

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 2048

By: Gumm

AS INTRODUCED

An Act relating to public employment; creating the Oklahoma Municipal Employee Collective Bargaining Act of 2006; providing short title; declaring certain public policy; stating purposes; providing definitions; providing exclusions; establishing duties of the Public Employees Relations Board; establishing certain municipal employer rights under certain circumstances; establishing employee rights to collective bargaining; requiring meetings between municipal employers and employee organizations; specifying scope of such meetings; clarifying cite; excluding retirement programs from scope of negotiations; providing for negotiations inconsistent with certain laws; requiring grievance resolution procedure in collective bargaining agreement; permitting certain provisions relating to fees and dues; prohibiting deductions of dues under certain circumstances; defining parameter of obligations to negotiate; restricting negotiation; prohibiting certain practices; providing for proceedings upon certain violations; providing for appellate process; construing provisions of act to prior collective bargaining agreements; providing process for recognition or certification of an appropriate bargaining unit; authorizing election to determine if a municipality may engage in certain collective bargaining; providing procedures for such election; providing for ballot and conformity with certain laws; prohibiting municipality to act under certain circumstances; prohibiting employee organization to submit certain petition under certain circumstances; providing process for certification and decertification of exclusive bargaining representatives under certain circumstances; providing for competing request for certain recognition and certification; providing for certain elections; providing for certain hearing and appeal; providing process for secret ballot representation election; limiting period for petitions certifying or decertifying exclusive bargaining representative under certain circumstances; providing treatment of certain employee organization; allowing certain grievance process; providing condition; designating representatives; providing for collective bargaining commencement process; providing exemption from the Oklahoma Open Meeting Act; providing negotiation and impasse procedures; providing for submission of request for funds and certain approval to the appropriate governing body; providing for reopening of negotiations; providing for treatment of certain provisions; providing for certain judicial review;

prohibiting strikes; providing for injunctive relief; making certain actions unlawful; providing for bargaining and agreement after a violation; providing for legal process; providing liability exemption; providing procedures for certain notice; providing for treatment of conflicting laws, executive orders and rules; repealing Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21, Chapter 62, O.S.L. 2004 (11 O.S. Supp. 2005, Sections 51-200, 51-201, 51-202, 51-203, 51-204, 51-205, 51-206, 51-207, 51-208, 51-209, 51-210, 51-211, 51-212, 51-213, 51-214, 51-215, 51-216, 51-217, 51-218, 51-219 and 51-220), which relate to the Oklahoma Municipal Employee Collective Bargaining Act; 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 51-300 of Title 11, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Municipal Employee Collective Bargaining Act of 2006".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-301 of Title 11, unless there is created a duplication in numbering, reads as follows:

The Legislature of the State of Oklahoma declares that it is the public policy of this state and the purpose of the Legislature in the enactment of this act to promote orderly and constructive employment relations between municipal employers and their employees, to increase the efficiency of state and local government throughout the state, and to ensure the health and safety of the citizens of this state. The Legislature has determined that these policies and purposes may best be accomplished by:

1. Granting to municipal employees the right to associate with others in organizing and choosing representatives for the purpose of collective bargaining;

2. Requiring municipal employers to either recognize, negotiate and bargain with employee organizations representing municipal

employees and to enter into written agreements evidencing the result of bargaining or, alternatively, submitting the question of whether the municipal employer should recognize, negotiate and bargain with employee organizations representing municipal employees and enter into written agreements evidencing the result of bargaining to the voters of the municipality; and

3. Encouraging labor peace through the establishment of standards and procedures which protect the rights of the municipal employer, the municipal employee and the citizens of this state.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-302 of Title 11, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Arbitration" means the procedure whereby the parties involved in a grievance dispute submit their differences to a third party for a final and binding decision or as otherwise provided in this act;

2. "Board" means the Public Employees Relations Board (PERB) established pursuant to Section 51-104 of Title 11 of the Oklahoma Statutes;

3. "Collective bargaining", "bargain collectively" or "negotiate" means to perform the mutual obligation of the municipal employer, by its representatives, and the representatives of its employees to negotiate in good faith at reasonable times and places with respect to wages, hours, and other terms and conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, with the intention of reaching an agreement, or to resolve questions arising under the agreement. This includes executing a written contract by incorporating the terms of any agreement reached. The obligation to bargain collectively does not mean that either party is compelled to agree to a proposal, nor does it require the making of a concession;

