition has been filed the Employment Relations Board forthwith, without regard to the absence of a showing of a substantial interest on the part of the labor organization and without an investigation or hearing, shall conduct an election by secret ballot, marked at the place of election, in such unit as the board finds to be appropriate, and to certify the results thereof.

(B) Nothing in this section prohibits any picketing or other publicity for the purpose of truthfully advising the public (including consumers) that an employer does not employ members of, or have a contract with, a

labor organization, unless an effect of the picketing is to induce an individual employed by any other person in the course of employment, not to pick up, deliver or transport any goods or not to perform any services.

(2) Nothing in this section permits any act that otherwise would be an unfair labor practice under ORS 663.130 to 663.150. [1971 c.729 §13; 1975 c.147 §14a; 2007 c.71 §218]

663.155 Contract with employer to refrain from dealing in products of another employer. It is an unfair labor practice for a labor organization and an employer to enter into a contract or agreement, express or implied, whereby the employer ceases or refrains, or agrees to cease or refrain, from handling, using, selling, transporting or otherwise dealing in any of the products of any other employer, or to cease doing business with any other person. Any contract or agreement entered into after January 1, 1972, containing such an agreement is to such extent unenforceable and void. [1971 c.729 §15]

663.160 Expression of views not containing threats or promises of benefit not unfair labor practice. The expressing of any views, argument or opinion, or the dissemination thereof, whether in written, printed, graphic or visual form, does not constitute evidence of an unfair labor practice under any of the provisions of this chapter, if the expression contains no threat of reprisal or force or promise of benefit. [1971 c.729 §16]

663.165 Procedure for terminating or modifying existing collective bargaining contract; notice; negotiation meetings. (1) Notwithstanding ORS 663.010, if there is in effect a collective-bargaining contract covering employees in an industry, the duty to bargain collectively also means that no party to the contract shall terminate or modify the contract, unless the party desiring termination or modification:

(a) Serves a written notice upon the other party to the contract of the proposed termination or modification 60 days before the expiration date thereof, or in the event the contract contains no expiration date, 60 days before the time it is proposed to make such termination or modification;

(b) Offers to meet and confer with the other party for the purpose of negotiating a new contract or a contract containing the proposed modifications;

(c) Notifies the State Conciliation Service within 30 days after notice of the existence of a dispute, if no agreement has been reached by that time; and

(d) Continues in full force and effect, without resorting to strike or lockout, all the terms and conditions of the existing contract for a period of 60 days after such notice is given or until the expiration date of the contract, whichever occurs later.

(2) The duties imposed upon employers, employees and labor organizations by subsection (1)(b), (c) and (d) of this section:

(a) Become inapplicable upon an intervening election and certification under which the labor organization or individual which is a party to the contract has been superseded as or ceased to be the representative of the employees; and

(b) Do not require either party to discuss or agree to any modification of the terms and conditions contained in a contract for a fixed period, if the modification is to become effective before the terms and conditions can be reopened under the provisions of the contract.

(3) Any employee who engages in a strike within the 60-day period specified in this section loses status as an employee of the employer engaged in the particular labor dispute, for the purposes of this chapter, but the loss of status for the employee terminates if the employee is reemployed by the employer. [1971 c.729 §17]

663.170 Unfair labor practice provisions not retroactive. (1) No provision of this chapter makes an unfair labor practice any act that was performed before January 1, 1972.

(2) ORS 663.125 and 663.130 (1) do not make an unfair labor practice the performance of any obligation under a collective-bargaining agreement entered into before January 1, 1972, unless the agreement was renewed or extended after January 1, 1972. [1971 c.729 §18]

REMEDIES

663.175 Authority of board to prevent unfair labor practices; authority not to affect other lawful adjustment means. As provided in ORS 663.175 to 663.260, the Employment Relations Board may prevent any person from engaging in an unfair labor practice listed in ORS 663.120 to 663.165. This power is not affected by any other means of adjustment or prevention established by agreement, law, ordinance, regulation or otherwise. [1971 c.729 §19]

663.180 Filing of charges of unfair practice; fees; board investigation; issuance of complaints; complaints not to issue on certain practices occurring more than six months before filing of charges. (1) A person may file with the Employment Relations Board a charge that another person has engaged in or is engaging in an unfair labor practice. The person filing the charge shall pay a fee of $250 to the board.

The board shall deposit fees received under this section to the credit of the Employment Relations Board Administrative Account.

