

M I N U T E S

SPECIAL COMMITTEE ON PUBLIC EMPLOYER-EMPLOYEE RELATIONS

July 8 and 9, 1975

Members Present

Senator Wayne Zimmerman, Chairman
Representative Bill Morris, Vice-Chairman
Senator Frank Gaines
Senator Ed Reilly
Senator Wes Sowers
Representative Albert Campbell
Representative Victor Kearns
Representative Pete Loux
Representative Lynn Whiteside

Staff Present

Mike Heim, Legislative Research Department
Ramon Powers, Legislative Research Department
Ben Barrett, Legislative Research Department
Bob Alderson, Revisor of Statutes Office
Dr. J. W. Drury, Legislative Research Department

Conferees

Lowell Long, Personnel Division
Jerry Powell, Public Employee Relations Board

Morning Session

The Committee was called to order by the Chairman, Senator Zimmerman shortly after 10:00 a.m. He explained to the Committee they had two study proposals this interim - Proposal No. 44 - Public Employer-Employee Relations (State Employees), and Proposal No. 45 - Professional Negotiations -- School Districts and Community Junior Colleges.

Background and Review of Public
Employer-Employee Relations Act

Dr. Drury gave a brief explanation of the background of the proposal dealing with the Public Employer-Employee Relations Act. He noted that in Kansas there were four possible alternatives for public employer and employee negotiations. The first involves local units of government that are not covered under the State Public Employer-Employee Relations Act. The second involves local units that have chosen to come within the provisions of the law. The third involves state government and the fourth involves school districts and community junior colleges that are covered under a separate Professional Negotiations Act. He pointed out that Kansas was one of 13 states who have a separate act for schools. Dr. Drury said there is considerable variation in state employment. The size of various state departments and agencies is quite diverse. State employees, likewise, can either be unclassified, classified civil service and classified exempt civil service.

Dr. Drury noted that there would be a National Association of State Budget Officers meeting in Kansas City in the near future and that the scope of the discussion for the meeting will be state employment negotiations and its impact on the field of state budgets. He suggested some Committee may wish to attend.

Dr. Drury gave a brief legislative review of the history of the Public Employer-Employee Relations Act. He noted that in 1971, S.B. 333 was passed by the legislature. He then read a passage from the 1971 Interim Report to the 1972 Legislature which recommended that a separate law be passed for state government. The 1972 Legislature, however, did not act on this proposal but did amend the 1971 law (Ch. 340 Session Laws) in an attempt to clarify certain provisions relating to state government.

Explanation of the Act

Mr. Bob Alderson of the Revisor of Statutes Office then reviewed the present law.

The law begins with a declaration of legislative policy and objectives in (K.S.A. 75-4321). The declaration states, in part, that there is a basic difference between public and private employment. The uniqueness is that the state is run for the benefit of all people and its authority derives not from a contract nor a profit motive but from the constitution, statutes, civil service rules and regulations and resolutions. Further the differences are reflected in the constraints that bar any abdication or bargaining away by public employers of their continuing legislative discretion and that the constitutional provisions as to contract, property and due process do not apply to the public employer-employee relationship. The declaration further states that it is the purpose of the act to obligate public agencies, public employees and their representatives to enter into discussions with the affirmative willingness to resolve grievances and disputes relating to conditions of employment. The section states that the governing body

of any public agency other than the state may, by majority vote, bring the public employer under the provisions of the Act.

K.S.A. 75-4322 is the definitions section. Definitions of public employee, supervisory employee, confidential employee, professional employee were all noted. Specific mention was made of the term "meet and confer in good faith". This is the process whereby the representatives of a public agency and representatives of recognized employee organizations have the mutual obligation personally to meet and confer in order to exchange freely information, opinions and proposals and to endeavor to reach agreements on conditions of employment. The term "memorandum of agreement" means a written memorandum of understanding arrived at by the representatives of the public agency and a recognized employee organization, which memorandum may be presented to the governing body of a public employer or a statutory representative and to the membership of such organization for appropriate action. "Conditions of employment" means salary, wages, hours of work, vacation allowances, sick and injury leave, number of holidays, retirement benefits, insurance benefits, wearing apparel, premium pay for overtime, shift differential pay, jury duty and grievance procedures. In addition, the definition of "conditions of employment" contains a statement that nothing in the act shall authorize the adjustment or change of such matters which have been fixed by statute or by the constitution of the state.

K.S.A. 75-4323 provides for the creation of a public employee relations board. This board is composed of five members appointed by the Governor. It has the duties to establish procedures for the prevention of improper public employer and employee organization practices, to establish panels of qualified persons to be available to serve as mediators, arbitrators or members of fact finding boards, to hold hearings and make inquiries, issue subpoenas and administer oaths, to make rules and regulations and to intervene in the public employer-employee relations to the minimum extent possible.

K.S.A. 75-4324 establishes the employee's right to form, join, and participate in employee organizations.

K.S.A. 75-4325 provides that supervisory employees are not prohibited from membership in employee organizations.

K.S.A. 75-4326 lists the rights of public employers and states that these rights are not modified or circumscribed by the existence of the right to meet and confer.

K.S.A. 75-4327 provides that public employers shall recognize employee organizations under certain conditions. It was pointed out that there is confusion between subsection (b) of this section which provides that an employee organization shall represent a majority of the employees in an appropriate unit while subsection (d) provides that an employee organization can be designated if it receives a vote of the majority of the employees voting in an election. The confusion arises in the fact that a majority of the employees in a particular unit often differs from the majority that voted in the election.

