

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3955

By: Culver

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9 COMMITTEE SUBSTITUTE

10 An Act relating to cities and towns; amending 11 O.S.
11 2021, Section 51-107, which relates to arbitration;
12 modifying arbitrator selection process; defining
13 terms; establishing collective bargaining rights of
14 sheriff's employees; directing county authorities and
15 sheriff's department representative to meet and
16 confer; implementing a process for arbitration
17 between county and sheriff's department; providing
18 factors to be considered; establishing procedure for
19 fees and expenses; establishing agreement procedure;
20 providing notice for appropriation of monies;
21 declaring penalties; providing for codification; and
22 providing an effective date.

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

24 SECTION 1. AMENDATORY 11 O.S. 2021, Section 51-107, is
amended to read as follows:

 Section 51-107. Within five (5) days from the date of the
request for arbitration referred to in Section 51-106 of this title,
the bargaining agent and the corporate authorities shall each select

1 and name one arbitrator and shall immediately thereafter notify each
2 other in writing of the name and address of the person so selected.
3 The two arbitrators so selected and named shall, within five (5)
4 days from and after the expiration of the five-day period
5 hereinabove mentioned, agree upon and select a third arbitrator. If,
6 on the expiration of the period allowed therefor, the arbitrators
7 are unable to agree upon the selection of a third arbitrator, the
8 bargaining agent and the corporate authorities shall request the
9 Federal Mediation and Conciliation Service to provide a list of five
10 arbitrators. ~~Within five (5) days after receipt of the list of~~
11 ~~arbitrators from the Federal Mediation and Conciliation Service, the~~
12 ~~two arbitrators already selected shall alternately strike the name~~
13 ~~of one arbitrator from the list of five until one name remains, with~~
14 ~~the employer making the first strike from said list.~~ The third
15 arbitrator, whether selected as a result of an agreement between the
16 two arbitrators previously selected or selected from the list
17 provided by the Federal Mediation and Conciliation Service, shall
18 act as chairman of the arbitration board.

19 SECTION 2. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 528.1 of Title 19, unless there
21 is created a duplication in numbering, reads as follows:

22 As used in this act, unless the context requires a different
23 interpretation:
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1 1. "Employee of the sheriff's department" shall mean the
2 permanent paid members of any sheriff's department in any county
3 within the State of Oklahoma but shall not include the sheriff;

4 2. "Corporate authorities" shall mean the proper officials,
5 singly or collectively, within any county whose duty or duties it is
6 to establish the wages, salaries, rates of pay, hours, working
7 conditions and other terms and conditions of employment of the
8 sheriff's department;

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

23 4. "Bargaining agent" shall mean any lawful association,
24 fraternal organization, labor organization, federation or council

1 having as one of its purposes the improvement of wages, hours and
2 other conditions of employment among employees of the sheriff's
3 department;

4 5. "Collective bargaining" shall mean the performance of the
5 mutual obligation of the county employer or their designated
6 representatives and the representative of the employees to meet at
7 reasonable times, including meetings appropriately related to the
8 budget-making process; to confer in good faith with respect to
9 wages, hours and other conditions of employment, or the negotiation
10 of an agreement, or any question arising thereunder; and to execute
11 a written contract incorporating any agreement reached if requested
12 by either party. Such obligation shall not, however, compel either
13 party to agree to a proposal or require the making of a concession;

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

17 a. action by corporate authorities:

18 (1) interfering with, restraining, intimidating or
19 coercing employees in the exercise of the rights
20 guaranteed them by this act,

21 (2) dominating or interfering with the formation,
22 existence or administration of any employee
23 organization or bargaining agent,

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1 (3) interfering in any manner whatsoever with the
2 process of selection by the sheriff's department
3 of their respective bargaining agents or
4 attempting to influence, coerce or intimidate
5 individuals in such selection,

6 (4) discharging or otherwise disciplining or
7 discriminating against any member of the
8 sheriff's department because they have signed or
9 filed any affidavit, petition or complaint or
10 have given any information or testimony under
11 this act or because of their election to be
12 represented by the bargaining agent,

13 (5) refusing to bargain collectively or discuss
14 grievances in good faith with the designated
15 bargaining agent with respect to any issue coming
16 within the purview of this act, or

17 (6) instituting or attempting to institute a lockout,

18 b. action by bargaining agent:

19 (1) interfering with, restraining, intimidating or
20 coercing employees in the exercise of the rights
21 guaranteed them by this act,

22 (2) interfering with or attempting to coerce the
23 corporate authorities in the selection of their
24

1 representatives for the purposes of collective
2 bargaining or the adjustment of grievances, or
3 (3) refusing to bargain collectively or discuss
4 grievances in good faith with the proper
5 corporate authorities with respect to any issue
6 coming within the purview of this act.