(2) If it is charged that a person has engaged in or is engaging in an unfair labor practice, the board shall cause an investigation to be made. If, on the basis of this investigation, it appears to the board that an issue of fact or law exists as to a violation of ORS 663.120 to 663.165, the board shall issue a complaint. The complaint shall contain a notice of hearing before the board, at a place fixed in the notice, not less than five days after the serving of the complaint.

(3) Notwithstanding subsection (2) of this section, the board may not issue a complaint based upon an unfair labor practice occurring more than six months before the filing of the charge with the board, and the service of a copy of the charge upon the person against whom the charge is made, unless the person aggrieved by the unfair labor practice was prevented from filing the charge by reason of service in the Armed Forces of the United States, in which event the six-month period shall be computed from the day of discharge. [1971 c.729 §20; 1975 c.147 §15; 2007 c.296 §2]

663.185 Amendment of complaint; filing answer; intervenors; fees; conduct of proceedings. (1) The Employment Relations Board may amend a complaint at any time before the issuance of an order based on the complaint.

(2) The person so complained of may file an answer to the original or amended complaint and appear in person or otherwise and give testimony at the place and time fixed in the complaint. The person filing the answer shall pay a fee of $250 to the board. The board may allow any other person to intervene in the proceeding and to present testimony. A person allowed to intervene shall pay a fee of $250 to the board.

(3) As far as practicable, the board shall conduct the proceeding in accordance with the rules of evidence applicable to civil actions.

(4) The board shall deposit fees received under this section to the credit of the Employment Relations Board Administrative Account. [1971 c.729 §21; 1979 c.284 §190; 2007 c.296 §3]

663.190 Record of testimony at hearings. The testimony taken at the hearing shall be reduced to writing and filed with the Employment Relations Board. Thereafter, in its discretion, the board on notice may take further testimony or hear argument, which shall similarly be reduced to writing. [1971 c.729 §22]

663.195 Orders and findings of board. (1) If, on the preponderance of the evidence taken and in the record, the Employment Relations Board is not of the opinion that the person named in the complaint has engaged in or is engaging in an unfair labor practice, the board shall state its findings of fact and shall issue an order dismissing the complaint.

(2) If, on the preponderance of evidence taken and in the record, the board is of the opinion that a person named in the complaint has engaged in or is engaging in an unfair labor practice, the board shall state its findings of fact and shall issue and cause to be served on that person an order requiring the person to cease and desist from the unfair labor practice and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this chapter.

(3) No order of the board shall require the reinstatement as an employee of an individual who has been suspended or discharged, or the payment to the individual of any back pay, if the individual was suspended or discharged for cause. [1971 c.729 §23]

663.200 Employee reinstatement orders; reports showing compliance with orders. (1) Except as provided in ORS 663.195 (3), if an order directs reinstatement of an employee, back pay may be required of the employer or labor organization responsible for the discrimination suffered by the employee.

(2) In determining whether a complaint shall issue alleging a violation of ORS 663.120 (1) or (2), and in deciding such cases, the same regulations and rules of decision shall apply irrespective of whether or not the labor organization affected is affiliated with a labor organization national or international in scope.

(3) An order further may require a person to make reports from time to time showing the extent to which it has complied with the order. [1971 c.729 §24]

663.205 Modification, setting aside orders by board; contents of record in certain representation matters. (1) Until the record of a case has been filed in court as provided in ORS 663.210 or 663.220, the Employment Relations Board at any time, upon reasonable notice and in such manner as it considers proper, may modify or set aside in whole or in part any finding or order made or issued by it.

(2) If an order of the board made pursuant to ORS 663.190, 663.195 and 663.200 is based in whole or in part upon facts certified following an investigation relating to a representation election and there is a petition

for the enforcement or review of the order, the certification and the record of the investigation shall be included in the transcript of the entire record required to be filed under ORS 663.210 or 663.220. The judgment of the court enforcing, modifying or setting aside in whole or in part the order of the board shall be made and entered upon the pleadings, testimony and proceedings set forth in the transcript. [1971 c.729 §25; 2003 c.576 §536]

663.210 Enforcement of orders by Court of Appeals; injunctive relief; notice of filing enforcement petition; authority of court in reviewing order. The Employment Relations Board may petition the Court of Appeals for the enforcement of an order and for appropriate temporary relief or restraining order, and shall file in the court the record in the proceedings. On the filing of the petition the court shall cause notice thereof to be served upon such person, and thereupon it has jurisdiction of the proceeding and the question determined therein. It may grant such temporary relief or restraining order as it considers just and proper, and make and enter a judgment enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the board. [1971 c.729 §26; 2003 c.576 §537]

663.215 Scope of court review of order; additional evidence; modification of findings by board. (1) No objection that has not been urged before the Employment Relations Board shall be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the board with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, are conclusive.

