

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

SENATE BILL 608

By: Corn

AS INTRODUCED

An Act relating to counties and county officers; stating public policy concerning full-time firefighters in any Rural Fire Protection District; providing for collective bargaining and arbitration law; construing provisions of act; stating conditions under which a person shall be deemed to be on strike; providing for certain determination; requiring certain request be filed in writing; requiring certain proceedings and stating procedures; allowing court to review certain decision; establishing method of arbitration; stating that specified arbitration method not be deemed recognition of alternative procedure of settling disputes; defining terms; authorizing participation of certain full-time firefighters; providing exceptions; declaring certain rights and prohibitions; providing for filing of petition under specified conditions; requiring investigation; requiring election; allowing certification as exclusive employee representative under specified circumstances; limiting labor organization placed on ballot; requiring conditions of certain factors to determine appropriate unit for collective bargaining; providing for certain elections, and procedures and rights related thereto; requiring certain meeting upon request for collective bargain purposes; stating certain obligation of rural fire protection district; providing for certain agreements and providing procedures; providing for certain arbitration, and procedures related thereto; providing for arbitration board hearings, and procedures related thereto; providing for certain considerations; providing for fees and expenses; authorizing certain agreements, and procedures related thereto; providing for arbitration in absence of agreement and providing that determination be final; requiring certain notice; providing penalties; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.30 of Title 19, unless there is created a duplication in numbering, reads as follows:

A. 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. 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 901.30-1 of Title 19, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Bargaining agent" means any lawful association, fraternal organization, labor organization, federation or council having as one of its purposes the improvement of wages, hours and other conditions of employment among employees of Rural Fire Protection Districts;

2. "Board" means the Public Employees Relations Board;

3. "Collective bargaining" means the performance of the mutual obligation of the Rural Fire Protection District employer or the employer's designated representatives and the representative of the employees to meet at reasonable times, including meetings appropriately related to the budget making process; to confer in good faith with respect to wages, hours and other conditions of employment, or the negotiation of an agreement, or any question arising hereunder; and to execute a written contract incorporating

any agreement reached if requested by either party. Such obligation shall not, however, compel either party to agree to a proposal or require the making of a concession;

4. "Corporate authorities" means the Board of Directors of any Rural Fire Protection District whose duty or duties it is to establish the wages, salaries, rates of pay, hours, working conditions and other terms and conditions of employment of firefighters;

5. "Firefighters" means the permanent paid members of any Rural Fire Protection District within the State of Oklahoma but shall not include the chief of the rural fire department and an administrative assistant;

6. "Strike" means the concerted failure to report for duty, the willful absence from one's position, unauthorized holidays, sickness unsubstantiated by a physician's statement, the stoppage of work, or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment, for the purpose of including, influencing or coercing a change in the conditions, compensation, rights, privileges or obligations of employment. Nothing contained in this act shall be construed to limit, impair or affect the right of any public employee to the expression or communication of a view, grievance, complaint or opinion on any matter related to the conditions or compensation of public employment or their betterment, so long as the same does not interfere with the full, faithful and proper performance of the duties of employment; and

7. "Unfair labor practices" for the purpose of this act shall be deemed to include, but not be limited to, the following acts and conduct:

a. action by corporate authorities:

- (1) interfering with, restraining, intimidating or coercing employees in the exercise of the rights guaranteed them by this act,
- (2) dominating or interfering with the formation, existence or administration of any employee organization or bargaining agent,
- (3) interfering in any manner whatsoever with the process of selection by firefighters of their respective bargaining agents or attempting to influence, coerce or intimidate individuals in such selection,
- (4) discharging or otherwise disciplining or discriminating against a firefighter because he or she has signed or filed any affidavit, petition or complaint or has given any information or testimony under this act or because of an election to be represented by the bargaining agent,
- (5) refusing to bargain collectively or discuss grievances in good faith with the designated bargaining agent with respect to any issue coming within the purview of this act, or
- (6) instituting or attempting to institute a lockout.

b. action by bargaining agent:

- (1) interfering with, restraining, intimidating or coercing employees in the exercise of the rights guaranteed them by this act,
- (2) interfering with or attempting to coerce the corporate authorities in the selection of their representatives for the purposes of collective bargaining or the adjustment of grievances, or

- (3) refusing to bargain collectively or discuss grievances in good faith with the proper corporate authorities with respect to any issue coming within the purview of this act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.30-2 of Title 19, unless there is created a duplication in numbering, reads as follows:

A. Full-time firefighters in a Rural Fire Protection District shall have the separate right to bargain collectively with their Rural Fire Protection District and to be represented by a bargaining agent in such collective bargaining with respect to wages, salaries, hours, rates of pay, grievances, working conditions and all other terms and conditions of employment.

