

ENROLLED SENATE
BILL NO. 1495

By: Corn of the Senate

and

Taylor of the House

An Act relating to counties and county officers; amending Sections 1 and 7, Chapter 136, O.S.L. 2003 (19 O.S. Supp. 2003, Sections 901.30 and 901.30-6), which relate to grant of labor rights and prohibition of strikes, work stoppages or slowdowns and special elections to select offer; declaring certain members of Rural Fire Protection Districts are prohibited from strikes, work stoppage or slowdowns; clarifying that prohibitions do not deny certain other labor related rights; providing for employee right to refrain from certain activities; declaring public policy of the state relating to discharging or denial of employment for membership or nonmembership in certain organizations; authorizing the Public Employees Relations Board to issue certain subpoenas and to administer oaths and affirmations; providing for neglect or refusal to obey subpoenas; providing for service and proof of service of certain notices and subpoenas; authorizing Board to make certain rules and providing procedures thereto; empowering Board to prevent certain unfair labor practices; providing for issuing and service of certain complaints and providing procedures thereto; providing for right to answer complaints; authorizing Board to state certain findings of fact, issue certain orders, require certain reports, or dismiss certain complaints; providing for petition of certain courts for enforcement of certain orders or relief from restraining order; specifying effective date of certain agreements; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 1, Chapter 136, O.S.L. 2003 (19 O.S. Supp. 2003, Section 901.30), is amended to read as follows:

Section 901.30 A. The protection of the public health, safety and welfare demands that the permanent members of any Rural Fire Protection District not be accorded the right to strike or engage in any work stoppage or slowdown. This necessary prohibition does not, however, require the denial to such employees of other well-

recognized rights of labor such as the right to organize, to be represented by a collective bargaining representative of their choice and the right to bargain collectively concerning wages, hours and other terms and conditions of employment; and such employees shall also have the right to refrain from any and all such activities.

B. It is declared to be the public policy of this state to accord to the full-time firefighters in a Rural Fire Protection District all of the rights of labor, other than the right to strike or to engage in any work stoppage or slowdown. Nothing in this act shall constitute a grant of the right to strike to any full-time firefighter in a Rural Fire Protection District and such strikes are hereby prohibited. Unless otherwise provided by law, any person holding such a position who, by concerted action with others and without the lawful approval of the person's superior, willfully absents the person from his or her position or abstains in whole or in part from the full, faithful and proper performance of such person's duties for the purpose of inducing, influencing or coercing a change in the conditions or compensation, or the rights, privileges or obligations of employment shall be deemed to be on strike but the person, upon request, shall be entitled to a determination as to whether he or she did violate the provisions of this act. The request shall be filed in writing. The official or body with whom the request is filed shall have the power to remove or discipline such employee within ten (10) days after regular compensation of such employee has ceased or other discipline has been imposed. In the event of such request, the official or body shall within ten (10) days after the receipt of such request commence a proceeding for the determination of whether the provisions of this act have been violated by the full-time firefighter in a Rural Fire Protection District, in accordance with the law and regulations appropriate to a proceeding to remove a full-time firefighter in a Rural Fire Protection District. The proceedings shall be undertaken without unnecessary delay. The decision of the proceeding shall be made within ten (10) days following the conclusion of the hearing. If the employee involved is held to have violated this act and his or her employment terminated or other discipline imposed, the employee shall have the right of review in the district court having jurisdiction of the parties, within thirty (30) days from such decision, for determination whether such decision is supported by competent, material and substantial evidence on the whole record. To provide for the exercise of these rights, a method of arbitration of disputes is hereby established.

~~B.~~ C. It is declared to be the public policy of the State of Oklahoma that no person shall be discharged from or denied employment as a member of any Rural Fire Protection District of this state by reason of membership or nonmembership in, or the payment or nonpayment of any dues, fees or other charges to, an organization of such members for collective bargaining purposes as herein contemplated.

