

LEGISLATIVE BILL 382

Approved by the Governor June 1, 1995

Introduced by Lynch, 13; Preister, 5

AN ACT relating to the Industrial Relations Act; to amend section 48-801.01, Reissue Revised Statutes of Nebraska; to prohibit certain practices; to provide for hearings and appeals; and to repeal the original section.

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

Section 1. (1) It is a prohibited practice for any employer, employee, employee organization, or collective-bargaining agent to refuse to negotiate in good faith with respect to mandatory topics of bargaining.

(2) It is a prohibited practice for any employer or the employer's negotiator to:

(a) Interfere with, restrain, or coerce employees in the exercise of rights granted by the Industrial Relations Act;

(b) Dominate or interfere in the administration of any employee organization;

(c) Encourage or discourage membership in any employee organization, committee, or association by discrimination in hiring, tenure, or other terms or conditions of employment;

(d) Discharge or discriminate against an employee because the employee has filed an affidavit, petition, or complaint or given any information or testimony under the Industrial Relations Act or because the employee has formed, joined, or chosen to be represented by any employee organization;

(e) Refuse to negotiate collectively with representatives of collective-bargaining agents as required by the Industrial Relations Act;

(f) Deny the rights accompanying certification or recognition granted by the Industrial Relations Act; and

(g) Refuse to participate in good faith in any impasse procedures for employees as set forth in the Industrial Relations Act.

(3) It is a prohibited practice for any employee, employee organization, or bargaining unit or for any representative or collective-bargaining agent to:

(a) Interfere with, restrain, coerce, or harass any employee with respect to any of the employee's rights granted by the Industrial Relations Act;

(b) Interfere with, restrain, or coerce an employer with respect to rights granted by the Industrial Relations Act or with respect to selecting a representative for the purposes of negotiating collectively on the adjustment of grievances;

(c) Refuse to bargain collectively with an employer as required by the Industrial Relations Act; and

(d) Refuse to participate in good faith in any impasse procedures for employees as set forth in the Industrial Relations Act.

(4) The expressing of any view, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, is not evidence of any unfair labor practice under any of the provisions of the Industrial Relations Act if such expression contains no threat of reprisal or force or promise of benefit.

Sec. 2. (1) A proceeding against a party alleging a violation of section 1 of this act is commenced by filing a complaint with the commission within one hundred eighty days after the alleged violation thereby causing a copy of the complaint to be served upon the accused party. The accused party has ten days within which to file a written answer to the complaint. If the commission determines that the complaint has no basis in fact, the commission may dismiss the complaint. If the complaint has a basis in fact, the commission shall set a time for hearing. The parties may be represented by counsel, summon witnesses, and request the commission to subpoena witnesses on the requester's behalf.

(2) The commission shall file its findings of fact and conclusions of law. If the commission finds that the party accused has committed a prohibited practice, the commission, within thirty days after its decision, shall order an appropriate remedy. Any party may petition the district court for injunctive relief pursuant to the rules of civil procedure.

(3) Any party aggrieved by any decision or order of the commission may, within thirty days after the date such decision or order is filed, appeal

to the Court of Appeals.

(4) Any order or decision of the commission may be modified, reversed, or set aside by the appellate court on one or more of the following grounds and no other:

(a) If the commission acts without or in excess of its powers;

(b) If the order was procured by fraud or is contrary to law;

(c) If the facts found by the commission do not support the order;

and

(d) If the order is not supported by a preponderance of the competent evidence on the record considered as a whole.

Sec. 3. Section 48-801.01, Reissue Revised Statutes of Nebraska, is amended to read:

48-801.01. Sections 48-801 to 48-838 and sections 1 and 2 of this act shall be known and may be cited as the Industrial Relations Act.

Sec. 4. Original section 48-801.01, Reissue Revised Statutes of Nebraska, is repealed.