(2) If either party applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the hearing before the board, the court may order the additional evidence to be taken before the board, and to be made a part of the record.

(3) The board may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file modified or new findings. With respect to questions of fact the modified or new findings, if supported by substantial evidence on the record considered as a whole, are conclusive. [1971 c.729 §27]

663.220 Appeal of board's order to Court of Appeals; authority of court in reviewing order. (1) Any person aggrieved by a final order of the Employment Relations Board granting or denying in whole or in part the relief sought may obtain a review of the order in the Court of Appeals by filing in the court a written petition praying that the order of the board be modified or set aside. A copy of the petition shall be transmitted forthwith by the clerk of the court to the board and thereupon the aggrieved party shall file in the court the record in the proceeding, certified by the board.

(2) On the filing of the petition, the court shall proceed in the same manner as in the case of an application by the board under ORS 663.210, and it has the same jurisdiction to grant to the board temporary relief or restraining order as it considers just and proper, and in like manner to make and enter a judgment enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the board. The findings of the board with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, are in like manner conclusive. [1971 c.729 §28; 2003 c.576 §538]

663.225 Hearing of petitions; review proceedings not to stay board's order. (1) Petitions filed under ORS 663.175 to 663.260 shall be heard expeditiously, and if possible within 10 days after they are docketed.

(2) The commencement of proceedings under ORS 663.210, 663.215 and 663.220 does not, unless specifically ordered by the court, operate as a stay of the Employment Relations Board's order. [1971 c.729 §29]

663.230 Court jurisdiction in granting injunctive relief or reviewing order not limited by ORS 662.010 to 662.130. When granting appropriate temporary relief or a restraining order, or making and entering a judgment enforcing, modifying and enforcing as so modified, or setting aside in whole or in part an order of the Employment Relations Board, as provided in ORS 663.175 to 663.260, the jurisdiction of the court is not limited by ORS 662.010 to 662.130. [1971 c.729 §30; 2003 c.576 §539]

663.235 Injunctive relief authorized upon issuance of unfair labor practice complaint; notice to defendant; court jurisdiction. The Employment Relations Board, on issuance of a complaint charging that any person has engaged in or is engaging in an unfair labor practice, may petition the Court of Appeals for appropriate temporary relief or restraining order. On the filing of any such petition the court shall cause notice thereof to be served upon such person, and thereupon has jurisdiction to grant to the board such temporary relief or restraining order as the court considers just and proper. [1971 c.729 §31]

663.240 Priority of hearing certain unfair labor practice cases. If it is charged that a person has engaged in an unfair labor practice within the meaning of ORS 663.125 or 663.130 (1), the charge shall be given priority over all other cases except cases of like character where it is filed or referred and cases given priority under ORS 663.250, 663.255 and 663.260. [1971 c.729 §32]

663.245 Hearing unfair labor practice cases involving jurisdictional disputes; dismissal of charges upon voluntary adjustment of dispute. If it is charged that a person has engaged in an unfair labor practice within the meaning of ORS 663.140 (4), the Employment Relations Board shall hear and determine the dispute out of which the unfair labor practice arose unless, within 10 days after notice that the charge has been filed, the parties to the dispute submit to the board satisfactory evidence that they have adjusted, or agreed upon methods for the voluntary adjustment of, the dispute. On compliance by the parties to the dispute with the decision of the board or upon voluntary adjustment of the dispute, the charge shall be dismissed. [1971 c.729 §33]

663.250 Priority of investigating certain unfair labor practice charges; injunctive relief pending disposition of case; notice of petition; court authority. (1) If it is charged that a person has engaged in an unfair labor practice within the meaning of ORS 663.140 (1) to (3) or 663.150 or 663.155, the preliminary investigation of the charge shall be made forthwith and given priority over all other cases except cases of like character where it is filed or referred. If, after investigation, the Employment Relations Board or its agent has reasonable cause to believe the charge is true and that a complaint should issue, the board shall petition the Court of Appeals for appropriate injunctive relief pending the final adjudication of the board with respect to the matter.

(2) On the filing of such a petition the court:

(a) Shall cause notice thereof to be served upon any person involved in the charge. Such person, including the charging party, shall be given an opportunity to appear by counsel and present any relevant testimony.

(b) Has jurisdiction to grant such injunctive relief or temporary restraining order as it considers just and proper, notwithstanding any other provision of law.

