

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 3376

By: Ford of the House

and

**Haste** of the Senate

7  
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10                                   COMMITTEE SUBSTITUTE

11                   An Act relating to cities and towns; amending 11 O.S.  
12                   2011, Sections 51-102 and 51-103, which relate to  
13                   collective bargaining; deleting definition;  
14                   eliminating Public Employees Relations Board;  
15                   eliminating petition, hearing and election processes;  
16                   directing a municipal employer to recognize  
17                   association as the exclusive bargaining agent for the  
18                   firefighters or police officers; determining  
19                   association by a majority vote; establishing election  
20                   procedures; repealing 11 O.S. 2011, Sections 51-104,  
21                   as last amended by Section 7, Chapter 15, O.S.L.  
22                   2013, 51-104a, as amended by Section 51, Chapter 304,  
23                   O.S.L. 2012 and 51-104b (11 O.S. Supp. 2019, Sections  
24                   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:

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

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

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

21 3. "Strike" shall mean the concerted failure to report for  
22 duty, the willful absence from one's position, unauthorized  
23 holidays, sickness unsubstantiated by a physician's statement, the  
24 stoppage of work, or the abstinence in whole or in part from the

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

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

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

1 party to agree to a proposal or require the making of a concession~~;~~  
2 and

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

6 6a. Action by corporate authorities:

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

10 (2) dominating or interfering with the formation,  
11 existence or administration of any employee  
12 organization or bargaining agent~~;~~;

13 (3) interfering in any manner whatsoever with the  
14 process of selection by firefighters or police  
15 officers of their respective bargaining agents or  
16 attempting to influence, coerce or intimidate  
17 individuals in such selection~~;~~;

18 (4) discharging or otherwise disciplining or  
19 discriminating against a police officer or  
20 firefighter because he or she has signed or filed  
21 any affidavit, petition or complaint or has given  
22 any information or testimony under this article  
23 or because of his or her election to be  
24 represented by the bargaining agent~~;~~;

- 1 (5) refusing to bargain collectively or discuss  
2 grievances in good faith with the designated  
3 bargaining agent with respect to any issue coming  
4 within the purview of this article<sup>7</sup>, or  
5 (6) instituting or attempting to institute a lockout.

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

- 7 (1) interfering with, restraining, intimidating or  
8 coercing employees in the exercise of the rights  
9 guaranteed them by this article;  
10 (2) interfering with or attempting to coerce the  
11 corporate authorities in the selection of their  
12 representatives for the purposes of collective  
13 bargaining or the adjustment of grievances; or  
14 (3) refusing to bargain collectively or discuss  
15 grievances in good faith with the proper  
16 corporate authorities with respect to any issue  
17 coming within the purview of this article.

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

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

21 Section 51-103. A. Firefighters and police officers in any  
22 municipality shall have the separate right to bargain collectively  
23 with their municipality and to be represented by a bargaining agent  
24 in such collective bargaining with respect to wages, salaries,

1 hours, rates of pay, grievances, working conditions and all other  
2 terms and conditions of employment.

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

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

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

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

13 2. ~~The employer alleging that one or more labor organizations~~  
14 ~~has presented to it a claim to be recognized as the exclusive~~  
15 ~~employee representative in an appropriate unit;~~

16 ~~the Board shall investigate the facts alleged therein and if it has~~  
17 ~~reasonable cause to believe that a question of representation~~  
18 ~~exists, it shall provide for an appropriate hearing upon due notice.~~

19 ~~If the Board finds upon the record of such hearing that such a~~  
20 ~~question of representation exists, it shall direct an election by~~  
21 ~~secret ballot and shall certify the results thereof. The Board may~~

22 ~~also certify a labor organization as an exclusive employee~~  
23 ~~representative if it determines that a free and untrammelled~~

24

1 ~~election cannot be conducted because of the employer's unfair labor~~  
2 ~~practices.~~

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

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

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

1 ~~receives the majority of the votes cast in an election shall be~~  
2 ~~certified by the Board as the exclusive employee representative.~~

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

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

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

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

1 SECTION 3. REPEALER 11 O.S. 2011, Sections 51-104, as  
2 last amended by Section 7, Chapter 15, O.S.L. 2013, 51-104a, as  
3 amended by Section 51, Chapter 304, O.S.L. 2012 and 51-104b (11 O.S.  
4 Supp. 2019, Section 51-104 and 51-104a), are hereby repealed.

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

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7 COMMITTEE REPORT BY: COMMITTEE ON COUNTY AND MUNICIPAL GOVERNMENT,  
8 dated 02/24/2020 - DO PASS, As Amended and Coauthored.

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