

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1036**

Introduced by Wallman, 30.

Read first time January 22, 2014

Committee: Business and Labor

A BILL

- 1 FOR AN ACT relating to the Industrial Relations Act; to amend section
- 2 48-816, Revised Statutes Cumulative Supplement, 2012; to
- 3 provide for biennial contracts for cities of the primary
- 4 class; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 48-816, Revised Statutes Cumulative  
2 Supplement, 2012, is amended to read:

3           48-816 (1)(a) After a petition has been filed under  
4 section 48-811, the clerk shall immediately notify the commission  
5 which shall promptly take such preliminary proceedings as may be  
6 necessary to ensure prompt hearing and speedy adjudication of the  
7 industrial dispute. The commission may, upon its own initiative or  
8 upon request of a party to the dispute, make such temporary findings  
9 and orders as necessary to preserve and protect the status of the  
10 parties, property, and public interest involved pending final  
11 determination of the issues. In the event of an industrial dispute  
12 between a public employer and a public employee or a labor  
13 organization when such public employer and public employee or labor  
14 organization have failed or refused to bargain in good faith  
15 concerning the matters in dispute, the commission may order such  
16 bargaining to begin or resume, as the case may be, and may make any  
17 such order or orders as appropriate to govern the situation pending  
18 such bargaining. The commission shall require good faith bargaining  
19 concerning the terms and conditions of employment of its employees by  
20 any public employer. Upon the request of either party, the commission  
21 shall require the parties to an industrial dispute to submit to  
22 mediation or factfinding. ~~Before July 1, 2012, upon the request of~~  
23 ~~both parties, a special master may be appointed if the parties are~~  
24 ~~within the provisions of section 48-811.02. On and after July 1,~~  
25 ~~2012, upon~~ Upon the request of either party, a resolution officer may

1 be appointed if the parties are within the provisions of section  
2 48-818.01. The commission shall appoint mediators, factfinders, or  
3 ~~before July 1, 2012, special masters and on and after such date~~  
4 resolution officers for such purpose. Such orders for bargaining,  
5 mediation, factfinding, or ~~before July 1, 2012, a special master~~  
6 ~~proceeding and on and after such date~~ a resolution officer proceeding  
7 may be issued at any time during the pendency of an action to resolve  
8 an industrial dispute. To bargain in good faith means the performance  
9 of the mutual obligation of the public employer and the labor  
10 organization to meet at reasonable times and confer in good faith  
11 with respect to wages, hours, and other terms and conditions of  
12 employment or any question arising thereunder and the execution of a  
13 written contract incorporating any agreement reached if requested by  
14 either party, but such obligation does not compel either party to  
15 agree to a proposal or require the making of a concession.

16 (b) In negotiations between a municipality, municipally  
17 owned utility, or county and a labor organization, staffing related  
18 to issues of safety shall be mandatory subjects of bargaining and  
19 staffing relating to scheduling work, such as daily staffing,  
20 staffing by rank, and overall staffing requirements, shall be  
21 permissive subjects of bargaining.

22 (2) Except as provided in the State Employees Collective  
23 Bargaining Act, public employers may recognize employee organizations  
24 for the purpose of negotiating collectively in the determination of  
25 and administration of grievances arising under the terms and

1 conditions of employment of their public employees as provided in the  
2 Industrial Relations Act and may negotiate and enter into written  
3 agreements with such employee organizations in determining such terms  
4 and conditions of employment.

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

9 (b) All firefighters and police officers employed in the  
10 fire department or police department of any municipality in a  
11 position or classification subordinate to the chief of the department  
12 and his or her immediate assistant or assistants holding authority  
13 subordinate only to the chief shall be presumed to have a community  
14 of interest and may be included in a single bargaining unit  
15 represented by a public employee organization for the purposes of the  
16 Industrial Relations Act. Public employers shall be required to  
17 recognize a public employees bargaining unit composed of firefighters  
18 and police officers holding positions or classifications subordinate  
19 to the chief of the fire department or police department and his or  
20 her immediate assistant or assistants holding authority subordinate  
21 only to the chief when such bargaining unit is designated or elected  
22 by public employees in the unit.

