

An Act

ENROLLED HOUSE
BILL NO. 1968

By: Ford of the House

and

Haste of the Senate

An Act relating to cities and towns; amending 11 O.S. 2011, Sections 51-102 and 51-103, which relate to fire and police arbitration; eliminating definition; eliminating references to Public Employees Relations Board; removing petition filing requirement; removing requirement to place certain labor organizations on certain ballot; eliminating certain Board duties and powers; requiring public employer to recognize bargaining agent elected under certain conditions; providing for certification of exclusive employee representatives; requiring the Oklahoma Department of Labor to conduct certain election upon request; providing location and time period for which election shall be held; directing the Labor Commissioner to rule on certain legal objections or refer the objection to arbitration; providing for certain fees and expenses; and providing an effective date.

SUBJECT: Fire and police arbitration

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 11 O.S. 2011, Section 51-102, is amended to read as follows:

Section 51-102. As used in this article, unless the context requires a different interpretation:

1. "Firefighters and police officers" shall mean the permanent paid members of any fire department or police department in any

municipality within the State of Oklahoma but shall not include the chief of police and an administrative assistant and the chief of the fire department and an administrative assistant. The administrative assistant shall be that person so designated by the chief of the police department. "Police officers" as used herein shall be those persons as defined in Section 50-101 of this title.

2. "Corporate authorities" means the proper officials, singly or collectively, within any municipality whose duty or duties it is to establish the wages, salaries, rates of pay, hours, working conditions and other terms and conditions of employment of firefighters or police officers, whether they be the mayor, city manager, town manager, town administrator, city council, town council, director of personnel, personnel board or commission, or by whatever other name the same may be designated, or any combination thereof. It is not the intent of this paragraph that the above-named officials shall in any way be exclusive or limiting.

3. "Strike" shall mean the concerted failure to report for duty, the willful absence from one's position, unauthorized holidays, sickness unsubstantiated by a physician's statement, the stoppage of work, or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment, for the purpose of inducing, influencing or coercing a change in the conditions, compensation, rights, privileges or obligations of employment. Nothing contained in this article shall be construed to limit, impair or affect the right of any public employee to the expression or communication of a view, grievance, complaint or opinion on any matter related to the conditions or compensation of public employment or their betterment, so long as the same does not interfere with the full, faithful and proper performance of the duties of employment.

4. "Bargaining agent" shall mean any lawful association, fraternal organization, labor organization, federation or council having as one of its purposes the improvement of wages, hours and other conditions of employment among employees of fire and police departments.

5. "Collective bargaining" shall mean the performance of the mutual obligation of the municipal employer or his designated representatives and the representative of the employees to meet at reasonable times, including meetings appropriately related to the budget-making process; to confer in good faith with respect to wages, hours and other conditions of employment, or the negotiation

of an agreement, or any question arising thereunder; and to execute a written contract incorporating any agreement reached if requested by either party. Such obligation shall not, however, compel either party to agree to a proposal or require the making of a concession.

6. "Unfair labor practices" for the purpose of this article shall be deemed to include but not be limited to the following acts and conduct:

~~6a.~~

a. Action by corporate authorities:

- (1) interfering with, restraining, intimidating or coercing employees in the exercise of the rights guaranteed them by this article;
- (2) dominating or interfering with the formation, existence or administration of any employee organization or bargaining agent;
- (3) interfering in any manner whatsoever with the process of selection by firefighters or police officers of their respective bargaining agents or attempting to influence, coerce or intimidate individuals in such selection;
- (4) discharging or otherwise disciplining or discriminating against a police officer or firefighter because he has signed or filed any affidavit, petition or complaint or has given any information or testimony under this article or because of his election to be represented by the bargaining agent;
- (5) refusing to bargain collectively or discuss grievances in good faith with the designated bargaining agent with respect to any issue coming within the purview of this article; or
- (6) instituting or attempting to institute a lockout.

~~6b.~~

b. Action by bargaining agent:

- (1) interfering with, restraining, intimidating or coercing employees in the exercise of the rights guaranteed them by this article;
- (2) interfering with or attempting to coerce the corporate authorities in the selection of their representatives for the purposes of collective bargaining or the adjustment of grievances; or
- (3) refusing to bargain collectively or discuss grievances in good faith with the proper corporate authorities with respect to any issue coming within the purview of this article.

