

Transcript Prepared by Clerk of the Legislature Transcribers Office
Business and Labor Committee September 15, 2021

B. HANSEN: Good afternoon and welcome to the Business and Labor Committee. My name is Senator Ben Hansen. I represent the 16th Legislative District in Washington, Burt, and Cuming Counties and I serve as Chair of the Business and Labor Committee. I would like to invite the members of the committee to introduce themselves starting on my right with Senator Hans-- or Senator Hunt.

HUNT: Hi, everybody. I'm Senator Megan Hunt. I represent District 8 in midtown Omaha.

M. HANSEN: Matt Hansen representing District 26 in northeast Lincoln.

HALLORAN: Steve Halloran representing District 33, which is Adams County and parts of Hall County for now.

GRAGERT: Tim Gragert, District 40, northeast Nebraska.

B. HANSEN: All right, also assist, assisting the committee is our legal counsel, Benson Wallace, and our committee clerk, Christina Campbell. A few notes about policy and procedures: please turn off or silence your cell phones. This afternoon, we'll be hearing the gubernatorial appointment of William G. Blake and each of the tables near the doors to the hearing room, you will find green testifier sheets if anyone is wishing to testify. And just a side note, we will have-- we use a light system for testifying. Each testifier will have five minutes to testify. When you begin, the light will turn green. When the light turns yellow, that means you have one minute left. When the light turns red, it is time to end your testimony and we will ask that you wrap up your final thoughts, but I think for today for the-- just this one on gubernatorial point, we will not be using the time clock for Mr. Blake there, so. So with that, we will welcome Mr. Blake to come and give his opening statement and answer any questions. Welcome.

WILLIAM BLAKE: Thank you. Senators, I'm William G. "Bill" Blake. I live in Lincoln. I'm an attorney. My practice is full time, located at 301 South 13th Street here in Lincoln. That's the Cornhusker Plaza office building, the Blake Austin Law Firm.

B. HANSEN: Mr. Blake, I'm sorry, I should have mentioned this before, but if you can, can you spell your first and last name for us, please?

WILLIAM BLAKE: William, W-i-l-l-i-a-m, Blake, B-l-a-k-e.

B. HANSEN: Thank you very much. I appreciate it.

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WILLIAM BLAKE: Do I need to sign in? I'll be--

B. HANSEN: Nope, you're good to go.

WILLIAM BLAKE: OK.

B. HANSEN: Yep.

WILLIAM BLAKE: I was summoned to be here for a hearing to see if I could get myself confirmed to continue on the Commission of Industrial Relations and I've been a member of the commission for most of the last 21 years and would like to continue under another appointment from the Governor. Many people are not very familiar with the commission or what we do, but it's strictly part time where all, all of the five members are lawyers. Not required to be, but it does work out best that way because we're required to hear evidence and make rulings on the evidence and act much the same as a court would do in ruling on the evidence. Our work is strictly based upon what people file with us. If, if, if employers, public employers in the state can't agree with a labor union as to what the wages and benefits would be, then that's where we get involved and actually hear the evidence and decide the cases. Or if they have a complaint about, about what the other party to a labor contract has done, then we hear what's a prohibited practice case. If they want to have a new labor union or change from one representative union to another, then we'll decide whether that should be done based on the evidence. If they don't have a union and they want one, then we'll hear that and decide. We'll have an election, see if they approve a union. That's pretty much what we do. It's never been full time. Sometimes we don't have much work and that's a good thing for, for the state if we don't have much work. It means that people are agreeing. We, we simply react to what complaints, petitions, and responses are filed with us.

B. HANSEN: OK, well, thank you. Well, with that, we'll take any questions that the committee might have. Does anybody on the committee have any questions? OK. Yes, Senator Halloran.

HALLORAN: Thanks, Chairman Hansen. I'm just curious, I would assume that there have been a plethora of cases involved with school boards and labor relations, contracts with teachers or not--

WILLIAM BLAKE: In the past, past years-- when I first started, a plethora was a good word, but we haven't had a school case for quite a few years now. I would, I would say it's a dearth of cases now and they have done a very good job of putting together what would be the

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evidence and it's pretty well based on computer models that they know enough about what we're likely to do that we don't need to do it.

HALLORAN: So they, they may not file cases because they presume that they might not win?