4. "Confidential employee" means any municipal employee who acts in a confidential capacity to an individual who formulates or effectuates management policies in the field of labor management relations;

5. "Employee organization" means an organization in which municipal employees participate and which exists for the purpose, in whole or in part, of dealing with municipal employers concerning grievances, labor disputes, wages, hours and other terms and conditions of employment;

6. "Exclusive bargaining representative" means an employee organization certified as the exclusive bargaining representative by the Board pursuant to the provisions of this act or recognized as the exclusive bargaining representative by the municipal employer on the effective date of this act;

7. "Fact finding" means the procedure by which a qualified impartial third party shall make written findings of fact and recommendations for resolution of an impasse;

8. "Governing body" means the city council of a city, the board of trustees of a town, or the legislative body of a municipality, as it may be defined by applicable law or charter provision;

9. "Impasse" means the failure of a municipal employer and the exclusive bargaining representative to reach agreement in the course of negotiations;

10. "Management official" means an individual employed by a municipal employer in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or substantially influence the policies of the municipal employer;

11. "Mediation" means assistance by an impartial third party to reconcile an impasse between the municipal employer and the exclusive bargaining representative regarding wages, hours, and other terms and conditions of employment through interpretation, suggestion, and advice;

12. "Municipal employee" means any individual employed by a municipal employer, except individuals exempted under the provisions of Section 4 of this act;

13. "Municipal employer" means municipalities in this state, as defined in Section 1-102 of Title 11 of the Oklahoma Statutes and any special districts, authorities, agencies and boards created by such municipalities; provided, however, that for purposes of this act such term shall exclude public school districts as defined in Section 1-108 of Title 70 of the Oklahoma Statutes;

14. "Strike" means, in concerted action with others, an employee's refusal to report to duty, or willful absence from his or her position, or stoppage of work, or abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in the conditions, compensation, rights, privileges, or obligations of employment; and

15. "Supervisor" means an employee who devotes a majority of work time to supervisory duties, who customarily and regularly directs the work of two or more other employees and who has the authority, in the interest of the employer, to hire, promote or discipline other employees but does not include individuals who perform merely routine, incidental or clerical duties or who occasionally assume supervisory or directory roles or whose duties are substantially similar to those of their subordinates and does not include lead employees, employees who participate in peer review, employee involvement programs or occasional employee evaluation programs.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-303 of Title 11, unless there is created a duplication in numbering, reads as follows:

The following public employees shall be excluded from the provisions of this act:

1. Elected officials and persons appointed to fill vacancies in elected offices, and members of any board or commission;

2. Representatives of a municipal employer, including the administrative officer, director, or chief executive officer of a municipal employer, or major division thereof, as well as his or her deputy, first assistant, and any non-bargaining unit supervisory employees; provided, however, that nothing herein shall be construed to prohibit a municipal employer from bargaining with, and entering into a contract with, a labor organization certified to represent a separate unit comprised solely of supervisors;

3. Confidential employees;

4. Temporary employees employed for a period of four (4) months or less in any twelve-month period;

5. Patients and inmates employed, sentenced or committed to any state or local institution;

6. Firefighters and police officers as defined in Section 51-102 of Title 11 of the Oklahoma Statutes;

7. Employees of school districts as defined in Section 509.2 of Title 70 of the Oklahoma Statutes;

8. Employees of institutions of the Oklahoma State System of Higher Education as defined in Section 3201 of Title 70 of the Oklahoma Statutes;

9. Employees of county governments; and

10. Employees of the State of Oklahoma, as defined in Section 840-1.3 of Title 74 of the Oklahoma Statutes.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-304 of Title 11, unless there is created a duplication in numbering, reads as follows:

The Public Employees Relations Board as established in Section 51-104 of Title 11 of the Oklahoma Statutes, shall:

1. Administer the provisions of this act;

2. Maintain, after consulting with exclusive bargaining representatives and municipal employers, a list of qualified persons representative of the public to be available to serve as mediators, factfinders and arbitrators and establish their compensation rates;

