

LEGISLATIVE BILL 519

Passed over the Governor's veto March 22, 1988.

Introduced by Wesely, 26; Chizek, 31; Ashford, 6;
Pappas, 42

AN ACT relating to labor; to amend section 48-816, Revised Statutes Supplement, 1987; to change a provision relating to membership in a bargaining unit as prescribed; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 48-816, Revised Statutes Supplement, 1987, be amended to read as follows:

48-816. (1) After a petition has been filed under section 48-811, the clerk shall immediately notify the commission, which shall promptly take such preliminary proceedings as may be necessary to insure a prompt hearing and speedy adjudication of the industrial dispute. The commission shall have power and authority upon its own initiative or upon request of a party to the dispute to make such temporary findings and orders as may be necessary to preserve and protect the status of the parties, property, and public interest involved, pending final determination of the issues. In the event of an industrial dispute between an employer and an employee or a labor organization when such employer and employee or labor organization have failed or refused to bargain in good faith concerning the matters in dispute, the commission may order such bargaining to begin or resume, as the case may be, and may make any such order or orders as may be appropriate to govern the situation pending such bargaining. The commission shall require good faith bargaining concerning the terms and conditions of employment of its employees by any employer. The commission shall require the parties to an industrial dispute to submit to mediation or factfinding upon request of either party and shall appoint mediators or factfinders for such purpose. Such orders for bargaining, mediation, or factfinding may be issued at any time during the pendency of an action to resolve an industrial dispute. To bargain in good faith shall mean the performance of the mutual obligation of the employer and the labor organization to meet at reasonable times and confer in good faith with respect

to wages, hours, and other terms and conditions of employment or any question arising thereunder and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession.

(2) Except as provided in the State Employees Collective Bargaining Act, public employers are hereby authorized to recognize employee organizations for the purpose of negotiating collectively in the determination of and administration of grievances arising under the terms and conditions of employment of their public employees as provided in the Industrial Relations Act and to negotiate and enter into written agreements with such employee organizations in determining such terms and conditions of employment.

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

(b) All firefighters and police officers employed in the fire department or police department of any municipal corporation in a position or classification subordinate to the chief of the department and his or her immediate assistant or assistants holding authority subordinate only to the chief shall be presumed to have a community of interest and may be included in a single negotiating unit represented by an employee organization for the purposes of the Industrial Relations Act. Public employers shall be required to recognize an employee's employees negotiating unit composed of firefighters and police officers holding positions or classifications subordinate to the chief of the fire department or police department and his or her immediate assistant or assistants holding authority subordinate only to the chief when such negotiating unit is designated or elected by employees in the unit.

(c) Sergeants, corporals, and patrol officers employed by the Nebraska State Patrol as authorized in section 81-2004 shall be presumed to have a community of interest and may be included in a single bargaining unit represented by an employee organization for purposes of the act. The state shall be required to recognize an employees bargaining unit composed of sergeants, corporals, and patrol officers employed by the Nebraska State Patrol when such bargaining unit is designated or elected by employees in the unit.

(4) When an employee organization has been

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

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

(6) The commission shall have the authority (a) to make studies and analyses of and act as a clearinghouse of information relating to conditions of employment of public employees throughout the state, (b) to request from any government, and such governments are authorized to provide, such assistance, services, and data as will enable it properly to carry out its functions and powers, (c) to conduct studies of problems involved in representation and negotiation, including, but not limited to, those subjects which are for determination solely by the appropriate legislative body, and make recommendations from time to time for legislation based upon the results of such studies, (d) to make available to employee organizations, governments, mediators, factfinding boards and joint study committees established by governments, and employee organizations statistical data relating to wages, benefits, and employment practices in public and private employment applicable to various localities and occupations to assist them to resolve complex issues in negotiations, and (e) to establish, after consulting representatives of employee organizations and administrators of public services, panels of qualified persons broadly representative of the public to be available to serve as mediators or members of factfinding boards.

(7)(a) Except for those cases arising under section 48-818, the commission shall be required to make findings of facts in all cases in which one of the parties to the dispute requests findings. Such request shall be specific as to the issues on which the party

wishes the commission to make findings of fact.

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

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

(d) In cases arising under section 48-818, the commission shall issue a recommended decision and order, which decision and order shall become final within ten days of entry unless either party to the dispute files with the commission a request for a posttrial conference. If such a request is filed, the commission shall hold a posttrial conference within ten days of receipt of such request and shall issue an order within ten days after holding such posttrial conference, which order shall become the final order in the case. The purpose of such posttrial conference shall be to allow the commission to hear from the parties on those portions of the recommended decision and order which is not based upon or which mischaracterizes evidence in the record and to allow the commission to correct any such errors after having heard the matter in a conference setting in which all parties are represented.

Sec. 2. That original section 48-816, Revised Statutes Supplement, 1987, is repealed.