K.S.A. 75-4328 recognizes the right of employee organizations to represent employees, and requires that the public employer give the public employee organization unchallenged representation status for a period of 12 months following the date of certification or formal recognition.

K.S.A. 75-4329 provides that every public agency other than the state acting through its governing body may establish procedures to resolve disputes concerning the recognition status of employee organizations. In the absence of these procedures, the public employee relations (PER) board may intervene.

K.S.A. 75-4330 provides for the scope and other limits on memorandums of agreement as well as grievance procedures, arbitration procedures, and appeals. The scope of the memorandums of agreement may extend to all matters relating to conditions of employment except those pertaining to any subject preempted by federal or state law or municipal ordinance passed under the provisions of Section 5, article 12 of the Kansas Constitution; public employee rights as defined in 75-4324; public employer rights as defined in 75-4326; or the authority and power of any civil service commission, personnel board, personnel agency or its agents established by statute, ordinance or special act to conduct and grade merit examinations, rate candidates in the order of their promotion, etc. The section further provides that a memorandum of agreement can be entered into for a period not to exceed three years. The memorandum may contain a grievance procedure for impartial arbitration of any dispute that arises on interpretation of the memorandum of agreement itself. Further, when a memorandum of agreement applies to the state or to any state agency, the memorandum shall not be effective as to any matter requiring passage of legislation or state finance council approval until approved by the legislature or the finance council.

K.S.A. 75-4331 provides for the drawing up of a memorandum of understanding if agreement is reached between the employee organization and the representatives of the public agency. If the public employer is a taxing subdivision subject to provisions of K.S.A. 79-4401, a financial report must include information as to the impact of the memorandum on the aggregate tax levy and operating expense limitations.

K.S.A. 75-4332 deals with memorandum of agreement and provides procedures in the case of impasse, fact finding and other hearings and the distribution of costs. The section provides public employers may include in a memorandum of agreement with an employee organization, procedures to be followed if an impasse is

reached in the course of meet and confer proceedings. It also provides that the PER Board may intervene in the absence of these procedures.

K.S.A. 75-4333 lists the prohibited practices for employer organizations as well as employee organizations.

K.S.A. 75-4334 sets out procedures for handling controversies concerning prohibited practices.

K.S.A. 75-4335 provides that the governing body of any of the political subdivisions may adopt its own procedures for bargaining subject to the approval of the PER Board.

K.S.A. 75-4336 provides for registration of business agents for employee organizations as well as their certification and annual fees are prescribed. Business agents registered under 44-804 (private sector) are not required to register under this act.

K.S.A. 75-4337 provides for the filing of an annual report by employee organizations, with the Secretary of State.

Meet and Confer vs. Collective Bargaining

Ramon Powers presented a chart which graphically displayed the meet and confer process contained in the current law. A copy of that chart is attached to the minutes. He presented a comparison and contrast of the concepts contained in meet and confer laws with those contained in collective bargaining laws. He noted that there are two basic models of public employer-employee relations acts. One is the meet and confer model, and the second is the collective bargaining or negotiations model.

The meet and confer model exists when the public employer has employees who are organized and is willing to recognize the organization as speaking for the employees but is unwilling to enter into the bilateral bargaining. There exists then a meet and confer relationship. In such instances, the final decision is made unilaterally by the employer.

The collective negotiations model, in contrast, is found most often in the private sector. In these cases, both parties, meet as "equals" and are free to negotiate on all mandatory subjects for bargaining. Normally these include wages, hours and conditions of employment. This entails fullfledged bilateral decision-making and both parties must agree in order to get a settlement in the form of a contract.

It was pointed out that the Kansas Public Employer-Employee Relations Act is referred to as a "meet and confer" act. However, the act provides for something more than this. It contains provisions which are common to collective bargaining but also assist in meet and confer activities. Several examples were listed including the obligation to meet and confer, impasse, grievance and the prohibited practices provisions of the law.

The model meet and confer law generally gives little attention to the matter of unfair labor practices. The reason is that meet and confer is a petitionary process, not an adversary process and there is no need for a long list of prohibitions. Kansas law, however, contains a list of prohibited employer and employee practices.

Discussions of Issues

The staff then explained that particular issues related to public employee relations would be presented. The first issue was the "scope of discussions or bargaining" in meet and confer or collective bargaining. Mr. Powers stated that in a meet and confer relationship, there is no need for a limit on the scope of discussions. Employees can talk about anything, but management is under no mandate to agree to recommend any employee proposal to the legislature, nor is the legislature bound to agree with the proposal. Under collective bargaining the employer seeks to restrict the range of subjects which may be discussed. Commonly, such subjects include salaries, fringe benefits and other terms of employment if the latter are defined narrowly to include such items as hours, overtime pay, vacation and work rules.

Nine statutes in eight states apparently give precedence to civil service systems over collective bargaining agreements. In two states, the collective bargaining agreement is given precedence. Other things that can limit the scope of bargaining are the home rule statutes or constitutional provisions which pertain to the application of the law to local units of government. Both of these issues have presented problems in the Kansas law which provides for meeting and conferring in good faith in order to reach agreement. Some of the conditions of employment are also fixed by statute or by the state constitution. Therefore, there is conflict and confusion as to what conditions of employment an agreement may be reached upon. Some further clarification may be needed on this point as well as on the issue of home rule.