~~7. "Board" shall mean the Public Employees Relations Board.~~

SECTION 2. AMENDATORY 11 O.S. 2011, Section 51-103, is amended to read as follows:

Section 51-103. A. Firefighters and police officers in any municipality shall have the separate right to bargain collectively with their municipality and to be represented by a bargaining agent in such collective bargaining with respect to wages, salaries, hours, rates of pay, grievances, working conditions and all other terms and conditions of employment.

~~B. Whenever, conformable to regulations that may be prescribed by the Public Employees Relations Board, herein created, a petition is filed by:~~

~~1. A labor organization alleging that thirty percent (30%) of the firefighters or police officers in a municipality:~~

- ~~a. wish to be represented for collective bargaining by an exclusive employee representative, or~~
- ~~b. assert that the designated exclusive employee representative is no longer the representative of the majority of employees in the unit; or~~

~~2. The employer alleging that one or more labor organizations has presented to it a claim to be recognized as the exclusive employee representative in an appropriate unit;~~

~~the Board shall investigate the facts alleged therein and if it has reasonable cause to believe that a question of representation exists, it shall provide for an appropriate hearing upon due notice. If the Board finds upon the record of such hearing that such a question of representation exists, it shall direct an election by secret ballot and shall certify the results thereof. The Board may also certify a labor organization as an exclusive employee representative if it determines that a free and untrammelled election cannot be conducted because of the employer's unfair labor practices.~~

~~C. Only those labor organizations which have been designated by more than ten percent (10%) of the employees in the unit found to be appropriate shall be placed on the ballot. Nothing in this section shall be construed to prohibit the waiving of hearing by stipulation for the purpose of a consent election, in conformity with the rules and regulations of the Board.~~

~~D. In order to assure to firefighters and police officers of any municipality the fullest freedom in exercising the rights guaranteed by this article, the Board shall decide in each case before it in which the issue is raised the unit appropriate for the purposes of collective bargaining, and shall consider such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees.~~

~~E. An election shall not be directed in any bargaining unit or in any subdivision thereof within which, in the preceding twelve month period, a valid election has been held. The Board shall determine who is eligible to vote in the election and shall establish rules governing the election. In any election where none of the choices on the ballot receives a majority, but a majority of all votes cast are for representation by some labor organization, a run-off election shall be conducted. A labor organization which receives the majority of the votes cast in an election shall be certified by the Board as the exclusive employee representative A public employer shall recognize a bargaining agent elected by a majority of individual firefighters of a municipal fire department or by a majority of individual police officers of a municipal police department as the exclusive bargaining agent for the fire department or police department until a majority of the firefighters or police officers withdraw recognition.~~

C. A labor organization which receives a majority of the votes cast in an election as provided in subsection B of this section shall be certified by the Oklahoma Department of Labor as the exclusive employee representative.

D. Should a municipality, or a majority of any fire department's firefighters, or a majority of any police department's police officers submit a written request for an election as described in subsection B of this section to be held by the Oklahoma Department of Labor, the Oklahoma Department of Labor shall, within thirty (30) days of receiving the request, conduct the election at the premises of the requesting municipality, fire department or police department, or other agreed location. Elections shall not be held at the Oklahoma Department of Labor. The Oklahoma Department of Labor may extend the election date beyond thirty (30) days from the date of receipt of a written election request if necessary but shall not extend the election date beyond ninety (90) days except for exceptional circumstances.

E. If a proper and timely legal challenge or objection is raised by any affected municipality, firefighter, police officer or other interested party regarding an election request, election process, election result or other matter or procedure provided for in this section, then the Labor Commissioner or his or her designee shall choose to either rule upon such legal challenge or objection, with his or her ruling being final, or the legal challenge or objection may be referred to arbitration in accordance with the provisions of Sections 51-106 through 51-111 of this title. The Oklahoma Department of Labor's decision to either retain or refer any legal challenge or objection shall be final. All reasonable fees and necessary expenses incurred by the Oklahoma Department of Labor in ruling upon any legal challenges or objections shall be borne equally by the bargaining agent and corporate authority.

SECTION 3. This act shall become effective November 1, 2019.

Passed the House of Representatives the 12th day of March, 2019.

Presiding Officer of the House
of Representatives

Passed the Senate the 22nd day of April, 2019.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____