3. Hold hearings and administer oaths, examine witnesses and documents, take testimony and receive evidence, issue subpoenas to compel the attendance of witnesses and the production of records, and delegate such power to a member of the Board, or persons appointed or employed by the Board, including hearing officers for the performances of its functions. In cases of refusal to obey a subpoena issued by the Board, the district court of the district where the person refusing to obey the subpoena may be found, on application by the Board, may issue an order requiring the person to appear before the Board and to testify and produce evidence ordered relating to the matter under investigation, and any failure to obey such order shall be punished by the court as a contempt thereof; and

4. Adopt rules as it may deem necessary to carry out the purposes of this act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-305 of Title 11, unless there is created a duplication in numbering, reads as follows:

Unless limited by the provisions of a collective bargaining agreement or by other statutory provisions, a municipal employer may:

1. Direct the work of, hire, promote, assign, transfer, demote, suspend, discharge or terminate municipal employees;

2. Determine qualifications for employment and the nature and content of personnel examinations; and

3. Take actions as may be necessary to carry out the mission of the municipal employer in emergencies.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-306 of Title 11, unless there is created a duplication in numbering, reads as follows:

Municipal employees may:

1. Organize, or form, join, or assist any employee organization;
2. Negotiate collectively through representatives of their own choosing in accordance with this act; and
3. Engage in other concerted activities for the purposes of collective bargaining or other mutual aid or protection insofar as any the activity is not prohibited by this act or any other law of this state.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-307 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. The municipal employer and an employee organization which is the exclusive bargaining representative shall meet at reasonable times, including meetings reasonably in advance of the municipality's budget-making process, to negotiate in good faith with respect to wages, hours, and other terms and conditions of employment exclusive of retirement programs established pursuant to the Oklahoma Public Employees Retirement System. The municipal employer shall negotiate only with the exclusive bargaining representative on matters contained in this act. Such obligation to negotiate in good faith does not compel either party to agree to a proposal or make a concession. Neither the municipal employer nor the exclusive bargaining representative shall be required to negotiate over any matter that is inconsistent with state law and the parties may negotiate and reach agreement with regard to the matter only if it is understood that the agreement with respect to the matter cannot become effective unless the applicable law is amended by the Legislature.

B. The collective bargaining agreement negotiated between the employer and the exclusive bargaining representative shall contain a grievance resolution procedure which shall apply to all employees in the bargaining unit and shall provide for final and binding arbitration of grievances pertaining to employment terms and conditions and related personnel matters including questions of arbitrability and appeal of disciplinary and other employment actions.

C. The collective bargaining agreement negotiated between the employer and the exclusive bargaining representative shall also include a provision for the checkoff of initiation fees and dues to the labor organization. During the time that a board certification is in effect for a particular appropriate bargaining unit, the employer shall not deduct dues for any other labor organization.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-308 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. It shall be a prohibited practice for any municipal employer or exclusive bargaining representative to refuse to negotiate in good faith with respect to the scope of negotiations as defined in Section 8 of this act.

B. It shall be a prohibited practice for a municipal employer, its designated representatives, or its supervisors to:

1. Interfere with, restrain or coerce municipal employees in the exercise of rights granted by this act;

2. Dominate or interfere in the administration of any employee organization;

3. Encourage or discourage membership in any employee organization, committee, or association or take a position for or encourage or discourage exclusive representation of employees;

4. Discharge or discriminate against any employee because he or she has filed an affidavit, petition, or complaint or given any

information or testimony under this act, or because he or she has formed, joined, or chosen to be represented by any exclusive bargaining representative;

5. Refuse to negotiate collectively with representatives of any employee organization which is an exclusive bargaining representative as required in this act;

6. Deny the rights accompanying certification or exclusive recognition granted in this act;

7. Refuse to participate in good faith in any agreed upon impasse procedures or those set forth in this act; and

8. Refuse to reduce a collective bargaining agreement to writing and sign such agreement.

C. It shall be a prohibited practice for an employee organization or its agents willfully to:

1. Interfere with, restrain, or coerce any municipal employee with respect to any of the rights under this act or in order to prevent or discourage his or her exercise of any such right;

2. to cause or attempt to cause a municipal employer to discriminate against any employee in the exercise by the employee of any right under this act;