Dr. Drury discussed the issue of recognition of employee units for purposes of negotiation. It was pointed out that the designation of appropriate units has almost been completed in Kansas state government and that there are 53 appropriate units now designated by the PER Board. It was noted that there is some latitude to increase or decrease the number of units. It was pointed out that "no representation" must be on ballot as an option each time an election is conducted to determine which, if any, employee organization or union will represent an appropriate unit. It was

further noted that the designation of appropriate units does not mean that an employee organization has been recognized to represent employees of that unit. There was a question whether the meet and confer and other meetings provided for under the Public Employee Relations Act are subject to the state's open meetings law. There was some difference of opinion on this issue. Mr. Lowell Long, Personnel Director, said that the Department of Administration has taken the position that the negotiation process is closed to the public although there has not been a specific opinion issued by the Attorney General. Mr. Bob Alderson noted, however, that the law has been interpreted as requiring that meetings be open unless specifically exempted in the open meetings law itself.

It was pointed out that the PER Board had made its major decision concerning designation and number of appropriate units in April, 1974. A member of the Committee requested that a copy of a memorandum from Mr. Lowell Long to various state agencies for implementing the process of employee unit designation be put in the Committee notebooks. Mr. Jerry Powell, Executive Director of the Public Employee Relations Board, noted that approximately 60% of the eligible voters in the various employee units have voted in the elections. A copy of a memorandum prepared by Mr. Jerry Powell concerning employee unit designation and the number of people that have voted in various elections conducted was also asked to be placed in the Committee notebooks.

Afternoon Session

Memorandums of Agreement. The next item of discussion was the issue of the approval of memorandums of agreement.

Dr. Drury pointed out that there is a problem as to who has the final approval authority in state government of the memorandum of agreements. The question centers around the issue of who is considered the employer at the state level. Mr. Long explained that the wage portion of a memorandum of agreement involving the State Printer's Office has been approved. Other provisions of the memorandum of agreement have been deferred. The question was asked whether any memorandums of agreement have been approved in total. Mr. Long said that none had been approved at this point.

Mr. Pitner, Chief Attorney for the Secretary of Administration noted, however, that some memorandums of agreement which have not required changes in the law or in the rules and regulations have been approved. He explained that a subcommittee of the Finance Council has been appointed and that it will have recommendations on some of these issues at the next meeting. It was also

noted that there is some concern as to whether a part of a memorandum of agreement can be rejected or whether the entire memorandum has to be rejected. It was noted that the maximum time limit that a memorandum of agreement can run is three years.

It was also noted that there is some confusion concerning the terms, "memorandum of agreement", "memorandum of understanding", and "memorandum of procedure". Mr. Alderson noted that all three presumably mean the same thing. It was further noted by Dr. Drury that there is a lingering question about the procedural requirements that involve memorandums of agreement with faculty at state colleges. These matters do not normally come before the State Finance Council and this has created some problems concerning the role of the Board of Regents in these issues. It was pointed out that last years' interim committee attempted to deal with this problem by establishing in Senate Bill 61, three levels of negotiation. One level involved single unit negotiation items, the second level involved multi-unit or statewide items, and the third included matters involving the Board of Regents. In each case there is a different set of negotiation procedures outlined and established in the bill.

Unfair Labor Practices. Mr. Powers discussed the issue of unfair labor practices. He said that a model meet and confer statute normally would give little attention to these items since the employer had undisputed unilateral decision-making authority. However, in a collective bargaining model there are standards set for employers and employees. In Kansas law, standards are set in K.S.A. 75-4333.

The question was asked of Mr. Powell if there had been any charges made of unfair practices in Kansas. Mr. Powell said a number have been filed and several hearings have been held. One charge is currently pending at Pittsburg. The majority of these charges involve allegations that there is a restraining or coercion of employees. Most such charges have been filed at the local government level. The question was asked if any charges of unfair labor practices had arisen out of the K.U. Medical Center situation that existed several years ago. Mr. Powell said there were unfair labor practice charges filed on two occasions. Mr. Long noted that the PER Board had responded with dispatch. One was filed by the K.U. Medical Center and the other by the state.

Other States and Federal Activities

Mike Heim reviewed provisions of other states' laws in the area of public employer-employee relations. It was noted that 32 states require public employees to engage in collective bargaining; 13 states authorize states to engage in collective bargaining and nine states have no legislation. In 13 states, there are separate statutes for teachers and 15 states check-off procedures are

allowed for union dues. A union shop is authorized in Michigan and Hawaii, and strikes are permitted under some circumstances in the states of Alaska, Minnesota, Montana, Oregon, Hawaii, Pennsylvania, Vermont and California. It was pointed out that administration of the public sector labor relations acts vary. Some states have designated existing state agencies to administer their public employment relations acts. Others have placed this function under the jurisdiction of an employer agency. For example, in Kansas teacher negotiations are under the State Board of Education, and in Montana nurses are under the State Board of Health. New agencies had been created in a number of states, including Kansas, which has created a Public Employee Relations (PER) Board to administer the Act. An in-depth comparison of the Kansas law with Nebraska, Iowa, Minnesota, New York and Hawaii laws was then presented.

Mr. Heim discussed several bills before Congress. House Resolution No. 77 would amend the National Labor Relations Act by striking the reference to any state or political subdivision. States then would be under federal control and specifically under the National Labor Relations Act. H.R. 1488 would establish a National Public Employment Relations Act and administrative machinery apart from the National Labor Relations Act would be set up. Attached to the minutes is a copy of all the comments delivered in these areas (Attachment II).