23 (c) All administrators employed by a Class V school  
24 district shall be presumed to have a community of interest and may  
25 join a single bargaining unit composed otherwise of teachers and

1 other certificated employees for purposes of the Industrial Relations  
2 Act, except that the following administrators shall be exempt: The  
3 superintendent, associate superintendent, assistant superintendent,  
4 secretary and assistant secretary of the board of education,  
5 executive director, administrators in charge of the offices of state  
6 and federal relations and research, chief negotiator, and  
7 administrators in the immediate office of the superintendent. A Class  
8 V school district shall recognize a public employees bargaining unit  
9 composed of teachers and other certificated employees and  
10 administrators, except the exempt administrators, when such  
11 bargaining unit is formed by the public employees as provided in  
12 section 48-838 and may recognize such a bargaining unit as provided  
13 in subsection (2) of this section. In addition, all administrators  
14 employed by a Class V school district, except the exempt  
15 administrators, may form a separate bargaining unit represented  
16 either by the same bargaining agent for all collective-bargaining  
17 purposes as the teachers and other certificated employees or by  
18 another collective-bargaining agent of such administrators' choice.  
19 If a separate bargaining unit is formed by election as provided in  
20 section 48-838, a Class V school district shall recognize the  
21 bargaining unit and its agent for all purposes of collective  
22 bargaining. Such separate bargaining unit may also be recognized by a  
23 Class V school district as provided in subsection (2) of this  
24 section.

25 (4) When a public employee organization has been

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

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

16 (6) All contracts involving a city of the primary class  
17 that has adopted a biennial budget and any labor organization that  
18 bargains on behalf of public employees employed by such city shall  
19 cover a two-year period coinciding with the biennial city budget,  
20 except that the first contract entered into by a bargaining unit may  
21 cover only the second fiscal year of the biennium.

22 ~~(6)-(7)~~ A party to an action filed with the commission  
23 may request the commission to send survey forms or data request  
24 forms. The requesting party shall prepare its own survey forms or  
25 data request forms and shall provide the commission the names and

1 addresses of the entities to whom the documents shall be sent, not to  
2 exceed twenty addresses in any case. All costs resulting directly  
3 from the reproduction of such survey or data request forms and the  
4 cost of mailing such forms shall be taxed by the commission to the  
5 requesting party. The commission may (a) make studies and analyses of  
6 and act as a clearinghouse of information relating to conditions of  
7 employment of public employees throughout the state, (b) request from  
8 any government, and such governments are authorized to provide, such  
9 assistance, services, and data as will enable it properly to carry  
10 out its functions and powers, (c) conduct studies of problems  
11 involved in representation and negotiation, including, but not  
12 limited to, those subjects which are for determination solely by the  
13 appropriate legislative body, and make recommendations from time to  
14 time for legislation based upon the results of such studies, (d) make  
15 available to public employee organizations, governments, mediators,  
16 factfinding boards and joint study committees established by  
17 governments, and public employee organizations statistical data  
18 relating to wages, benefits, and employment practices in public and  
19 private employment applicable to various localities and occupations  
20 to assist them to resolve complex issues in negotiations, and (e)  
21 establish, after consulting representatives of public employee  
22 organizations and administrators of public services, panels of  
23 qualified persons broadly representative of the public to be  
24 available to serve as mediators, ~~before July 1, 2012, special masters~~  
25 ~~and on and after such date~~ resolution officers, or members of

1 factfinding boards.

2 ~~(7)(a)~~ (8)(a) Except for those cases arising under  
3 section 48-818, the commission shall make findings of facts in all  
4 cases in which one of the parties to the dispute requests findings.  
5 Such request shall be specific as to the issues on which the party  
6 wishes the commission to make findings of fact.

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

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

15 (d) In cases arising under section 48-818, the commission  
16 shall issue a recommended decision and order, which decision and  
17 order shall become final within twenty-five days of entry unless  
18 either party to the dispute files with the commission a request for a  
19 posttrial conference. If such a request is filed, the commission  
20 shall hold a posttrial conference within ten days of receipt of such  
21 request and shall issue an order within ten days after holding such  
22 posttrial conference, which order shall become the final order in the  
23 case. The purpose of such posttrial conference shall be to allow the  
24 commission to hear from the parties on those portions of the  
25 recommended decision and order which is not based upon or which



1 mischaracterizes evidence in the record and to allow the commission  
2 to correct any such errors after having heard the matter in a  
3 conference setting in which all parties are represented.

4           Sec. 2. Original section 48-816, Revised Statutes  
5 Cumulative Supplement, 2012, is repealed.