

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1968 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Ross Ford _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1968

By: Ford

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to cities and towns; amending 11 O.S.
9 2011, Sections 51-102, 51-103 and 51-104b, which
10 relate to fire and police arbitration; eliminating
11 definition; eliminating Public Employees Relations
12 Board; removing petition filing requirement; removing
13 requirement to place certain labor organizations on
14 certain ballot; eliminating certain Board duties and
15 powers; requiring public employer to recognize
16 bargaining agent elected under certain conditions;
17 providing for certification of exclusive employee
18 representatives; requiring the Oklahoma Department of
19 Labor to conduct certain election upon request;
20 providing location and time period for which election
21 shall be held; directing the Labor Commissioner to
22 rule on certain legal objections or refer the
23 objection to arbitration; eliminating reference;
24 providing for alleged unfair labor practice
proceedings; providing certain complaint contents;
requiring written answer of certain complaint filing
timeline and contents; requiring arbitration board to
convene; providing powers and duties of arbitration
board; transferring certain duties the Public
Employees Relations Board to arbitration board; and
providing an effective date.

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:

1 Section 51-102. 1. "Fire fighters and police officers" shall
2 mean the permanent paid members of any fire department or police
3 department in any municipality within the State of Oklahoma but
4 shall not include the chief of police and an administrative
5 assistant and the chief of the fire department and an administrative
6 assistant. The administrative assistant shall be that person so
7 designated by the chief of the police department. "Police officers"
8 as used herein shall be those persons as defined in Section 50-101
9 of this title.

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

20 3. "Strike" shall mean the concerted failure to report for
21 duty, the willful absence from one's position, unauthorized
22 holidays, sickness unsubstantiated by a physician's statement, the
23 stoppage of work, or the abstinence in whole or in part from the
24 full, faithful and proper performance of the duties of employment,

1 for the purpose of inducing, influencing or coercing a change in the
2 conditions, compensation, rights, privileges or obligations of
3 employment. Nothing contained in this article shall be construed to
4 limit, impair or affect the right of any public employee to the
5 expression or communication of a view, grievance, complaint or
6 opinion on any matter related to the conditions or compensation of
7 public employment or their betterment, so long as the same does not
8 interfere with the full, faithful and proper performance of the
9 duties of employment.

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

15 5. "Collective bargaining" shall mean the performance of the
16 mutual obligation of the municipal employer or his designated
17 representatives and the representative of the employees to meet at
18 reasonable times, including meetings appropriately related to the
19 budget-making process; to confer in good faith with respect to
20 wages, hours and other conditions of employment, or the negotiation
21 of an agreement, or any question arising thereunder; and to execute
22 a written contract incorporating any agreement reached if requested
23 by either party. Such obligation shall not, however, compel either
24 party to agree to a proposal or require the making of a concession.

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

4 6a. Action by corporate authorities:

- 5 (1) interfering with, restraining, intimidating or
6 coercing employees in the exercise of the rights
7 guaranteed them by this article;
- 8 (2) dominating or interfering with the formation,
9 existence or administration of any employee
10 organization or bargaining agent;
- 11 (3) interfering in any manner whatsoever with the
12 process of selection by fire fighters or police
13 officers of their respective bargaining agents or
14 attempting to influence, coerce or intimidate
15 individuals in such selection;
- 16 (4) discharging or otherwise disciplining or
17 discriminating against a police officer or fire
18 fighter because he has signed or filed any
19 affidavit, petition or complaint or has given any
20 information or testimony under this article or
21 because of his election to be represented by the
22 bargaining agent;
- 23 (5) refusing to bargain collectively or discuss
24 grievances in good faith with the designated

1 bargaining agent with respect to any issue coming
2 within the purview of this article; or

3 (6) instituting or attempting to institute a lockout.

4 6b. Action by bargaining agent:

5 (1) interfering with, restraining, intimidating or
6 coercing employees in the exercise of the rights
7 guaranteed them by this article;

8 (2) interfering with or attempting to coerce the
9 corporate authorities in the selection of their
10 representatives for the purposes of collective
11 bargaining or the adjustment of grievances; or

12 (3) refusing to bargain collectively or discuss
13 grievances in good faith with the proper
14 corporate authorities with respect to any issue
15 coming within the purview of this article.

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

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

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

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

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

6 a. ~~wish to be represented for collective bargaining by an~~
7 ~~exclusive employee representative, or~~

8 b. ~~assert that the designated exclusive employee~~
9 ~~representative is no longer the representative of the~~
10 ~~majority of employees in the unit; or~~

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

14 ~~the Board shall investigate the facts alleged therein and if it has~~
15 ~~reasonable cause to believe that a question of representation~~
16 ~~exists, it shall provide for an appropriate hearing upon due notice.~~

17 ~~If the Board finds upon the record of such hearing that such a~~
18 ~~question of representation exists, it shall direct an election by~~
19 ~~secret ballot and shall certify the results thereof. The Board may~~

20 ~~also certify a labor organization as an exclusive employee~~
21 ~~representative if it determines that a free and untrammelled~~
22 ~~election cannot be conducted because of the employer's unfair labor~~
23 ~~practices.~~