Last Year's Interim and 1975 Session

A review of the last year's interim committee's activities and the 1975 Session was conducted by Dr. Drury and Ramon Powers. Mr. Powers noted that an initial concern of the Committee centered around the multiplicity of employee units that were emerging in the State of Kansas. As the 1974 interim committee progressed and as the PER Board made its determination involving the number of units in Kansas, concern shifted to the issue of meeting and conferring between the employer and employee organization. The Committee then focused its attention on changing the procedures in negotiating issues that are a part of or subject to the meet and confer process. Issues were divided into those that would affect a single employee unit, those issues that were statewide in nature and those issues that involved the Board of Regents only. What emerged was a concept for coalition bargaining. This concept was incorporated in S.B. 61 which was recommended by the Committee to the 1975 Legislature. The intent of the bill was to overcome unit fragmentation by coalition bargaining. It was also pointed out that during the 1975 Session there were several days of hearings held on S.B. 61 by the Senate Public Health and Welfare Committee. The Committee requested Mr. Powell to draft a bill that would incorporate the changes he felt were essential to clarify the existing law in lieu of S.B. 61. The proposal developed by Mr. Powell, however, was not adopted by the Public Health and Welfare Committee.

After some discussion a Committee member suggested that the staff prepare a comparison of the surrounding states' laws as well as a comparison of the present Kansas law with the proposed changes contained in S.B. 61. In addition, a request was made to compare the Kansas law with the proposed federal legislation and then if possible to compare it with any model law that might exist. It was argued by another Committee member that the federal legislation was not a meaningful comparison since there was little possibility at this time that federal legislation would be passed. In addition, the point was made that the Committee should focus its attention on the current Kansas law since that was the law that the Committee would have to deal with.

The Committee then discussed the issue of whether the proposal dealing with the Public Employee Relations Act should be combined with the proposal dealing with the Professional Negotiations Act. After some discussion, the Committee decided to postpone this decision until after the presentation scheduled for the next day on the Professional Negotiations Act. The Committee then adjourned.

July 9, 1975

Morning Session

Proposal No. 45 - Professional Negotiations Act (Background and History)

Ben Barrett gave a detailed explanation of the issues involved in a review of the Professional Negotiations Act. He noted that prior to 1970 there was no professional negotiations law. In that year the legislature enacted the current law which has not been changed since. The main issues raised then indicate how the concept for the current law was developed included the following.

1. Should it be mandatory for the school boards to enter into negotiations when an employee unit makes a request? This question was decided affirmatively. However, the Board of Education could refuse to honor a request under certain conditions.
2. Should negotiable items be limited to the economic conditions of employment? On this matter the act is ambiguous.
3. Should strikes, walkouts, and boycotts be prohibited? These kinds of actions are not specifically prohibited in the bill.
4. Should an impasse procedure be included? There is no impasse procedure in the current law.

5. Should teachers and administrators be separated for purposes of negotiation? The law contains a provision that separates teachers and administrators.
6. Is mandatory negotiation inconsistent with the authority of school boards to make policy-decisions? On this issue the law takes no specific stand.
7. With respect to negotiations should teachers be treated separately from other public employees? The legislature did pass a separate Act which deals specifically with teachers (and certain other professional employees).
8. Should negotiation sessions be open to the public? The decision was negative in that a provision in the original bill to require that such negotiations were to be open was deleted.

There have been two interim legislative studies conducted on proposals for changes in the law since its enactment. The 1971 interim committee focused on a number of issues. These included:

1. Whether administrators should continue to be covered by the Professional Negotiations Act.
2. What items should be considered negotiable items.
3. Whether strikes should be prohibited or authorized specifically.
4. Whether limitations should be established regarding employee organization recognition.
5. Whether additional criteria should be added for determining when an employee's organization loses recognition.
6. What deadlines should be established regarding lists of items to be negotiated and when these lists should be submitted.
7. Whether the law should require that an agreement be reached.
8. Whether the law should require agreement on procedures for binding arbitration.

9. Whether a mediation procedure should be added to help resolve impasse.
10. Whether some form of arbitration should be included in the law.

The 1971 Committee concluded that none of these problems were urgent and therefore recommended no change. A 1973 study focused on many of the same issues including the added items of whether statewide agreements should be developed on such matters as salaries and related income items; and whether the law should contain a listing of certain unfair employee or employer practices.

Review of the Act

Mr. Alderson then reviewed the Professional Negotiations Act.

K.S.A. 72-5413 provides for certain definitions. The definition of Board of Education, professional employee, administrative employee, and professional employee organizations were noted. He said that this was more of a meet and confer law than a collective bargaining law since there is no requirement that an agreement be reached. He also noted that the Act does not contain a legislative declaration of policy statement like the Public Employer-Employee Relations Act does. He added that there is not a definition of what constitutes or what conditions comprise professional service. "Professional negotiation" is defined as meeting, conferring, consulting and discussing in a good faith effort by both parties to reach agreement with respect to the terms and conditions of professional service.

K.S.A. 72-5414 affirms the professional employees' rights to form and join professional employee organizations and to participate in professional negotiations with boards of education. It also states that these professional employees should have the right not to join in these activities.

K.S.A. 72-5415 states that the employee group or organization shall have the exclusive right to represent professional employees in negotiations. It also provides for separate negotiation procedures for professional employees and administrative employees. In addition, a provision is made that nothing shall prevent professional employees individually or collectively, through representatives as they may choose individually or collectively, from presenting or making known their positions or proposals to the board of education, superintendent of the school, or other chief executive officer employed by the board of education. This "right of the individual" provision is not contained in the other Public Employer-Employee Relations Act.