WILLIAM BLAKE: Well, I, I think that-- that's one way to put it, yes. They're pretty good at figuring out what's likely to happen if they go to the CIR, so they, they-- sometimes I wonder if people avoid us just because they think going to the CIR is a bad idea. I, I, I don't know. I just know that we react to what's filed with us.

HALLORAN: Sure, but this would, this would be drawing purely on memory-- I wouldn't expect you to have a finite number on this or percentage, but-- of the cases, but back when it was a plethora of cases involving school boards versus teachers union or school contracts, what would the percentages be of the school board winning? Just a wild, just a wild--

WILLIAM BLAKE: You know, I, I have kept track of that more than most of the commissioners probably because I, I have found it particularly interesting in how the cases get to us. But sometimes those numbers get a little bit skewed because it is-- we, we have had some cases where it appears that maybe the appointed officials are really trying to support the school board, but they're really on the teachers' side, maybe the other way around. We had some school boards from time to time that have used, in my opinion, have used the CIR as a scapegoat, that, you know, if your taxes go up, don't blame us, blame the CIR and sometimes the other way around. It just, it just depends. I don't think it really helps even to try to keep track of who wins and who loses in the majority of the cases because there are just so many different circumstances. But most of the time when, when the cases come to us, it's simply a, an honest dispute over what they think the evidence will show.

HALLORAN: OK, thank you, Mr. Blake. Thanks for being here.

B. HANSEN: I have a question. What kind of-- so since you've been in-- you've been in the commission for a while it sounds like, what topics have you seen come up before and then-- that are different that you see coming up now and is there any concern in the future, like--

WILLIAM BLAKE: Well, our, our concern for the future is that we, we have a very small agency. We have two full-time employees. We used to have three, but we don't have a full load of cases very often, so

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it's-- our staff would not be overworked. If we start to get a lot of filings for cases that require evidentiary hearings, we now have to have three commissioners hear each wage case and that can get-- and, and we have to pay for a court reporter. That can get expensive quickly. If we start getting a lot of those cases, we're going to have to come back to the Legislature and, and get an, an appropriation for more money because we have to hear the cases and, and they're time sensitive. The statute requires that we decide within 60 days unless people waive that time requirement. We've never had a problem with that because we don't have that many filings anymore. It's been surprising that-- I don't remember how many years ago, but six, seven years ago, anyway, the Legislature adopted a new-- somewhat of a new method for determining wage cases, requiring three commissioners to hear it and setting some specific parameters, which mirrored pretty much what we were doing, but it set it forth in a way so that everybody knew what to expect. We have had one wage case that we actually had to sit and hear and make the decision in those-- in all of the years since then. We've been very concerned that we would have a plethora of cases, but it just hasn't developed.

B. HANSEN: And like you said, that's probably a good thing?

WILLIAM BLAKE: For everybody in the state, I think.

B. HANSEN: OK. All right. Well, good. Is there any other questions? Yes, Senator Gragert.

GRAGERT: Would-- just onto that, you mentioned wage, wage. What other cases are-- have you heard and/ or potential--

WILLIAM BLAKE: Well, the wage cases usually will include benefits: longevity pay, vacation pay, just a whole range of benefits. Then before there's anything for us to hear, you have to have a labor union, someone for the, the employer to negotiate with and they have to apply to us to certify a union for some work force. A typical example would be police officers. And then the question that we'd have to hear is, well, what officers, what staff should be included in this union? Are their duties common enough that they should be all in the same union? So that's one type of case. Those are usually the easiest cases, representation cases. And then sometimes an administrator will make a decision on what to do with hiring of new employees. Do they have to live within the community? And maybe the-- they'll make a decision that the union disagrees with, but they won't negotiate with the union because they honestly think they don't have to and the union

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will file a grievance. This is just one example. Lots of things can happen--

GRAGERT: Sure.

WILLIAM BLAKE: --but-- so one side or the other will file what's called a prohibited practice petition with us claiming that you're doing something to stifle the union or you're violating the contract.

GRAGERT: Thanks.

B. HANSEN: Any other questions? All right, well, I appreciate you being here and then-- so next, what we do is we will sit here and discuss this in an Executive Session, make a decision, move it onto the floor, and the floor will then vote on it, so--

WILLIAM BLAKE: OK, very good. Senators, thank you for your time.

B. HANSEN: Thank you and just to make sure I do my due diligence, is there anybody wishing to testify in support or in opposition or neutral capacity? It looks like there is not. So with that, we will close the hearing for William Blake and the commission, so thank you very much.