

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 3376

By: Ford

COMMITTEE SUBSTITUTE

An Act relating to cities and towns; amending 11 O.S. 2011, Sections 51-102 and 51-103, which relate to collective bargaining; deleting definition; eliminating Public Employees Relations Board; eliminating petition, hearing and election processes; directing a municipal employer to recognize association as the exclusive bargaining agent for the firefighters or police officers; determining association by a majority vote; establishing election procedures; repealing 11 O.S. 2011, Sections 51-104, as last amended by Section 7, Chapter 15, O.S.L. 2013, 51-104a, as amended by Section 51, Chapter 304, O.S.L. 2012 and 51-104b (11 O.S. Supp. 2019, Sections 51-104 and 51-104a), which relate to the Public Employees Relations Board; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 51-102, is amended to read as follows:

Section 51-102. As used in this article, unless the context requires a different interpretation:

1 1. "Firefighters and police officers" shall mean the permanent
2 paid members of any fire department or police department in any
3 municipality within the State of Oklahoma but shall not include the
4 chief of police and an administrative assistant and the chief of the
5 fire department and an administrative assistant. The administrative
6 assistant shall be that person so designated by the chief of the
7 police department. "Police officers" as used herein shall be those
8 persons as defined in Section 50-101 of this title-;

9 2. "Corporate authorities" means the proper officials, singly
10 or collectively, within any municipality whose duty or duties it is
11 to establish the wages, salaries, rates of pay, hours, working
12 conditions and other terms and conditions of employment of
13 firefighters or police officers, whether they be the mayor, city
14 manager, town manager, town administrator, city council, town
15 council, director of personnel, personnel board or commission, or by
16 whatever other name the same may be designated, or any combination
17 thereof. It is not the intent of this paragraph that the above-
18 named officials shall in any way be exclusive or limiting-;

19 3. "Strike" shall mean the concerted failure to report for
20 duty, the willful absence from one's position, unauthorized
21 holidays, sickness unsubstantiated by a physician's statement, the
22 stoppage of work, or the abstinence in whole or in part from the
23 full, faithful and proper performance of the duties of employment,
24 for the purpose of inducing, influencing or coercing a change in the

1 conditions, compensation, rights, privileges or obligations of
2 employment. Nothing contained in this article shall be construed to
3 limit, impair or affect the right of any public employee to the
4 expression or communication of a view, grievance, complaint or
5 opinion on any matter related to the conditions or compensation of
6 public employment or ~~their~~ his or her betterment, so long as the
7 same does not interfere with the full, faithful and proper
8 performance of the duties of employment-;

9 4. "Bargaining agent" shall mean any lawful association,
10 fraternal organization, labor organization, federation or council
11 having as one of its purposes the improvement of wages, hours and
12 other conditions of employment among employees of fire and police
13 departments-;

14 5. "Collective bargaining" shall mean the performance of the
15 mutual obligation of the municipal employer or his or her designated
16 representatives and the representative of the employees to meet at
17 reasonable times, including meetings appropriately related to the
18 budget-making process; to confer in good faith with respect to
19 wages, hours and other conditions of employment, or the negotiation
20 of an agreement, or any question arising thereunder; and to execute
21 a written contract incorporating any agreement reached if requested
22 by either party. Such obligation shall not, however, compel either
23 party to agree to a proposal or require the making of a concession-;
24 and

1 6. "Unfair labor practices" for the purpose of this article
2 shall be deemed to include but not be limited to the following acts
3 and conduct:

4 6a. Action by corporate authorities:

- 5 (1) interfering with, restraining, intimidating or
6 coercing employees in the exercise of the rights
7 guaranteed them by this article~~7~~1
- 8 (2) dominating or interfering with the formation,
9 existence or administration of any employee
10 organization or bargaining agent~~7~~1
- 11 (3) interfering in any manner whatsoever with the
12 process of selection by firefighters or police
13 officers of their respective bargaining agents or
14 attempting to influence, coerce or intimidate
15 individuals in such selection~~7~~1
- 16 (4) discharging or otherwise disciplining or
17 discriminating against a police officer or
18 firefighter because he or she has signed or filed
19 any affidavit, petition or complaint or has given
20 any information or testimony under this article
21 or because of his or her election to be
22 represented by the bargaining agent~~7~~1
- 23 (5) refusing to bargain collectively or discuss
24 grievances in good faith with the designated

bargaining agent with respect to any issue coming within the purview of this article~~7~~, or

(6) instituting or attempting to institute a lockout.