3. Refuse to bargain collectively with the municipal employer as required in this act;

4. Refuse to participate in good faith in any agreed upon impasse procedures or those set forth in this act; and

5. Violate the impasse provisions of this act, which hereby are made applicable to municipal employers, municipal employees and exclusive representatives.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-309 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. Proceedings against a party alleging a violation of Section 9 of this act shall be commenced by filing a charge with the Public

Employees Relations Board within six (6) months of the alleged violation, or knowledge thereof, causing a copy of the charge to be served upon the accused party in the manner of an original notice as provided in Section 21 of this act. The accused party shall have ten (10) days within which to file a written answer to the charge. The Board may conduct a preliminary investigation of the alleged violation, and if the Board determines that the charge has no legal or factual basis, it may dismiss the charge. If it does not dismiss the charge, the Board shall promptly thereafter set a time and place for a hearing in the county where the alleged violation occurred or in the county where the Board maintains its principal office. The parties shall be permitted to be represented by counsel or other designated representative, summon witnesses, and request the Board to subpoena witnesses on the requester's behalf. Compliance with the technical rules of pleading and evidence shall not be required.

B. The Board may designate a hearing officer to conduct the hearing. The hearing officer shall have such powers as may be exercised by the Board for conducting the hearing and shall follow the procedures adopted by the Board for conducting the hearing. The decision of the hearing officer may be appealed to the Board and the Board may hear the case de novo or upon the record as submitted before the hearing officer.

C. The Board shall provide for an official written transcript to report the proceedings and the Board shall affix the reasonable amount of compensation for the service, which amount shall be taxed as other costs.

D. The Board shall file its findings of fact and conclusions of law. If the Board finds that the party accused has committed a prohibited practice, the Board may issue an order directing the party to cease and desist engaging in the prohibited practice and may order such other affirmative relief as is necessary to remedy

the prohibited practice. The Board may petition the district court for enforcement of its orders.

E. Any party aggrieved by any decision or order of the Board may, within ten (10) days from the date the decision or order is filed, appeal to the district court to obtain judicial review of an order of the Board entered under this act in the district court of the judicial district in which the Board maintains its principal office, the judicial district in which the municipal employer maintains its principal office, or the judicial district in which the charge arose. The Board and all parties of record in the proceedings before the Board shall be named as parties to the appeal. In any judicial review proceeding, the employee organization may sue or be sued as an entity and on behalf of the employees whom it represents. The service of legal process, summons or subpoena upon an officer or agent of the employee organization in his or her capacity as such shall constitute service upon the employee organization.

F. Within thirty (30) days after a notice of appeal is filed with the Board, it shall make, certify, and file in the office of the district court clerk to which the appeal is taken, a full and complete transcript of all documents in the case, including any depositions and a transcript or certificate of the evidence together with the notice of appeal.

G. The transcript as certified and filed by the Board shall be the record on which the appeal shall be heard, and no additional evidence shall be heard. In the absence of fraud, the findings of fact made by the Board shall be conclusive if supported by substantial evidence on the record considered as a whole.

H. Any order or decision of the Board may be modified, reversed, or set aside on one or more of the following grounds and on no other:

1. If the Board acts without or in excess of its power;

2. If the order was procured by fraud or is contrary to law;
3. If the facts found by the Board do not support the order; or
4. If the order is not supported by substantial evidence on the record considered as a whole.

I. When the district court, on appeal, reverses or sets aside an order or decision of the Board, it may remand the case to the Board for further proceedings in harmony with the holdings of the court, or it may enter the proper judgment, as the case may be. Such judgment or decree shall have the same force and effect as if action had been originally brought and tried in such court. The assessment of costs in the appeals shall be at the discretion of the court.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-310 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. Nothing in this act shall be construed to annul or modify any collective bargaining agreement entered into between an employer and exclusive representative prior to the effective date of this act or impair a recognition of an exclusive bargaining representative in existence prior to the effective date of this act.

B. Not later than the 30th day after the date the governing body of a municipality receives a petition for recognition accompanied by evidence that a majority of bargaining unit employees have authorized an employee organization to represent them for the purposes of collective bargaining, the governing body shall:

1. Refer the matter to the Public Employee Relations Board to verify majority status and, if verified, grant recognition of the employee organization;

2. Refer the matter to the Public Employee Relations Board to verify majority status and, if verified, request a certification election; or

3. Order an election by the registered voters in the municipality under Section 12 regarding whether the municipality may engage in collective bargaining with the employee organization under this act.