7 SECTION 3. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 528.2 of Title 19, unless there
9 is created a duplication in numbering, reads as follows:

10 A. Members of the sheriff's department in any county shall have
11 the separate right to bargain collectively with their county and to
12 be represented by a bargaining agent in such collective bargaining
13 with respect to wages, salaries, hours, rates of pay, grievances,
14 working conditions and all other terms and conditions of employment.

15 B. A county employer shall recognize a bargaining agent
16 selected by a majority of the employees of the sheriff's department
17 of that county as the exclusive bargaining agent for the employees
18 of the sheriff's department of that county until a majority of the
19 employees withdraw the recognition. Bargaining agents recognized by
20 counties and having bargained with counties, prior to the effective
21 date of this act, shall continue to be so recognized without a new
22 selection by the majority of the employees of the sheriff's
23 department.

1 1. The bargaining agent representing the department as the
2 exclusive bargaining agent shall be determined by a majority vote of
3 the employees of the department.

4 2. A question of whether a bargaining agent is the exclusive
5 bargaining agent of the respective employees of a department shall
6 be resolved by a fair election paid for by the bargaining agent or
7 employees and conducted according to procedures agreed on by the
8 parties. Such question arises where no bargaining agent is
9 currently recognized as a bargaining agent or where a bargaining
10 agent is recognized and another bargaining agent presents proof they
11 represent at least forty percent (40%) of the respective employees
12 of a department.

13 Any vote or ballot authorized by the agreed procedures shall be
14 accompanied by a copy of the voter's driver license or other state-
15 authorized identification card, and any vote or ballot submitted in
16 person shall only be received by providing the same. The bargaining
17 agent seeking to represent the members of the department and the
18 county shall each be entitled to select one person to observe the
19 counting and tabulating of ballots cast in the election.

20 3. If the parties are unable to agree on election procedures
21 under paragraph 2 of this subsection, either party may request the
22 American Arbitration Association to conduct the election and certify
23 the results. Certification of the results of an election under this
24 paragraph shall resolve the question regarding representation. Any

1 expenses of the election imposed by the American Arbitration
2 Association shall be borne in equal shares by both parties, except
3 that, if any fraudulent activity occurs in the election procedures
4 or in tabulating the votes, the offending party shall solely bear
5 the expense.

6 4. No election shall be conducted in any bargaining unit which,
7 in the preceding twelve-month period, a valid election has been
8 held.

9 SECTION 4. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 528.3 of Title 19, unless there
11 is created a duplication in numbering, reads as follows:

12 It shall be the obligation of the county, acting through its
13 corporate authorities, to meet at reasonable times and confer in
14 good faith with the representatives of the sheriff's department
15 within ten (10) days after receipt of written notice from said
16 bargaining agent requesting a meeting for collective bargaining
17 purposes. The obligation shall include the duty to cause any
18 collective bargaining agreement resulting from negotiations to be
19 reduced to a written agreement, the term of which shall not exceed
20 one (1) year; provided, any such agreement shall continue from year
21 to year and be automatically extended for one-year terms unless
22 written notice of request for bargaining is given by either the
23 county authorities or the bargaining agent of the sheriff's
24 department at least thirty (30) days before the anniversary date of

1 such negotiated agreement. Within ten (10) days of receipt of such
2 notice by the other party, a conference shall be scheduled for the
3 purposes of collective bargaining, and until a new agreement is
4 reached, the currently existing written agreement shall not expire
5 and shall continue in full force and effect.

6 SECTION 5. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 528.4 of Title 19, unless there
8 is created a duplication in numbering, reads as follows:

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

14 SECTION 6. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 528.5 of Title 19, unless there
16 is created a duplication in numbering, reads as follows:

17 Within five (5) days from the date of the request for
18 arbitration referred to in Section 5 of this act, the bargaining
19 agent and the corporate authorities shall each select and name one
20 arbitrator and shall immediately thereafter notify each other in
21 writing of the name and address of the person so selected. The two
22 arbitrators so selected and named shall, within five (5) days from
23 and after the expiration of the five-day period hereinabove
24 mentioned, agree upon and select a third arbitrator. If, on the

1 expiration of the period allowed therefor, the arbitrators are
2 unable to agree upon the selection of a third arbitrator, the
3 bargaining agent and the corporate authorities shall request the
4 Federal Mediation and Conciliation Service to provide a list of five
5 arbitrators. The third arbitrator, whether selected as a result of
6 an agreement between the two arbitrators previously selected or
7 selected from the list provided by the Federal Mediation and
8 Conciliation Service, shall act as chair of the arbitration board.