~~6b.~~ Action by bargaining agent:

(1) interfering with, restraining, intimidating or coercing employees in the exercise of the rights guaranteed them by this article;

(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 article.

~~7. "Board" shall mean the Public Employees Relations Board.~~

SECTION 2. AMENDATORY 11 O.S. 2011, Section 51-103, is amended to read as follows:

Section 51-103. A. Firefighters and police officers in any municipality shall have the separate right to bargain collectively with their municipality 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.

1 B. ~~Whenever, conformable to regulations that may be prescribed~~
2 ~~by the Public Employees Relations Board, herein created, a petition~~
3 ~~is filed by:~~

4 1. ~~A labor organization alleging that thirty percent (30%) of~~
5 ~~the firefighters or police officers in a municipality:~~

6 a. ~~wish to be represented for collective bargaining by an~~
7 ~~exclusive employee representative, or~~

8 b. ~~assert that the designated exclusive employee~~
9 ~~representative is no longer the representative of the~~
10 ~~majority of employees in the unit; or~~

11 2. ~~The employer alleging that one or more labor organizations~~
12 ~~has presented to it a claim to be recognized as the exclusive~~
13 ~~employee representative in an appropriate unit;~~
14 ~~the Board shall investigate the facts alleged therein and if it has~~
15 ~~reasonable cause to believe that a question of representation~~
16 ~~exists, it shall provide for an appropriate hearing upon due notice.~~
17 ~~If the Board finds upon the record of such hearing that such a~~
18 ~~question of representation exists, it shall direct an election by~~
19 ~~secret ballot and shall certify the results thereof. The Board may~~
20 ~~also certify a labor organization as an exclusive employee~~
21 ~~representative if it determines that a free and untrammelled~~
22 ~~election cannot be conducted because of the employer's unfair labor~~
23 ~~practices.~~

1 ~~C. Only those labor organizations which have been designated by~~
2 ~~more than ten percent (10%) of the employees in the unit found to be~~
3 ~~appropriate shall be placed on the ballot. Nothing in this section~~
4 ~~shall be construed to prohibit the waiving of hearing by stipulation~~
5 ~~for the purpose of a consent election, in conformity with the rules~~
6 ~~and regulations of the Board.~~

7 ~~D. In order to assure to firefighters and police officers of~~
8 ~~any municipality the fullest freedom in exercising the rights~~
9 ~~guaranteed by this article, the Board shall decide in each case~~
10 ~~before it in which the issue is raised the unit appropriate for the~~
11 ~~purposes of collective bargaining, and shall consider such factors~~
12 ~~as community of interest, wages, hours and other working conditions~~
13 ~~of the employees involved, the history of collective bargaining, and~~
14 ~~the desires of the employees.~~

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

1 A municipal employer shall recognize an association selected by
2 a majority of the firefighters of the fire department or police
3 officers of the police department of that municipality as the
4 exclusive bargaining agent for the firefighters or police officers
5 of that municipality until a majority of the firefighters or police
6 officers withdraw the recognition.

7 1. The association representing the department as the
8 exclusive bargaining agent shall be determined by a majority vote of
9 the employees of the department.

10 2. A question of whether an association is the majority
11 representative of the employees of a department shall be resolved by
12 a fair election conducted according to procedures agreed on by the
13 parties.

14 3. If the parties are unable to agree on election procedures
15 under paragraph 2 of this subsection, either party may request the
16 American Arbitration Association to conduct the election and certify
17 the results. Certification of the results of an election under this
18 paragraph shall resolve the question regarding representation. The
19 fire department or police department shall pay the expenses of the
20 election; provided, that if two or more associations seek
21 recognition as the bargaining agent, the associations shall pay the
22 costs of the election.

23 SECTION 3. REPEALER 11 O.S. 2011, Sections 51-104, as
24 last amended by Section 7, Chapter 15, O.S.L. 2013, 51-104a, as

1 amended by Section 51, Chapter 304, O.S.L. 2012 and 51-104b (11 O.S.
2 Supp. 2019, Section 51-104 and 51-104a), are hereby repealed.

3 SECTION 4. This act shall become effective November 1, 2020.
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