B. In the event the governing body or the voters elect to recognize the employee organization or request a certification election, and the municipality and the employee organization cannot agree on the appropriate bargaining unit, the Board determination of an appropriate bargaining unit shall be made upon referral of the disagreement by either party.

C. Within thirty (30) days of receipt of a referral for determination of an appropriate unit, the Public Employees Relations Board shall conduct a public hearing, receive written or oral testimony, and promptly thereafter file an order defining the appropriate bargaining unit. In defining the unit, the Board shall take into consideration, along with other relevant factors: the desires of the employees; the community of interest including the existence of clearly identifiable crafts among employees; wages, hours, and other working conditions of the municipal employees; the effect of over-fragmentation; the administrative structure of the municipal employer; the recommendation of the parties; and the history of collective bargaining. The Board determination of an appropriate unit shall not be subject to judicial review.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-311 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. The governing body of a municipality that receives a petition for recognition under Section 11 of this act may order an election to determine whether the municipality may engage in collective bargaining under this act.

B. An election ordered under this section must be held as part of the next regularly scheduled general election for municipal

officials that is held after the date the governing body orders the election. The order calling for the election shall name the date for the election and shall be submitted to the secretary of the county election board for the purpose of conducting the election. The order shall be published in a newspaper of general circulation in the city for a period of at least twenty (20) days prior to the election.

C. The ballot be substantially in the following form:

Shall the City of _____ be authorized to operate under the state law allowing a municipality to engage in collective bargaining and enter into an agreement with an employee organization representing municipal employees preserving the prohibition against strikes and organized work stoppages.

() yes

() no

D. An election called under this section must be held and the returns prepared and counted in conformity with Title 26 of the Oklahoma Statutes.

E. If an election authorized under this section is held, the municipality may operate under the provisions of this act only if a majority of the votes cast favor the proposition.

F. If an election authorized under this section is held and the majority of the voters reject the proposition, an employee organization may not submit a petition for recognition to the governing body of the municipality under section 11 of this act before the second anniversary of the date of the election.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-312 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. In the event the governing body refers a petition for recognition to the Board or a majority of voters authorize the city to operate under the terms of this act in an election held under the

provisions of Section 12 of this act, Board certification of an employee organization as the exclusive bargaining representative of a bargaining unit shall be an election pursuant to Section 14 of this act or upon administratively acceptable evidence that a majority of bargaining unit employees have authorized an employee organization to represent them for the purposes of collective bargaining. The governing body shall either request an election or verification of majority status for recognition. In the event of two or more competing requests for recognition and certification, the Board shall conduct an election in accordance with Section 14 of this act.

B. For the purpose of decertification, the petition of a municipal employee or employee organization shall allege that an employee organization which has been certified or recognized as the exclusive bargaining representative of an appropriate unit does not represent a majority of the municipal employees and that the petitioners do not want to be represented by an employee organization or seek certification of a different employee organization. The petition shall be accompanied by written evidence that fifty percent (50%) of the employees do not want to be represented by the exclusive representative employee organization or seek certification of a different employee organization. Upon validation of the fifty percent (50%) showing of interest, the Board shall conduct a secret ballot election in accordance with Section 14 of this act.

C. The Board shall investigate the allegations of any petition and shall give reasonable notice of the receipt of the petition to all municipal employees, employee organizations, and municipal employers named or described in such petitions or interested in the representation question. When necessary, the Board shall call an election under Section 14 of this act within thirty (30) days of receipt of a petition unless it finds that less than fifty percent

(50%) of the municipal employees in the unit appropriate for collective bargaining support the petition for certification or decertification, or the appropriate bargaining unit has not been determined pursuant to Section 11 of this act.