9 SECTION 7. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 528.6 of Title 19, unless there
11 is created a duplication in numbering, reads as follows:

12 A. 1. The arbitration board, acting through its chair, shall
13 call a hearing to be held within ten (10) days after the date of the
14 appointment of the chair and shall, acting through its chair, give
15 at least seven (7) days' notice in writing to each of the other two
16 arbitrators, the bargaining agent and the corporate authorities of
17 the time and place of such hearing.

18 2. At least seven (7) days before the date of the hearing, the
19 corporate authorities and the bargaining agent shall submit to each
20 other and to the arbitration board members a written arbitration
21 statement listing all contract terms which the parties have resolved
22 and all contract issues which are unresolved. Each arbitration
23 statement shall also include a final offer on each unresolved issue.

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1 The terms and offers contained in the arbitration statements shall
2 be known collectively as each party's last best offer.

3 3. The hearing shall be informal and the rules of evidence
4 prevailing in judicial proceedings shall not be binding. Any and
5 all documentary evidence and other data deemed relevant by the
6 arbitrators may be received in evidence. The arbitrators shall have
7 the power to administer oaths and to require by subpoena the
8 attendance and testimony of witnesses, the production of books,
9 records, and other evidence relative or pertinent to the issues
10 presented to them for determination. A hearing shall be concluded
11 within twenty (20) days from the time of commencement.

12 4. Within seven (7) days after the conclusion of the hearing, a
13 majority of the arbitration board members shall select one of the
14 two last best offers as the contract of the parties. The criteria
15 to be used by the board in determining which offer to select shall
16 be limited to paragraphs 1 through 5 of Section 8 of this act. The
17 arbitration board may not modify, add to or delete from the last
18 best offer of either party. Written notice of the selection
19 decision shall be mailed or delivered to the bargaining agent and
20 the corporate authorities.

21 B. If the county's last best offer is not selected by the
22 arbitration board, that party may submit the offers which the
23 parties submitted to the arbitration board to the voters of the
24 county for their selection by requesting a special election for that

1 purpose. The request for an election must be filed with the clerk
2 of the county within ten (10) days of the date of the written
3 decision of the arbitration board. Written notice of the filing of
4 the request shall be given to the bargaining agent. If a request
5 for an election is not filed in a timely manner, the board's
6 selection decision shall be final, and the last best offer it
7 selected shall constitute the agreement of the parties.

8 C. Upon receiving a request for an election pursuant to the
9 provisions of this section, the clerk shall notify the county
10 commissioners and governing body of the request. Within ten (10)
11 days of such notification, the county authorities shall call for a
12 special election. The election shall be governed by the state laws
13 on special county elections. Only residents of the county shall be
14 eligible to vote in said election. The ballot shall inform the
15 voters that they must choose either the last best offer of the
16 bargaining agent or the last best offer of the corporate
17 authorities. Within twenty (20) days of the date of the decision to
18 call for the election, the county authorities and the bargaining
19 agent shall agree on a ballot. If no agreement is reached within
20 that time, each party shall present a proposed ballot to the
21 arbitration board. The parties shall present their ballot to the
22 board no later than seven (7) days after the aforementioned twenty-
23 day period. The board shall consider the proposed ballots and shall
24 select one or the other within seven (7) days of the date of receipt

1 of the parties' proposed ballots. The last best offer receiving a
2 majority of the votes shall become the agreement of the parties.

3 D. Concerning issues relating to money, such ballot shall
4 clearly state the total dollar amount of the offer from the
5 corporate authority and the total dollar amount of the offer from
6 the bargaining agent. Such ballot shall also disclose the
7 percentage of increase or decrease both offers have over or under
8 the last contract of the two parties.

