

1 **SENATE FLOOR VERSION**

2 April 4, 2019

3 ENGROSSED HOUSE  
4 BILL NO. 1968

By: Ford of the House

5 and

6 Haste of the Senate

7  
8 An Act relating to cities and towns; amending 11 O.S.  
9 2011, Sections 51-102 and 51-103, which relate to  
10 fire and police arbitration; eliminating definition;  
11 eliminating references to 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; providing for certain fees  
24 and expenses; 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:

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

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

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

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

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

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

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

24

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.~~

5       a. Action by corporate authorities:

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

- 1 (5) refusing to bargain collectively or discuss  
2 grievances in good faith with the designated  
3 bargaining agent with respect to any issue coming  
4 within the purview of this article; or  
5 (6) instituting or attempting to institute a lockout.

6 ~~6b.~~

7 b. Action by bargaining agent:

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

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

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

22 Section 51-103. A. Firefighters and police officers in any  
23 municipality shall have the separate right to bargain collectively  
24 with their municipality and to be represented by a bargaining agent

1 in such collective bargaining with respect to wages, salaries,  
2 hours, rates of pay, grievances, working conditions and all other  
3 terms and conditions of employment.

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

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

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

11 b. ~~assert that the designated exclusive employee~~  
12 ~~representative is no longer the representative of the~~  
13 ~~majority of employees in the unit; or~~

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

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

20 ~~If the Board finds upon the record of such hearing that such a~~

21 ~~question of representation exists, it shall direct an election by~~

22 ~~secret ballot and shall certify the results thereof. The Board may~~

23 ~~also certify a labor organization as an exclusive employee~~

24 ~~representative if it determines that a free and untrammelled~~

1 ~~election cannot be conducted because of the employer's unfair labor~~  
2 ~~practices.~~

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

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

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

1 ~~receives the majority of the votes cast in an election shall be~~  
2 ~~certified by the Board as the exclusive employee representative~~ A  
3 public employer shall recognize a bargaining agent elected by a  
4 majority of individual firefighters of a municipal fire department  
5 or by a majority of individual police officers of a municipal police  
6 department as the exclusive bargaining agent for the fire department  
7 or police department until a majority of the firefighters or police  
8 officers withdraw recognition.

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

13 D. Should a municipality, or a majority of any fire  
14 department's firefighters, or a majority of any police department's  
15 police officers submit a written request for an election as  
16 described in subsection B of this section to be held by the Oklahoma  
17 Department of Labor, the Oklahoma Department of Labor shall, within  
18 thirty (30) days of receiving the request, conduct the election at  
19 the premises of the requesting municipality, fire department or  
20 police department, or other agreed location. Elections shall not be  
21 held at the Oklahoma Department of Labor. The Oklahoma Department  
22 of Labor may extend the election date beyond thirty (30) days from  
23 the date of receipt of a written election request if necessary but  
24

1 shall not extend the election date beyond ninety (90) days except  
2 for exceptional circumstances.

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

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

18 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM  
19 April 4, 2019 - DO PASS  
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