E. The hearing and appeal procedures shall be the same as provided for in Section 10 of this act.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-313 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. Whenever a petition for a certification or decertification election is filed by an employee or employee organization containing the signatures of at least fifty percent (50%) of the municipal employees in an appropriate bargaining unit, the Public Employees Relations Board shall conduct a secret ballot representation election to determine whether the municipal employees in the appropriate bargaining unit wish to be represented by an exclusive bargaining representative. The ballot shall contain the names of the petitioning employee organization, any employee organization submitting, within fifteen (15) days of the initial petition, a petition containing signatures of at least thirty percent (30%) of the municipal employees within the appropriate bargaining unit, and any incumbent labor organization. The ballot shall also contain a choice of no representation.

B. If none of the choices on the ballot receives the vote of a majority of the municipal employees voting, the Board shall, within thirty (30) days, conduct a run-off election among the two choices receiving the greatest number of votes.

C. Upon written objections filed by any party to the election within ten (10) days after notice of the results of the election, if the Board finds that misconduct or other circumstances prevented the municipal employees eligible to vote from freely expressing their

preferences, the Board may invalidate the election and hold a second or subsequent election for the municipal employees.

D. Upon completion of a valid election in which the majority choice of the bargaining unit employees voting is determined, the Board shall certify the results of the election within fifteen (15) days of the notice of results of the election if no timely written objections are filed or within five (5) days of validating the election upon a finding that filed objections did not prevent the employees eligible to vote from freely expressing their preferences, and shall give reasonable notice to all employee organizations listed on the ballot, the municipal employers, and the municipal employees in the appropriate bargaining unit. An employee organization which is the majority choice of the bargaining unit employees voting in a valid election under this section shall be certified by the Board as the exclusive bargaining representative for the bargaining unit employees.

E. A petition for decertification or certification of an exclusive bargaining representative shall not be considered by the Board for a period of one (1) year from the date of the certification or noncertification of an exclusive bargaining representative or during the duration of a collective bargaining agreement unless the petition for decertification is filed not more than ninety (90) days prior to the expiration of the collective bargaining agreement.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-314 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. The employee organization certified as the bargaining representative or recognized by the municipal employer prior to the effective date of this act, shall be the exclusive representative of all municipal employees in the bargaining unit and shall represent all municipal employees fairly, except that any individual employee

or a group of employees shall have the right at any time to present grievances to their municipal employer and to have such grievances adjusted, without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of a collective bargaining contract or agreement then in effect and the exclusive bargaining representative has been given the opportunity to be present during the grievance process and at such adjustment.

B. The employee organization which is an exclusive bargaining representative and the municipal employer may designate any individual or individuals as its representatives to engage in collective bargaining negotiations. Upon demand of either party, collective bargaining between the employer and an exclusive bargaining representative must begin within sixty (60) days of the date of certification of the representative by the Public Employees Relations Board, or in the case of an existing exclusive bargaining representative, within sixty (60) days of the receipt by a party of a demand issued by the other party or in accordance with procedures established in any applicable collective bargaining agreement.

C. Negotiating sessions, including strategy meetings of municipal employers or exclusive bargaining representatives, mediation and the deliberative process of fact finders and arbitrators shall be exempt from the Oklahoma Open Meeting Act.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-315 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. A request for negotiations shall be filed in writing by an exclusive representative of employees of a municipal employer in a timely fashion reasonably in advance of that employer's budget-making process.

B. A municipal employer and the exclusive representative may enter into a written agreement setting forth an impasse resolution

procedure. The procedure shall culminate with nonbinding fact finding.

C. If the municipal employer and the exclusive representative have not agreed to an impasse resolution procedure, negotiation impasses shall be subject to:

1. At the initiative of either party, the Federal Mediation and Conciliation Service may be requested to appoint an impartial mediator; or

2. At the request of either party, all impasses not resolved through mediation shall jointly be submitted to nonbinding fact finding. The parties shall jointly select a fact finder or, if they are unable to agree on a fact finder, they shall request a list of seven arbitrators from the Public Employees Relations Board. Each party in turn shall strike a name from the list until only one name remains. Negotiations may continue throughout the impasse procedures.