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

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

15 ~~E. An election shall not be directed in any bargaining unit or~~
16 ~~in any subdivision thereof within which, in the preceding~~
17 ~~twelve month period, a valid election has been held. The Board~~
18 ~~shall determine who is eligible to vote in the election and shall~~
19 ~~establish rules governing the election. In any election where none~~
20 ~~of the choices on the ballot receives a majority, but a majority of~~
21 ~~all votes cast are for representation by some labor organization, a~~
22 ~~run-off election shall be conducted. A labor organization which~~
23 ~~receives the majority of the votes cast in an election shall be~~
24 ~~certified by the Board as the exclusive employee representative. A~~

1 public employer shall recognize a bargaining agent elected by a
2 majority of individual firefighters of a municipal fire department
3 or by a majority of individual police officers of a municipal police
4 department as the exclusive bargaining agent for the fire department
5 or police department until a majority of the firefighters or police
6 officers withdraw recognition.

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

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

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

15 SECTION 3. AMENDATORY 11 O.S. 2011, Section 51-104b, is
16 amended to read as follows:

17 Section 51-104b. A. ~~The Public Employees Relations Board~~ An
18 arbitration board convened pursuant to procedures set forth in
19 Section 51-107 of this title is empowered, as hereinafter provided,
20 to prevent any person, including bargaining agent and corporate
21 authorities, from engaging in any unfair labor practice as defined
22 herein.

23 B. ~~Whenever it is charged that any person has engaged in or is~~
24 ~~engaging in any such unfair labor practice, the Board shall have the~~

1 ~~power to issue and cause to be served upon such person a complaint~~
2 ~~stating the charges in that respect, and containing a notice of~~
3 ~~hearing before the Board, at a place therein fixed, not less than~~
4 ~~five (5) days after the serving of said complaint. The person so~~
5 ~~complained of shall have the right to file an answer and to appear~~
6 ~~and give testimony at the time and place fixed in the complaint. In~~
7 ~~the discretion of the Board, any other person may be allowed to~~
8 ~~intervene in such proceeding.~~

9 1. Proceedings against a party alleging an unfair labor
10 practice shall be commenced by serving a written complaint on the
11 accused party within six (6) months of the alleged violation by
12 certified mail, return receipt requested. The complaint shall
13 include a clear and concise statement of the facts constituting the
14 alleged unfair labor practice, including the names of the
15 individuals involved in the alleged act, the dates and places of the
16 alleged occurrence and the specific provision in Sections 51-101
17 through 51-113 of this title alleged to have been violated.

18 2. The accused party shall have ten (10) days from the date of
19 service to serve on the complainant a written answer to the
20 complaint. The answer shall contain the following:

21 a. a specific admission, denial or explanation of each
22 allegation of the complaint, or if respondent is
23 without knowledge thereof, respondent shall so state
24 and that statement shall constitute a denial.

1 Admissions or denials may be made to all or part of
2 the allegation, but shall fairly meet the substance of
3 the allegation,

4 b. a specific and appropriately detailed statement of any
5 defense, and

6 c. a clear and concise statement of the facts and matters
7 of law relied upon constituting any grounds of
8 defense.

9 3. Within ten (10) days from the date of service of the answer,
10 the parties shall convene an arbitration board pursuant to Section
11 51-107 of this title. The board shall have the powers set forth in,
12 and shall conduct its hearings in accordance with, paragraph 3 of
13 subsection A of Section 51-108 of this title. The fees and expenses
14 of convening the board shall be paid pursuant to Section 51-110 of
15 this title. The arbitration board acting through its chair shall
16 call a hearing to be held within thirty (30) days after the date of
17 the appointment of the chair and shall give notice in writing to
18 each of the other two arbitrators, the bargaining agent and the
19 corporate authorities of the time and place of the hearing. The
20 parties shall have the right to appear and give testimony at the
21 time and place fixed in the notice of hearing. In the discretion of
22 the arbitration board, any other person may be allowed to intervene
23 in the proceeding.

1 C. If upon the preponderance of the testimony taken the ~~Board~~
2 arbitration board shall be of the opinion that the person named in
3 the complaint has engaged in or is engaging in any such unfair labor
4 practice, then the ~~Board~~ arbitration board shall state its findings
5 of fact and shall issue and cause to be served on such person an
6 order requiring such person to cease and desist from such unfair
7 labor practice. Such order may further require such person to make
8 reports from time to time showing the extent to which it has
9 complied with the order. If upon the preponderance of the testimony
10 taken the ~~Board~~ arbitration board shall not be of the opinion that
11 the person served in the complaint has engaged in or is engaging in
12 any such unfair labor practice, then the ~~Board~~ arbitration board
13 shall state its findings of fact and shall issue an order dismissing
14 the complaint. The decision of the arbitration board shall be
15 binding on both parties.

16 D. The ~~Board~~ arbitration board, or any interested party, shall
17 have the power to petition the district court, wherein the unfair
18 labor practice in question occurred, for the enforcement of such
19 order and for appropriate temporary relief of restraining order.

20 SECTION 4. This act shall become effective November 1, 2019.

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22 57-1-7774 AMM 02/11/19

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