K.S.A. 72-5416 provides a procedure for recognition of employees organizations. There are four conditions whereby recognition may not be automatically granted by a board of education. These include:

1. Where the board has a good faith doubt as to the accuracy and validity of the evidence demonstrating majority support.
2. Another professional employee organization files with the board a competing claim and shows at least 30% of the professional employees in that unit have demonstrated support.
3. There is in effect a lawful written agreement negotiated by the board and a professional employee organization.
4. The board has within the previous 36 month period lawfully recognized a professional employee organization.

Several differences in this section and in a comparable section in the Public Employer-Employee Relations Act were noted. These include that there must be a majority of those in the designated unit that support the representative organization in the Professional Negotiations Act and only a majority of those voting must support the union in the Public Employer-Employee Relations Act. In addition, the Board of Education is not required to recognize another unit within 36 months after initial recognition. In the other law there is a one year requirement.

K.S.A. 72-5417 provides that a petition may be filed with the State Board of Education asking the State Board to investigate and decide whether a professional employees' unit has selected an exclusive representative. This action can be initiated by the Board of Education or by a professional employee's organization alleging that it has filed a request with the local board and the request has been denied.

K.S.A. 72-5418 provides a procedure for inquiry by the State Board of Education into the issues cited above. The State Board may dismiss the question if a petition is not supported by 30% of the professional employees in the unit or if the local board of education has within the previous 12 months recognized a professional employees organization. It was noted that the law contains an inconsistency in that the State Board of Education is bound by a time frame of only 12 months in certain recognition determinations, and the local board by a time frame of 36 months.

K.S.A. 72-5419 establishes procedures for the State Board of Education to conduct elections by secret ballot.

K.S.A. 72-5420 provides criteria for determining the appropriate unit of the employees' organization.

K.S.A. 72-5421 provides that a board of education may enter into an agreement covering terms and conditions of professional service with an employee organization. The agreement becomes binding when signed or ratified by a majority of the board as well as majority of members of the negotiating unit (not a majority of the employee organization membership).

K.S.A. 72-5422 is a savings clause for existing agreements.

K.S.A. 72-5423 states that nothing in the Act shall be construed to affect any right or duty conferred upon the local boards of education. In addition, it provides a time frame for negotiations in which new items or items to amend existing contracts must be filed on or before December 1 of any school year by either party. It further provides that strikes are not authorized by professional employees and provides for a two-year time limit on the negotiated agreement. (In the Public Employer-Employer Relations Act a three year time limit is provided.)

K.S.A. 72-5424 states that the agreement may provide for arbitration of disputes. The arbitration of disputes, however, are to be centered only on the terms of the existing contract, not on negotiations for a future contract.

K.S.A. 72-5425 provides for a severability clause.

Supreme Court Cases

The staff reviewed three Kansas Supreme Court cases involving the Professional Negotiations Act. The first was Liberal NEA v. Board of Education, (211 K. 219). The Supreme Court held: (1) that the status of a professional employees organization as an exclusive bargaining representative continues in the absence of the recognition of a new exclusive representative; (2) the Board of Education may not withdraw recognition and refuse to negotiate with a recognized exclusive bargaining representative because of a claimed loss of majority representation; (3) where a non-recognition dispute is submitted for determination to the State Board of Education, the local board of education has the duty to negotiate with the previously recognized exclusive unit until the State Board has determined the controversy.

The second case, NEA of Shawnee Mission v. Board of Education (212 K 741), dealt with certain obligations on the part of negotiating parties, as well as with what constitutes the "terms and conditions of professional service". The court held: (1) under the Act representatives of employees and of the Board of Education are required to negotiate on terms and conditions of professional service in a good faith effort by both parties; (2) where an agreement is reached by a negotiating team it has a duty to refer the agreement to the board and members of the negotiating unit respectively with their good faith recommendations of approval; (3) agreements which are ratified by both the board of education and a majority of the members of the negotiating unit become binding on both parties; (4) neither the board nor the employees' organization is compelled to agree to any particular term or condition. Their mutual goal, however, in negotiation is to seek areas of accord with the view of entering into a binding agreement; (5) the "terms and conditions of professional service" which are negotiable are something more than minimal economic terms of wages and hours and something less than the basic educational policy of the board of education; (6) the March 15 deadline for terminating the employment of a teacher under the continuing contract law has no relevance to the terminations of negotiations under the Act; (7) negotiations must be completed and the board's salary obligations fixed in time for the board to comply with the statutes relating to the adoption of the budget for the next school year. In no event shall this date be later than July 1; (8) unilateral action by a party to negotiations may be so utterly inconsistent with the sincere desire to reach an agreement as to conclusively demonstrate a lack of intention to negotiate in good faith.

The third case, Seaman District Teachers' Association v. Board of Education, involved negotiations in the 1972-73 school term relative to terms of service in 1973-74. The only new guideline suggested by the Kansas Supreme Court in this case was that the law provides that nothing shall be construed to authorize a strike by professional employees. To enforce this mandate the court stated that it would not give assistance under the act to professional employees who do strike.

1975 Bills

Discussion then centered on proposed bills introduced during the 1975 Session. Two principal thrusts of the legislation introduced were:

1. To provide some method of declaring and resolving an impasse in negotiations, and

2. to provide a listing in the law of specific items subject to negotiation as "terms and conditions of professional service".

(A copy of the memorandum dated July 9, 1975, which contains the remarks delivered by Mr. Barrett and the summary of the four proposed bills is contained in the Committee notebooks. Other items in the Committee notebooks include a summary of the negotiated items in the various teacher contracts of school districts and a memorandum dated October 12, 1973 prepared by the Legislative Research Department.)