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

13 SECTION 8. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 528.7 of Title 19, unless there
15 is created a duplication in numbering, reads as follows:

16 The arbitrators shall conduct the hearings and render their
17 decision upon the basis of a prompt, peaceful and just settlement of
18 all submitted disputes between the sheriff's department and the
19 corporate authorities. The factors, among others, to be given
20 weight by the arbitrators in arriving at a decision shall include:

21 1. Comparison of wage rates, insurance, retirement, other
22 fringe benefits or hourly conditions of employment of the sheriff's
23 department in question with prevailing wage rates or hourly
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1 conditions of employment of skilled employees of the building trades
2 and industry in the local operating area involved;

3 2. Comparison of wage rates, insurance, retirement, other
4 fringe benefits or hourly conditions of employment of the sheriff's
5 department in question with wage rates or hourly conditions of
6 employment maintained for the same or similar work of employees
7 exhibiting like or similar skills under the same or similar working
8 conditions in the local operating area involved;

9 3. Comparison of wage rates, insurance, retirement, other
10 fringe benefits or hourly conditions of employment of the sheriff's
11 department in question with wage rates or hourly conditions of
12 employment of the sheriff's departments in counties of comparable
13 size and economic status both within and without the State of
14 Oklahoma;

15 4. Interest and welfare of the public and revenues available to
16 the county; or

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

- 19 a. hazards of employment,
- 20 b. physical qualifications,
- 21 c. educational qualifications,
- 22 d. mental qualifications, and
- 23 e. job training and skills.

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1 SECTION 9. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 528.8 of Title 19, unless there
3 is created a duplication in numbering, reads as follows:

4 Fees and necessary expenses of the arbitrator selected by the
5 bargaining agent and the arbitrator selected by the corporate
6 authorities shall be borne by the bargaining agent and the corporate
7 authorities respectively. The reasonable fees and necessary
8 expenses of the third arbitrator shall be borne equally by the
9 bargaining agent and corporate authorities.

10 SECTION 10. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 528.9 of Title 19, unless there
12 is created a duplication in numbering, reads as follows:

13 Any agreement actually negotiated between the bargaining agent
14 and the corporate authorities either before or within thirty (30)
15 days after arbitration shall constitute the collective bargaining
16 contract governing the sheriff's department in the county for the
17 period stated therein; provided that such period shall not exceed
18 one (1) year. Any collective bargaining agreement negotiated under
19 the terms and provisions of this act shall specifically provide that
20 the employees of the sheriff's department who are subject to its
21 terms shall have no right to engage in any work stoppage, slowdown
22 or strike, the consideration for such provision being the right to a
23 resolution of disputed questions. All rules, regulations, fiscal
24 procedures, working conditions, departmental practices and manner of

1 conducting the operation and administration of the sheriff's
2 department currently in effect on the effective date of any
3 negotiated agreement shall be deemed a part of said agreement unless
4 and except as modified or changed by the specific terms of such
5 agreement. Every such agreement shall contain a clause establishing
6 arbitration procedures for the immediate and speedy resolution and
7 determination of any dispute which may arise involving the
8 interpretation or application of any of the provisions of such
9 agreement or the actions of any of the parties thereunder. In the
10 absence of such negotiated procedure, such dispute may be submitted
11 to arbitration in accordance with the provisions of Sections 6
12 through 9 of this act, except that the arbitration board shall be
13 convened within ten (10) days after request therefor by the
14 bargaining agent. In such case, the arbitration board's
15 determination shall be final.

16 SECTION 11. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 528.10 of Title 19, unless there
18 is created a duplication in numbering, reads as follows:

19 Whenever wages, rates of pay or any other matters requiring
20 appropriation of monies by any municipality are included as matters
21 of collective bargaining conducted under the provisions of this act,
22 it is the obligation of the bargaining agent to serve written notice
23 of request for collective bargaining on the corporate authorities at
24 least one hundred twenty (120) days before the last day on which

1 monies can be appropriated by the county to cover the contract
2 period which is the subject of the collective bargaining procedure.

3 SECTION 12. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 528.11 of Title 19, unless there
5 is created a duplication in numbering, reads as follows:

6 It shall be unlawful for any collective bargaining
7 representative or member of a paid sheriff's department to strike or
8 engage in any work stoppage; and it shall further be unlawful for
9 any official, executive, administrator, manager, or member of a
10 governing body exercising the authority to fix and determine the
11 salaries, hours of work, and employment conditions of any paid
12 sheriff's department of a county in this state to fail to bargain in
13 good faith in accordance with the provisions of this act. Any
14 person or persons guilty of violating the provisions of this act
15 shall be fined not less than Ten Dollars (\$10.00) nor more than One
16 Hundred Dollars (\$100.00) for such offense, and each day during
17 which such violation occurs or continues shall constitute a separate
18 offense, and any such conviction shall be grounds for immediate
19 dismissal from public employment, for any persons so employed.

20 SECTION 13. This act shall become effective November 1, 2022.

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22 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL, dated
23 03/01/2022 - DO PASS, As Amended.

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