

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 995

Introduced by Lathrop, 12.

Read first time January 20, 2010

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to labor; to amend section 48-838, Revised
2 Statutes Cumulative Supplement, 2008; to change a
3 provision relating to employee representation; and to
4 repeal the original section.

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

1 Section 1. Section 48-838, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 48-838 (1) The commission shall determine questions
4 of representation for purposes of collective bargaining for and
5 on behalf of employees and shall make rules and regulations
6 for the conduct of elections to determine the exclusive
7 collective-bargaining agent for employees, except that in no
8 event shall a contract between an employer and an exclusive
9 collective-bargaining agent act as a bar for more than three
10 years to any other party seeking to represent employees, nor
11 shall any contract bar for more than three years a petition
12 by employees seeking an election to revoke the authority of
13 an agent to represent them. Except as provided in the State
14 Employees Collective Bargaining Act, the commission shall certify
15 the exclusive collective-bargaining agent for employees affected
16 by the Industrial Relations Act following an election by secret
17 ballot, which election shall be conducted according to rules and
18 regulations established by the commission.

19 (2) The election shall be conducted by one member of
20 the commission who shall be designated to act in such capacity
21 by the presiding officer of the commission, or the commission may
22 appoint the clerk of the district court of the county in which the
23 principal office of the employer is located to conduct the election
24 in accordance with the rules and regulations established by the
25 commission. Except as provided in the State Employees Collective

1 Bargaining Act, the commission shall also determine the appropriate
2 unit for bargaining and for voting in the election, and in making
3 such determination, the commission shall consider established
4 bargaining units and established policies of the employer. It
5 shall be presumed, in the case of governmental subdivisions such
6 as municipalities, counties, power districts, or utility districts
7 with no previous history of collective bargaining, that units of
8 employees of less than departmental size shall not be appropriate.

9 (3) Except as provided in the State Employees Collective
10 Bargaining Act, the commission shall not order an election until
11 it has determined that at least thirty percent of the employees in
12 an appropriate unit have requested in writing that the commission
13 hold such an election. Such request in writing by an employee may
14 be in any form in which an employee specifically either requests
15 an election or authorizes the employee organization to represent
16 him or her in bargaining, or otherwise evidences a desire that an
17 election be conducted. Such request of an employee shall not become
18 a matter of public record. No election shall be ordered in one unit
19 more than once a year.

20 (4) Except as provided in the State Employees Collective
21 Bargaining Act, the commission shall only certify an exclusive
22 collective-bargaining agent if a majority of the employees voting
23 in the election vote for the agent. A certified exclusive
24 collective-bargaining agent shall represent all employees in the
25 appropriate unit with respect to wages, hours, and conditions of

1 employment, except that such right of exclusive recognition shall
2 not preclude any employee, regardless of whether or not he or she
3 is a member of a labor organization, from bringing matters to the
4 attention of his or her superior or other appropriate officials.

5 Any employee may choose his or her own representative or
6 attorney in any grievance or legal action regardless of whether or
7 not an exclusive collective-bargaining agent has been certified. If
8 an employee who is not a member of the labor organization chooses
9 to have legal representation from the labor organization in any
10 grievance or legal action, such employee shall reimburse the labor
11 organization for his or her pro rata share of the actual legal fees
12 and court costs incurred by the labor organization in representing
13 the employee in such grievance or legal action.

14 The certification of an exclusive collective-bargaining
15 agent shall not preclude any employer from consulting with lawful
16 religious, social, fraternal, or other similar associations on
17 general matters affecting employees so long as such contracts do
18 not assume the character of formal negotiations in regard to wages,
19 hours, and conditions of employment. Such consultations shall not
20 alter any collective-bargaining agreement which may be in effect.

21 Sec. 2. Original section 48-838, Revised Statutes
22 Cumulative Supplement, 2008, is repealed.