Committee Discussion

The question was raised concerning the issue of master contracts. It was noted that most school districts do not provide for this, however, some do. It was also noted that a number of negotiated agreements include a provision for a dues checkoff.

The Committee discussed whether it should combine the two study proposals into one topic.

Mr. Powell commented that procedures in both laws were very similar. Mr. Bob Wootten (K-NEA) suggested that K-NEA would submit remarks prior to the next meeting. Mr. Fred Rausch (KASB) stated that KASB also would submit a statement prior to the next meeting.

The Committee decided that the scope of its discussions would center on suggestions for revision of both the Public Employer-Employee Relations Act and the Professional Negotiations Act. The staff will obtain a list of the organizations presently recognized by the PER Board and contact them to see if they wish to make a statement to the Committee at the next meeting. Staff was also directed to invite the Chairman of the House and Senate Education and Ways and Means Committees to appear if they so desired.

Staff was asked to clarify for the Committee at the next meeting what is meant by "statewide units". Staff indicated its plans to draw up a chart which would show the proposed organization suggested by S.B. 61. Staff also agreed to compare the surrounding states' laws with the existing Kansas law and to compare the Public Employer-Employee Relations Act with the Professional Negotiations Act. Conferees were to be advised that they should focus their remarks on problems with the current law and suggest improvements therein.

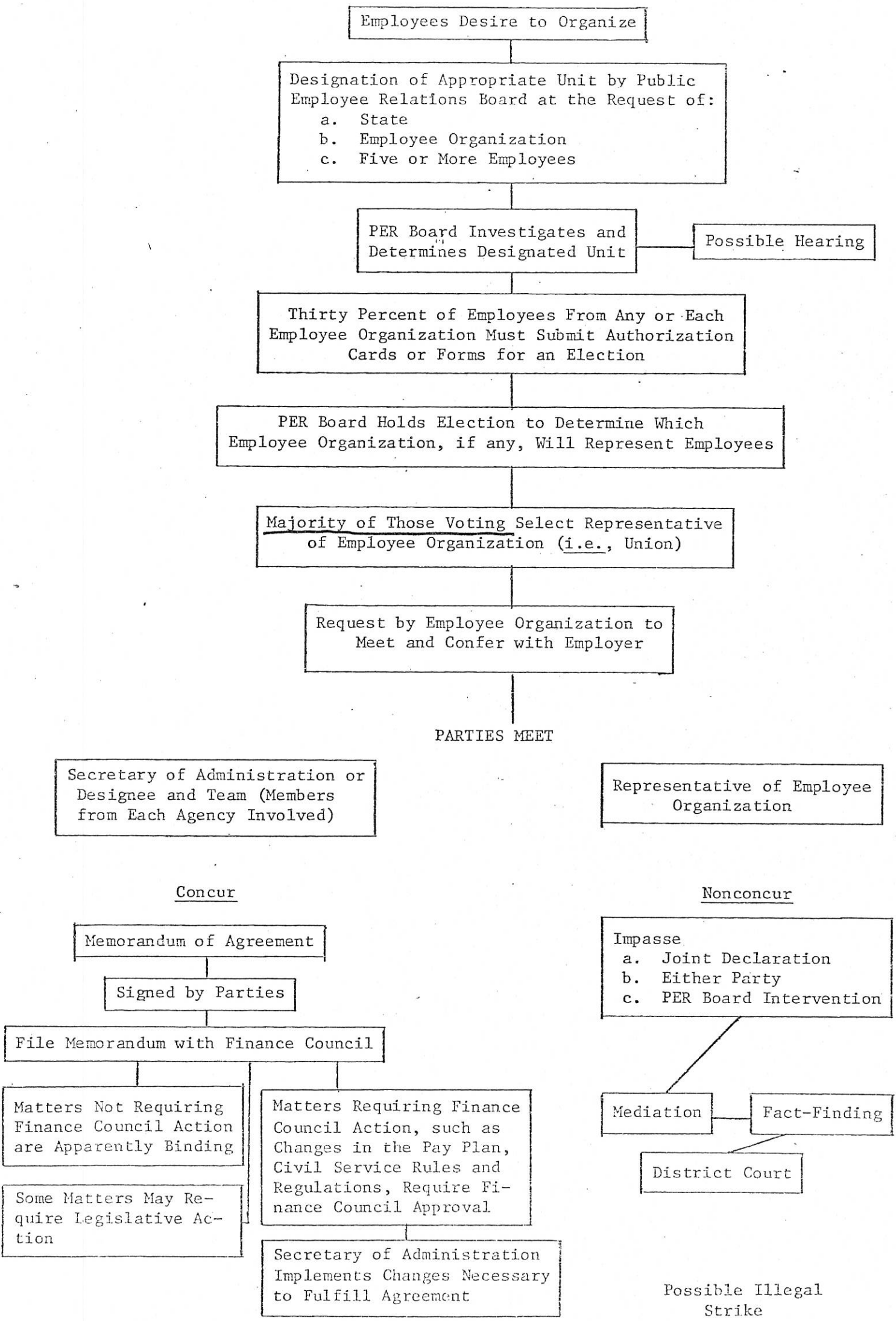
The next meeting for the Committee will be on August 13 and 14. The Committee adjourned.