D. The establishment of this method of arbitration shall not, however, in any way whatever, be deemed to be a recognition by the state of compulsory arbitration as a superior method of settling

labor disputes between employees who possess the right to strike and their employers, but rather shall be deemed to be a recognition solely of the necessity to provide some alternative procedure for settling disputes where employees must, as a matter of public policy, be denied the usual right to strike.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.30-2.1 of Title 19, unless there is created a duplication in numbering, reads as follows:

A. To accomplish the objectives and to perform the duties prescribed by this act, the Public Employees Relations Board may subpoena witnesses, issue subpoenas to require the production of books, papers, records, and documents which may be needed as evidence of any matter under inquiry, and administer oaths and affirmations. In cases of neglect or refusal to obey a subpoena issued to any person, the district court of the county in which the investigations or the public hearings are taking place, upon application by the Board, may issue an order requiring such person to appear before the Board and produce evidence about the matter under investigation. Failure to obey such order may be punished by the court as contempt.

B. Any subpoena, notice of hearing, or other process or notice of the Board issued under the provisions of this act may be served personally, by registered mail, or by leaving a copy at the principal office of the person required to be served. A return made and verified by the individual making such service and setting forth the manner of such service shall be proof of service, and a returned post office receipt, when registered or certified mail is used, shall be proof of service.

C. The Board shall adopt, promulgate, amend, or rescind such rules as it deems necessary to carry out the provisions of this act. Public hearings shall be held by the Board on any proposed rule of general applicability designed to implement, interpret, or prescribe policy, procedure or practice requirements under the provisions of this act and on any proposed change to such existing rule. Reasonable notice shall be given prior to such hearings, which shall include the time, place, and nature of such hearing and the terms or substance of the proposed rule or the changes to such rule.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.30-2.2 of Title 19, unless there is created a duplication in numbering, reads as follows:

A. The Public Employees Relations Board is empowered, as hereinafter provided, to prevent any person, including a bargaining agent and corporate authorities, from engaging in any unfair labor practice as defined herein.

B. Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the Board shall have the power to issue and cause to be served upon such person a complaint stating the charges in that respect and containing a notice of hearing before the Board, at a place therein fixed, not less than five (5) days after the serving of the complaint. The respondent

shall have the right to file an answer and to appear and give testimony at the time and place fixed in the complaint. At the discretion of the Board, any other person may be allowed to intervene in such proceeding.

C. If, upon the preponderance of the testimony taken, the Board shall be of the opinion that the person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice. Such order may further require such person to make reports from time to time showing the extent to which it has complied with the order. If, upon the preponderance of the testimony taken, the Board shall not be of the opinion that the respondent has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue an order dismissing the complaint.

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

SECTION 4. AMENDATORY Section 7, Chapter 136, O.S.L. 2003 (19 O.S. Supp. 2003, Section 901.30-6), is amended to read as follows:

Section 901.30-6 A. If the corporate authority's last best offer is not selected by the arbitration board, that party may submit the offers which the parties submitted to the arbitration board to the voters of the Fire Protection District for their selection by requesting a special election for that purpose. The request for an election must be filed with the Clerk of the Board of Directors for the Fire Protection District within ten (10) days of the date of the written decision of the arbitration board. Written notice of the filing of the request shall be given to the bargaining agent. If a request for an election is not filed in a timely manner, the board's selection decision shall be final, and the last best offer it selected shall constitute the agreements of the parties.

B. Upon receiving a request for an election pursuant to the provision of this section, the District Clerk shall notify the governing body of the Fire Protection District of the request. Within ten (10) days of such notification the governing body shall call for a special election. The election shall be governed by the state laws on Fire Protection District elections and the election shall be held as nearly as may be in conformity with the state law provisions governing bond elections for the Fire Protection District; provided, no informalities in conducting such election shall invalidate the same if the election shall have been otherwise fairly conducted. Only residents of the Fire Protection District who are qualified electors in their respective precincts shall be eligible to vote in said election. The ballot shall inform the voters that they must choose either the last best offer of the bargaining agent or the last best offer of the corporate authority.

The last best offer receiving a majority of the votes shall become the agreement of the parties.

C. Concerning issues relating to money, such ballot shall clearly state the total dollar amount of the offer from the union and the total dollar amount of the offer from the employer. Such ballot shall also disclose the percentage of increase or decrease both offers have over or under the last contract of the two parties.

D. Agreements which are reached as a result of selection by the arbitration board or by election shall be effective on the first day of the fiscal year involved regardless of the date of the final selection.

SECTION 5. This act shall become effective November 1, 2004.

Passed the Senate the 8th day of March, 2004.

Presiding Officer of the Senate

Passed the House of Representatives the 7th day of April, 2004.

Presiding Officer of the House
of Representatives