

LEGISLATIVE BILL 684

Approved by the Governor April 7, 1988

Introduced by L. Johnson, 15; Warner, 25; Moore, 24

AN ACT relating to collective bargaining; to amend section 81-1373, Reissue Revised Statutes of Nebraska, 1943, and section 48-816, Revised Statutes Supplement, 1987, as amended by section 1, Legislative Bill 519, Ninetieth Legislature, Second Session, 1988; to change a provision relating to membership in a bargaining unit; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 48-816, Revised Statutes Supplement, 1987, as amended by section 1, Legislative Bill 519, Ninetieth Legislature, Second Session, 1988, be amended to read as follows:

48-816. (1) After a petition has been filed under section 48-811, the clerk shall immediately notify the commission which shall promptly take such preliminary proceedings as may be necessary to insure a prompt hearing and speedy adjudication of the industrial dispute. The commission shall have power and authority upon its own initiative or upon request of a party to the dispute to make such temporary findings and orders as may be necessary to preserve and protect the status of the parties, property, and public interest involved pending final determination of the issues. In the event of an industrial dispute between an employer and an employee or a labor organization when such employer and employee or labor organization have failed or refused to bargain in good faith concerning the matters in dispute, the commission may order such bargaining to begin or resume, as the case may be, and may make any such order or orders as may be appropriate to govern the situation pending such bargaining. The commission shall require good faith bargaining concerning the terms and conditions of employment of its employees by any employer. The commission shall require the parties to an industrial dispute to submit to mediation or factfinding upon request of either party and shall appoint mediators or factfinders for such purpose. Such orders for bargaining, mediation, or factfinding may be issued at any time during the pendency of an action to

resolve an industrial dispute. To bargain in good faith shall mean the performance of the mutual obligation of the employer and the labor organization to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment or any question arising thereunder and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession.

(2) Except as provided in the State Employees Collective Bargaining Act, public employers are hereby authorized to recognize employee organizations for the purpose of negotiating collectively in the determination of and administration of grievances arising under the terms and conditions of employment of their public employees as provided in the Industrial Relations Act and to negotiate and enter into written agreements with such employee organizations in determining such terms and conditions of employment.

(3)(a) Except as provided in subdivisions subdivision (b) and (c) of this subsection, a supervisor shall not be included in a single bargaining unit with any other employee who is not a supervisor.

(b) All firefighters and police officers employed in the fire department or police department of any municipal corporation in a position or classification subordinate to the chief of the department and his or her immediate assistant or assistants holding authority subordinate only to the chief shall be presumed to have a community of interest and may be included in a single negotiating unit represented by an employee organization for the purposes of the Industrial Relations Act. Public employers shall be required to recognize an employees negotiating unit composed of firefighters and police officers holding positions or classifications subordinate to the chief of the fire department or police department and his or her immediate assistant or assistants holding authority subordinate only to the chief when such negotiating unit is designated or elected by employees in the unit.

~~(c) Sergeants, corporals, and patrol officers employed by the Nebraska State Patrol as authorized in section 81-2004 shall be presumed to have a community of interest and may be included in a single bargaining unit represented by an employee organization for purposes of the act. The state shall be required to recognize an employees bargaining unit composed of sergeants, corporals, and patrol officers employed by the Nebraska~~

State Patrol when such bargaining unit is designated or elected by employees in the unit.

(4) When an employee organization has been certified as an exclusive collective-bargaining agent or recognized pursuant to any other provisions of the Industrial Relations Act, the appropriate public employer shall be and is hereby authorized to negotiate collectively with such employee organization in the settlement of grievances arising under the terms and conditions of employment of the public employees as provided in such act and to negotiate and enter into written agreements with such employee organizations in determining such terms and conditions of employment, including wages and hours.

(5) Upon receipt by an employer of a request from a labor organization to bargain on behalf of employees, the duty to engage in good faith bargaining shall arise if the labor organization has been certified by the commission or recognized by the employer as the exclusive bargaining representative for the employees in that bargaining unit.

(6) The commission shall have the authority (a) to make studies and analyses of and act as a clearinghouse of information relating to conditions of employment of public employees throughout the state, (b) to request from any government, and such governments are authorized to provide, such assistance, services, and data as will enable it properly to carry out its functions and powers, (c) to conduct studies of problems involved in representation and negotiation, including, but not limited to, those subjects which are for determination solely by the appropriate legislative body, and make recommendations from time to time for legislation based upon the results of such studies, (d) to make available to employee organizations, governments, mediators, factfinding boards and joint study committees established by governments, and employee organizations statistical data relating to wages, benefits, and employment practices in public and private employment applicable to various localities and occupations to assist them to resolve complex issues in negotiations, and (e) to establish, after consulting representatives of employee organizations and administrators of public services, panels of qualified persons broadly representative of the public to be available to serve as mediators or members of factfinding boards.

(7)(a) Except for those cases arising under section 48-818, the commission shall be required to make

findings of facts in all cases in which one of the parties to the dispute requests findings. Such request shall be specific as to the issues on which the party wishes the commission to make findings of fact.