D. In making any recommendations under the impasse procedures authorized by this section, the fact finder shall give weight to the following factors:

1. The lawful authority of the municipal employer;
2. Stipulations of the parties;
3. The interests and welfare of the public;
4. The financial ability of the employer to meet the costs of any items to be included in the contract;
5. Comparison of wages, hours and terms and conditions of employment of the employees involved in the bargaining unit with the wages, hours and terms and conditions of employment of other persons performing similar services in the public and private sectors;
6. The average consumer prices for goods and services, commonly known as the cost of living;

7. The overall compensation presently received by the employees in the bargaining unit including, but not limited to, wages, health and life insurance, vacations, holidays and similar benefits;

8. Changes in any of the foregoing circumstances during the pendency of the fact finding proceedings; and

9. Other factors which are normally or traditionally taken into consideration in the determination of wages, hours and terms and conditions of employment through voluntary collective bargaining, mediation, fact finding, arbitration or otherwise between the parties, in the public service or in private employment.

E. The fact finder's recommendations shall be served on each of the parties' designated representatives. The municipal employer's representative shall provide a copy to each member of governing body and such body shall consider the recommendation at its next regularly scheduled or special meeting. The fact finder's recommendation may be made public by either party at any time.

F. The expenses of the fact finder shall be borne equally by the parties.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-316 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. After a negotiated agreement has been agreed to by both parties, the municipal employer shall submit a request for funds necessary to implement the agreement and for approval of any other matter requiring the approval of the appropriate governing body within fourteen (14) days after the date on which the parties finalize the agreement, unless otherwise specified in this section. If the appropriate governing body is not in session at the time, then the submission shall be within fourteen (14) days after it next convenes.

B. If the governing body rejects the submission of the municipal employer, either party may reopen negotiations.

C. The parties shall specify that those provisions of the agreement not requiring action by a governing body shall be effective and operative in accordance with the terms of the agreement.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-317 of Title 11, unless there is created a duplication in numbering, reads as follows:

The district court for the district in which a dispute arose or in which a majority of the affected employees reside may review an award of an arbitrator in a grievance arbitration, when the arbitrator was without or exceeded his or her jurisdiction; the order is not supported by competent, material and substantial evidence on the whole record; or the order was procured by fraud, collusion or other similar and unlawful means. The pendency of a proceeding for review shall not automatically stay the order of the arbitrator.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-318 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for municipal employees to strike. If a strike occurs, the municipal employer may initiate in the district court in the district where the strike occurs, an action for injunctive relief.

B. It shall be unlawful for any municipal employer to authorize, consent to, or condone any strikes; or to pay or agree to pay a municipal employee for any day in which the employee participates in a strike; or to pay or agree to pay any increase in compensation or benefits to any municipal employee in response to or as a result of any strike or any act which violates this act. It shall be unlawful for any official, director, or representative of any municipal employer to authorize, ratify, or participate in any violation of this section. Nothing in this section shall prevent

new or renewed bargaining and agreement within the scope of negotiations as defined by this act, at any time after a violation of this section has ceased.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-319 of Title 11, unless there is created a duplication in numbering, reads as follows:

Any employee organization and municipal employer may sue or be sued as an entity under the provisions of this act. Service upon the municipal employer or upon the exclusive bargaining representative shall be made pursuant to the Oklahoma Pleading Code. For purposes of actions and proceedings by or against exclusive bargaining representatives under this act, a district court shall have jurisdiction of an exclusive bargaining representative in the district in which the organization maintains its principal office, or in any district in which its duly authorized officers or agents are engaged in representing or acting for employee members. Nothing in this act shall be construed to make any individual or his or her assets liable for any judgment against a municipal employer or an exclusive bargaining representative.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-320 of Title 11, unless there is created a duplication in numbering, reads as follows:

Any notice required under the provisions of this act shall be in writing, and served in a manner specified by the Public Employees Relations Board.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-321 of Title 11, unless there is created a duplication in numbering, reads as follows:

Any conflict between the provisions of this act and any other law, executive order or administrative rule, the provisions of this act shall prevail and control.

SECTION 23. REPEALER Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21, Chapter 62, O.S.L. 2004 (11 O.S. Supp. 2005, Sections 51-200, 51-201, 51-202, 51-203, 51-204, 51-205, 51-206, 51-207, 51-208, 51-209, 51-210, 51-211, 51-212, 51-213, 51-214, 51-215, 51-216, 51-217, 51-218, 51-219 and 51-220), which relate to the Oklahoma Municipal Employee Collective Bargaining Act, are hereby repealed.

SECTION 24. This act shall become effective November 1, 2006.

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