(3) In situations where such relief is appropriate, the procedure specified in this section applies to charges with respect to ORS 663.140 (4). [1971 c.729 §34; 1975 c.147 §16]

663.255 Injunctive relief without notice; when board not to apply for injunctive relief. Notwithstanding ORS 663.250:

(1) No temporary restraining order shall be issued without notice unless a petition alleges that substantial and irreparable injury to the charging party will be unavoidable. Such a temporary restraining order is effective for no longer than five days and is void at the expiration of that period.

(2) The Employment Relations Board shall not apply for a restraining order under ORS 663.235 if a charge against the employer under ORS 663.120 (2) has been filed and, after the preliminary investigation, the board has reasonable cause to believe that the charge is true and that a complaint should issue. [1971 c.729 §35; 1975 c.147 §17]

663.260 Service of process on union; making union party to suit. The service of legal process upon an officer or agent of a labor organization constitutes service upon the labor organization and makes the organization a party to the suit. [1971 c.729 §36]

663.265 Application of ORS 663.270 to 663.295 to hearings and investigations. ORS 663.270 to 663.295 apply to all hearings and investigations which, in the opinion of the Employment Relations Board, are necessary and proper for the exercise of the powers vested in it by this chapter. [1971 c.729 §37]

663.270 Access of board to evidence relating to subject matter of investigation or proceedings; revocation of subpoenas requiring improper information; administration of oaths; taking testimony and evidence. (1) The Employment Relations Board or its duly authorized agents at all reasonable times shall have access to, for the purpose of examination, and the right to copy, any evidence of a person being investigated or proceeded against that relates to any matter under investigation or in question. The board, upon application of a party to such proceedings, forthwith shall issue to that party subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in the proceeding or investigation requested in the application.

(2) Within five days after the service of a subpoena on a person requiring the production of any evidence in possession or under the control of the person, the board on petition of that person shall revoke the subpoena if in its opinion the evidence whose production is required does not relate to any matter under investigation, or any matter in question in the proceedings, or if in its opinion the subpoena does not describe with sufficient particularity the evidence whose production is required.

(3) The board or its agent designated by it for such purposes, may administer oaths and affirmations, examine witnesses and receive evidence. Attendance of witnesses and the production of such evidence may be required at any designated place of hearing. [1971 c.729 §38; 1975 c.147 §18]

663.275 Refusal to obey subpoenas punished as contempt of court. In case of contumacy or refusal to obey a subpoena issued to any person, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Employment Relations Board or its agent, has jurisdiction to issue to the person an order requiring the person to appear before the board or its agent to produce evidence if so ordered, or to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof. [1971 c.729 §39; 1975 c.147 §19]

663.280 Immunity from punishment of persons testifying, producing evidence required by subpoena. No person shall be excused from attending and testifying or from producing books, records, correspondence, documents or other evidence in obedience to a subpoena issued under ORS 663.270, on the ground that the testimony or evidence required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture. However, no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which the individual is compelled, after having claimed privilege against self-incrimination, to testify or produce evidence, except that the individual so testifying is not exempt from prosecution and punishment for perjury committed in so testifying. [1971 c.729 §40]

663.285 Method of serving process of board; fees for witnesses summoned by board. (1) Complaints, orders, and other process and papers of the Employment Relations Board or its designated agent issued under this chapter may be served personally, by registered or certified mail, by telegraph or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return by the individual so serving setting forth the manner of service is proof of service. The return post-office receipt or telegraph receipt therefor, when registered and mailed or telegraphed, is proof of service.

(2) Witnesses summoned before the board or its designated agent under this chapter shall be paid the fees and mileage provided for witnesses in ORS 44.415 (2). Witnesses whose depositions are taken and the persons taking the same are severally entitled to the same fees as are paid for like services in the courts of this state. [1971 c.729 §41; 1975 c.147 §20; 1989 c.980 §18]

663.290 Place of service of court process. All process of any court to which application may be made under this chapter may be served wherever the defendant or other person required to be served resides or may be found. [1971 c.729 §42]

663.295 Governmental officers and agencies to furnish evidence related to board proceedings. All officers, departments and agencies of this state, when directed by the Governor, shall furnish the Employment Relations Board, upon its request, all records, papers and information in their possession relating to any matter before the board. [1971 c.729 §43]

663.300 [Formerly 662.605; repealed by 1975 c.147 §21]

663.305 [Formerly 662.615; repealed by 1975 c.147 §21]

663.310 [Formerly 662.625; repealed by 1975 c.147 §21]

663.315 [Formerly 662.635; repealed by 1975 c.147 §21]

663.320 [Formerly 662.645; repealed by 1975 c.147 §21]

663.325 [Formerly 662.655; repealed by 1975 c.147 §21]

CHAPTERS 664 TO 669

[Reserved for expansion]