Prepared by Mike Heim

Approved by Committee on:

Aug. 14, 1975
Date

CHART OF MEET AND CONFER PROCESS



STATES LAWS

1. WHAT STATES' HAVE LAWS *

- A. 32 STATES AND THE DISTRICT OF COLUMBIA REQUIRE PUBLIC EMPLOYERS TO ENGAGE IN COLLECTIVE BARGAINING OR MEET AND CONFER WITH ALL OR SOME PUBLIC EMPLOYEES.
- B. 13 STATES AUTHORIZE, BY STATUTE, ATTORNEY GENERAL'S OPINION OR COURT DECISION, COLLECTIVE BARGAINING FOR SOME OR ALL PUBLIC EMPLOYEES OR GRANT TO PUBLIC EMPLOYEES THE RIGHT TO PRESENT PROPOSALS.
- C. 9 STATES HAVE NO LEGISLATION - ARIZONA, COLORADO, LOUISIANA, MISSISSIPPI, NORTH CAROLINA, OHIO, SOUTH CAROLINA, TENNESSEE AND WEST VIRGINIA. TEXAS HAS LOCAL OPTION FOR POLICE AND FIRE.

2. COVERAGE

A NUMBER OF STATES COVER ALL EMPLOYEES IN A SINGLE STATUTE OR MULTIPLE STATUTES. IN 3 STATES - CONNECTICUT, MAINE AND MICHIGAN - EMPLOYEES OF STATE GOVERNMENT ARE EXCLUDED. TEACHERS ARE TREATED SEPARATELY IN 13 STATES - ALABAMA, CALIFORNIA, CONNECTICUT, DELAWARE, IDAHO, INDIANA, KANSAS, NEBRASKA, NORTH DAKOTA, OKLAHOMA, RHODE ISLAND, VERMONT AND WASHINGTON.

* Several of the states require certain employers to engage in collective bargaining and authorize certain others to engage in such.

3. ADMINISTRATION

STATES WITH ESTABLISHED LABOR RELATIONS AGENCIES (SUCH AS CONNECTICUT, MASSACHUSETTS, MICHIGAN, NEBRASKA, PENNSYLVANIA, RHODE ISLAND AND WISCONSIN) DESIGNATED THESE AGENCIES TO ADMINISTER THE NEW PUBLIC EMPLOYMENT RELATIONS ACTS. IN A FEW INSTANCES, ADMINISTRATION WAS PLACED UNDER THE JURISDICTION OF THE EMPLOYER AGENCY - FOR EXAMPLE, IN KANSAS TEACHERS ARE UNDER THE STATE BOARD OF EDUCATION AND IN MONTANA, NURSES ARE UNDER THE STATE BOARD OF HEALTH. NEW AGENCIES WERE CREATED IN SEVERAL STATES - I.E., PUBLIC EMPLOYEE RELATIONS BOARDS (PERB) IN KANSAS, OKLAHOMA, MINNESOTA, ETC.

4. SCOPE OF BARGAINING

MOST STATES FOLLOW NLRA LANGUAGE OF "WAGES, HOURS AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT." OTHERS HAVE BEEN MORE SPECIFIC. SUCH AS:

1. "FULLFILLMENT OF PROFESSIONAL DUTIES" (ALASKA - TEACHERS);
2. "ALL ITEMS THAT AFFECT RIGHTS AND RESPONSIBILITIES"
(FLORIDA - FIREFIGHTERS),

5. MANAGEMENTS RIGHTS CLAUSE

THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS (ACIR) RECOMMENDS A MANAGEMENTS RIGHTS CLAUSE TO STIPULATE AGREEMENTS BE GOVERNED BY PROVISIONS OF ANY EXISTING OR FUTURE LAWS AND REGULATIONS AND TO PROVIDE FOR THE UNRESTRICTED RIGHT TO DIRECT WORK, HIRE, PROMOTE, DEMOTE, ETC.

6. UNION SECURITY

15 STATES AFFIRMATIVELY AUTHORIZE CHECKOFF OF DUES. A UNION SHOP IS AUTHORIZED IN MICHIGAN AND HAWAII.

7. MEDIATION

THE FACTORS OF DIVISION OF POWER, BUDGETARY REQUIREMENTS, TAXATION AND INEXPERIENCE OF SOME REPRESENTATIVES OF PUBLIC EMPLOYERS HAVE MADE MEDIATION PLAY A KEY ROLE IN PUBLIC SECTOR COLLECTIVE BARGAINING. THE FEDERAL MEDIATION AND CONCILIATION SERVICE PERFORMS MEDIATION FUNCTIONS UPON REQUEST.

8. FACT FINDING

THIS INVOLVES THE USE OF PUBLIC PRESSURE TO RESOLVE DISPUTES AND IS FOUND IN MOST PUBLIC EMPLOYEE RELATIONS ACTS.

9. STRIKES

MOST PUBLIC EMPLOYEES DO NOT HAVE THE RIGHT TO STRIKE; THE POWER TO STRIKE EXISTS. ALASKA, MINNESOTA, MONTANA, OREGON, HAWAII, PENNSYLVANIA AND VERMONT ALLOW PUBLIC EMPLOYEES TO STRIKE UNDER LIMITED CIRCUMSTANCES.

10. ARBITRATION

BINDING GRIEVANCE ARBITRATION IS GAINING ACCEPTANCE AND IT IS ESTIMATED THAT OVER 50% OF THE PUBLIC SECTOR CONTRACTS NOW INCLUDE THIS.

A RECENT DEVELOPMENT IS LEGISLATED ARBITRATION OF TERMS OF COLLECTIVE BARGAINING AGREEMENTS. 16 STATES NOW DO THIS - ALASKA, MAINE, MICHIGAN, MINNESOTA, NEBRASKA, NEVADA, OKLAHOMA, OREGON, PENNSYLVANIA, RHODE ISLAND, SOUTH DAKOTA, TEXAS, VERMONT, WASHINGTON, WISCONSIN AND WYOMING.