B. Whenever, conformable to regulations that may be prescribed by the Public Employees Relations Board, a petition is filed by:

1. A labor organization alleging that thirty percent (30%) of the full-time firefighters in a Rural Fire Protection District:

- a. wish to be represented for collective bargaining by an exclusive employee representative, or
- b. assert that the designated exclusive employee representative is no longer the representative of the majority of employees in the unit; or

2. The employer alleging that one or more labor organizations has presented to it a claim to be recognized as the exclusive employee representative in an appropriate unit; the Board shall investigate the facts alleged therein and if it has reasonable cause to believe that a question of representation exists, it shall provide for an appropriate hearing upon due notice. If the Board finds upon the record of such hearing that such a question of representation exists, it shall direct an election by secret ballot and shall certify the results thereof. The Board may also certify a labor organization as an exclusive employee representative of a

Rural Fire Protection District if it determines that a free and untrammelled election cannot be conducted because of the employer's unfair labor practices.

C. Only those labor organizations which have been designated by more than ten percent (10%) of the full-time firefighters in the unit found to be appropriate shall be placed on the ballot. Nothing in this section shall be construed to prohibit the waiving of or hearing by stipulation for the purpose of a consent election, in conformity with the rules and regulations of the Board.

D. In order to assure to full-time firefighters in a Rural Fire Protection District the fullest freedom in exercising the rights guaranteed by this act, the Board shall decide in each case before it in which the issue is raised the unit appropriate for the purposes of collective bargaining, and shall consider such factors as community of interest, wages, hours and other working conditions of the firefighters involved, the history of collective bargaining, and the desires of the firefighters.

E. An election shall not be directed in any bargaining unit or in any subdivision thereof within which, in the preceding twelve-month period, a valid election has been held. The Board shall determine who is eligible to vote in the election and shall establish rules governing the election. In any election where none of the choices on the ballot receives a majority, but a majority of all votes cast are for representation by some labor organization, a run-off election shall be conducted. A labor organization which receives the majority of the votes cast in an election shall be certified by the Board as the exclusive firefighter representative of a Rural Fire Protection District.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.30-3 of Title 19, unless there is created a duplication in numbering, reads as follows:

A. It shall be the obligation of the Rural Fire Protection District, acting through its corporate authorities, to meet at reasonable times and confer in good faith with the representatives of the full-time firefighters within ten (10) days after receipt of written notice from said bargaining agent requesting a meeting for collective bargaining purposes. The obligation shall include the duty to cause any collective bargaining agreement resulting from negotiations to be reduced to a written agreement, the term of which shall not exceed one (1) year; provided, any such agreement shall continue from year to year and be automatically extended for one-year terms unless written notice of request for bargaining is given by either the Rural Fire Protection District authorities or the bargaining agent of the full-time firefighters at least thirty (30) days before the anniversary date of such negotiated agreement. Within ten (10) days of receipt of such notice by the other party, a conference shall be scheduled for the purposes of collective bargaining, and until a new agreement is reached, the currently existing written agreement shall not expire and shall continue in full force and effect.

B. In the event that the bargaining agent and the corporate authorities are unable, within thirty (30) days from and including the date of the first meeting, to reach an agreement on a contract, any and all unresolved issues shall be submitted to arbitration, upon request of either party.

C. Within five (5) days from the date of the request for arbitration referred to in subsection B of this section, the bargaining agent and the corporate authorities shall each select and name one arbitrator and shall immediately thereafter notify each other in writing of the name and address of the person so selected. The two arbitrators so selected and named shall, within five (5) days from and after the expiration of the five-day period hereinabove mentioned, agree upon and select a third arbitrator.



If, on the expiration of the period allowed therefor, the arbitrators are unable to agree upon the selection of a third arbitrator, the bargaining agent and the corporate authorities shall request the Federal Mediation and Conciliation Service to provide a list of five arbitrators. Within five (5) days after receipt of the list of arbitrators from the Federal Mediation and Conciliation Service, the two arbitrators already selected shall alternately strike the name of one arbitrator from the list of five until one name remains, with the employer making the first strike from the list. The third arbitrator, whether selected as a result of an agreement between the two arbitrators previously selected or selected from the list provided by the Federal Mediation and Conciliation Service, shall act as chairperson of the arbitration board.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.30-4 of Title 19, unless there is created a duplication in numbering, reads as follows:

The arbitration board acting through its chairperson shall call a hearing to be held within ten (10) days after the date of the appointment of the chairperson and shall, acting through its chairperson, give at least seven (7) days of notice in writing to each of the other two arbitrators, the bargaining agent and the corporate authorities of the time and place of such hearing. The hearing shall be informal and the rules of evidence prevailing in judicial proceedings shall not be binding. Any documentary evidence and other data deemed relevant by the arbitrators may be received into evidence. The arbitrators shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production of books, records, and other evidence relative or pertinent to the issues presented to them for determination. A hearing shall be concluded within twenty (20) days from the time of commencement. Within ten (10) days after the

conclusion of the hearing, the arbitrators shall issue a written opinion containing findings and recommendations with respect to the issues presented. A copy of the opinion shall be mailed or otherwise delivered to the bargaining agent and the corporate authorities. The corporate authorities are authorized, but not required, to adopt the majority opinion of the arbitrators and, if adopted, the agreement shall be binding upon the bargaining agent and the corporate authorities; provided, however, if the majority opinion of the arbitrators is not adopted, the corporate authorities shall be required to resume the collective bargaining process as provided in Section 4 of this act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.30-5 of Title 19, unless there is created a duplication in numbering, reads as follows:

A. The arbitrators shall conduct the hearings and render their decision upon the basis of a prompt, peaceful and just settlement of all submitted disputes between the full-time firefighters in a Rural Fire Protection District and the corporate authorities. The factors, among others, to be given weight by the arbitrators in arriving at a decision shall include:

1. Comparison of wage rates, insurance, retirement, other fringe benefits or hourly conditions of employment of the rural fire district in question with prevailing wage rates or hourly conditions of employment of skilled employees of the building trades and industry in the local operating area involved;

2. Comparison of wage rates, insurance, retirement, other fringe benefits or hourly conditions of employment of the rural fire district in question with wage rates or hourly conditions of employment maintained for the same or similar work of employees exhibiting like or similar skills under the same or similar working conditions in the local operating area involved;

3. Comparison of wage rates, insurance, retirement, other fringe benefits or hourly conditions of employment of the rural fire district in question with wage rates or hourly conditions of employment of rural fire districts in other political subdivisions of comparable size and economic status both within and without the State of Oklahoma;

4. Interest and welfare of the public and revenues available to the Rural Fire Protection District; or

5. Comparison of peculiarities of employment in regard to other trades or professions, including specifically:

- a. hazards of employment,
- b. physical qualifications,
- c. educational qualifications,
- d. mental qualifications, and
- e. job training and skills.

B. Fees and necessary expenses of the arbitrator selected by the bargaining agent and the arbitrator selected by the corporate authorities shall be borne by the bargaining agent and the corporate authorities respectively. The reasonable fees and necessary expenses of the third arbitrator shall be borne equally by the bargaining agent and corporate authorities.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.30-6 of Title 19, unless there is created a duplication in numbering, reads as follows:

Any agreement actually negotiated between the bargaining agent and the corporate authorities either before or within thirty (30) days after arbitration shall constitute the collective bargaining contract governing full-time firefighters in the Rural Fire Protection District for the period stated therein; provided that such period shall not exceed one (1) year. Any collective bargaining agreement negotiated under the terms and provisions of this act shall specifically provide that the full-time firefighters

in the Rural Fire Protection District who are subject to its terms shall have no right to engage in any work stoppage, slowdown or strike, the consideration for such provision being the right to a resolution of disputed questions. All rules, regulations, fiscal procedures, working conditions, district practices and manner of conducting the operation and administration of Rural Fire Protection Districts currently in effect on the effective date of any negotiated agreement shall be deemed a part of the agreement except as modified or changed by the specific terms of such agreement. Every such agreement shall contain a clause establishing arbitration procedures for the immediate and speedy resolution and determination of any dispute which may arise involving the interpretation or application of any of the provisions of such agreement or the actions of any of the parties under that agreement. In the absence of such negotiated procedure, the dispute may be submitted to arbitration in accordance with the provisions of this act, except that the arbitration board shall be convened within ten (10) days after demand therefor by the bargaining agent upon the corporate authority or authorities. In such case the arbitration board's determination shall be final.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.30-7 of Title 19, unless there is created a duplication in numbering, reads as follows:

When wages, rates of pay or any other matters requiring appropriation of monies by any Rural Fire Protection District are included as matters of collective bargaining conducted under the provisions of this act, it is the obligation of the bargaining agent to serve written notice of request for collective bargaining on the corporate authorities at least one hundred twenty (120) days before the last day on which monies can be appropriated by the Rural Fire Protection District to cover the contract period which is the subject of the collective bargaining procedure.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.30-8 of Title 19, unless there is created a duplication in numbering, reads as follows:

It shall be unlawful for any collective bargaining representative or member of a Rural Fire Protection District to strike or engage in any work stoppage; and it shall further be unlawful for any official, executive, administrator, manager, or member of a governing body exercising the authority to fix and determine the salaries, hours of work, and employment conditions of a Rural Fire Protection District in this state to fail to bargain in good faith in accordance with the provisions of this act. Any person convicted of violating the provisions of this act shall be guilty of a misdemeanor punishable by a fine of not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) for such offense, and each day during which such violation occurs or continues shall constitute a separate offense. Any such conviction shall be grounds for immediate dismissal from Rural Fire Protection District employment, for any full-time firefighter so employed.

SECTION 10. This act shall become effective November 1, 2003.

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