(b) In cases arising under section 48-818, findings of fact shall not be required of the commission unless both parties to the dispute stipulate to the request and to the specific issues on which findings of fact are to be made.

(c) If findings of fact are requested under subdivision (a) or (b) of this subsection, the commission may require the parties making the request to submit proposed findings of fact to the commission on the issues on which findings of facts are requested.

(d) In cases arising under section 48-818, the commission shall issue a recommended decision and order, which decision and order shall become final within ten days of entry unless either party to the dispute files with the commission a request for a posttrial conference. If such a request is filed, the commission shall hold a posttrial conference within ten days of receipt of such request and shall issue an order within ten days after holding such posttrial conference, which order shall become the final order in the case. The purpose of such posttrial conference shall be to allow the commission to hear from the parties on those portions of the recommended decision and order which is not based upon or which mischaracterizes evidence in the record and to allow the commission to correct any such errors after having heard the matter in a conference setting in which all parties are represented.

Sec. 2. That section 81-1373, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1373. (1) For the purpose of implementing the state employees' right to organize for the purpose of collective bargaining, there are hereby created twelve bargaining units for all state agencies except the University of Nebraska, the Nebraska state colleges, and other constitutional offices. The units shall consist of state employees whose job classifications are occupationally and functionally related and who share a community of interest. The bargaining units shall be:

(a) Maintenance, Trades, and Technical, which unit is composed of generally recognized blue collar and technical classes, including highway maintenance workers, carpenters, plumbers, electricians, print shop workers, auto mechanics, engineering aides and associates, and similar classes;

(b) Administrative Support, which unit is composed of clerical and administrative nonprofessional classes, including typists, secretaries, accounting clerks, computer operators, office service personnel, and similar classes;

(c) Health and Human Care Nonprofessional, which unit is composed of institutional care classes, including nursing aides, psychiatric aides, therapy aides, and similar classes;

(d) Social Services and Counseling, which unit is composed of generally professional-level workers providing services and benefits to eligible persons. Classes shall include job service personnel, income maintenance personnel, social workers, counselors, and similar classes;

(e) Administrative Professional, which unit is composed of professional employees with general business responsibilities, including accountants, buyers, personnel specialists, data processing personnel, and similar classes;

(f) Protective Service, which unit is composed of institutional security personnel, including correctional officers, building security guards, and similar classes;

(g) Law Enforcement, which unit is composed of employees holding powers of arrest, including Nebraska State Patrol officers and sergeants, game wardens, fire marshal personnel, and similar classes. Sergeants, investigators, and patrol officers employed by the Nebraska State Patrol as authorized in section 81-2004 shall be presumed to have a community of interest with each other and shall be included in this bargaining unit notwithstanding any other provision of law which may allow for the contrary;

(h) Health and Human Care Professional, which unit is composed of community health, nutrition, and health service professional employees, including nurses, doctors, psychologists, pharmacists, dietitians, licensed therapists, and similar classes;

(i) Examining, Inspection, and Licensing, which unit is composed of employees empowered to review certain public and business activities, including driver-licensing personnel, revenue agents, bank and insurance examiners, various public health and protection inspectors, and similar classes;

(j) Engineering, Science, and Resources, which unit is composed of specialized professional scientific occupations, including civil and other engineers, architects, chemists, geologists and surveyors, and

similar classes;

(k) Teachers, which unit is composed of employees required to be licensed or certified as a teacher; and

(l) Supervisory, which unit is composed of employees who are supervisors as defined in section 48-801.

All employees who are excluded from bargaining units pursuant to the Industrial Relations Act and all employees of the Department of Personnel shall be excluded from any bargaining unit of state employees.

(2) Any employee organization, including one which represents other state employees, may be certified or recognized as provided in the Industrial Relations Act as the exclusive collective-bargaining agent for a supervisory unit, except that such unit shall not have full collective-bargaining rights but shall be afforded only meet-and-confer rights.

(3) It is the intent of the Legislature that professional and managerial employee classifications and office and service employee classifications be grouped in broad occupational units for the University of Nebraska and the Nebraska state colleges established on a university-wide or college-system-wide basis, including all campuses within the system. Any unit entirely composed of supervisory employees of the University of Nebraska or the Nebraska state colleges shall be afforded only meet-and-confer rights. The bargaining units for academic, faculty, and teaching employees of the University of Nebraska and the Nebraska state colleges shall continue as they exist on April 9, 1987, and any adjustments thereto or new units therefor shall continue to be determined pursuant to the Industrial Relations Act.

(4) Other constitutional offices shall continue to subscribe to the procedures for unit determination in the Industrial Relations Act, except that the commission is further directed to determine the bargaining units in such manner as to (a) reduce the effect of overfragmentation of bargaining units on the efficiency of administration and operations of the constitutional office and (b) be consistent with the administrative structure of the constitutional office. Any unit entirely composed of supervisory employees of a constitutional office shall be afforded only meet-and-confer rights.

Sec. 3. That original section 81-1373, Reissue Revised Statutes of Nebraska, 1943, and section 48-816, Revised Statutes Supplement, 1987, as amended by

LB 684

LB 684

section 1, Legislative Bill 519, Ninetieth Legislature,
Second Session, 1988, are repealed.