

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.