	<u>COVERAGE</u>	<u>ADMINISTRATIVE BODY</u>
KANSAS	1) STATE, LOCAL, POLICE, FIRE (75-4321 ET SEQ.) 2) TEACHERS (72-5413 ET SEQ.)	PERB STATE BOARD OF ED.
NEBRASKA	1) STATE, LOCAL, POLICE, FIRE 2) TEACHERS	COURT OF INDUSTRIAL RELATIONS Bd. of Ed.; COURT OF INDUSTRIAL RELA.
IOWA	STATE, LOCAL, POLICE, FIRE, TEACHERS	PERB
MINNESOTA	STATE, LOCAL POLICE, FIRE, TEACHERS	PERB; BUREAU OF MEDIA- TION SERVICES
NEW YORK	STATE LOCAL, POLICE, FIRE, TEACHERS TAYLOR LAW, CIVIL SERVICE LAW, N.Y. CITY HAS OWN LAW & ADM. AGENCY - OFFICE OF COLLECTIVE BARGAINING; LOCAL UNITS MAY OPT OUT IF SUBSTANTIALLY SAME BUT UNDER REVIEW BY PERB	PERB
HAWAII	STATE, LOCAL, POLICE, FIRE, TEACHERS	PERB

	<u>UNIT DETERMINATION</u>	<u>RECOGNITION</u>
KANSAS	1) PERB DETERMINES 2) STATE BOARD OF ED. DETERMINES	EXCLUSIVE, 30%, SECRET BALLOT EXCLUSIVE SECRET BALLOT
NEBRASKA	1) COURT OF INDUSTRIAL RELATIONS 2) Bd. OF ED. MAY ESTABLISH RULES - ALL TEACHERS IN DISTRICT ARE A UNIT BY STATUTE	EXCLUSIVE REPRESENTATION FOR MEMBERS ONLY
IOWA	PERB DETERMINES	EXCLUSIVE, 30%/10%
MINNESOTA	BUREAU OF MEDIATION SERVICES DETERMINES	EXCLUSIVE, 50%/30% ELECTION
NEW YORK	PERB OR LOCALITIES	EXCLUSIVE, CARD CHECKS OR SECRET BALLOT
HAWAII	PERB RESOLVES DISPUTES - 8 STATEWIDE UNITS MANDATED; 5 OPTIONAL	EXCLUSIVE, 30%/10%

	<u>BARGAINING RIGHTS</u>	<u>UNION SECURITY</u>	<u>GRIEVANCE PROCEDURE</u>
KANSAS	1) MUTUAL DUTY TO MEET AND CONFER	NONE	NEGOTIABLE (BINDING ARBITRATION) PERB CAN EST. PROCEDURES IF NONE
	2) NEGOTIABLE ON TERMS AND CONDITIONS OF PROFESSIONAL SERVICE IN GOOD FAITH	NONE	INDIVIDUAL BASIS
NEBRASKA	1) MUTUAL DUTY TO BARGAIN	NONE	NEGOTIABLE - INDIV.
	2) Bd. APPROVAL REQUIRED FOR MEET AND CONFER	NONE	NONE
IOWA	MUTUAL DUTY TO BARGAIN	DUES DEDUCTION NEGOTIABLE	NEGOTIABLE - (BINDING ARBITRATION)
MINNESOTA	MUTUAL DUTY TO BARGAIN MEET AND CONFER WITH PROFESSIONALS ON AGENCY POLICIES	AGENCY SHOP NEGOTIABLE DUES DEDUCTION UPON WRITTEN AUTHORITY	CONTRACTS MUST INCLUDE GRIEVANCE PROCEDURES THAT PROVIDE BINDING ARBITRATION
NEW YORK	MUTUAL DUTY TO BARGAIN	DUES DEDUCTION UPON WRITTEN AUTHORITY	NEGOTIABLE
HAWAII	MUTUAL DUTY TO BARGAIN	AGENCY SHOP AUTOMATIC UPON CERTIFICATION; DUES DEDUCTION UPON WRITTEN AUTHORITY	NEGOTIABLE

	<u>IMPASSE PROCEDURES</u>	<u>STRIKE POLICY</u>
KANSAS	1) PARTIES MAY ESTABLISH OWN IMPASSE PROCEDURE - MEDIATION (14 DAYS BEFORE BUDGET); FACT FINDING - (EXCLUDING STATE, THE LOCAL GOV. BODY MAY ACT TO RESOLVE CONTINUED IMPASSE) 2) NONE	PROHIBITED PROHIBITED
NEBRASKA	1) ANY EMPLOYEE, EITHER PARTY, ATTY. GEN., OR GOVERNOR MAY INVOKE CIR - MEDIATION, FACT FINDING ORDERS ARE BINDING ON PARTIES 2) 3 MEMBER FACT FINDING BD.; CIR MAY INTERVENE ONLY AFTER FACT FINDING PROCESS.	PROHIBITED PROHIBITED
IOWA	PERB APPOINTS MEDIATOR (120 DAYS PRIOR TO BUDGET SUBMISSION), FACTFINDER 10 DAYS LATER "FINAL OFFER" ARBITRATION	PROHIBITED
MINNESOTA	BM 5 DIRECTOR MEDIATES, BINDING ARBITRATION 15 DAYS-75 DAYS BEFORE BUDGET; ARBITRATION WITH INDIVIDUAL OR 3 MEMBER PANEL	PROHIBITED EXCEPT WHERE EMPLOYER REFUSES TO COMPLY WITH ARBITRATION AWARD OR REFUSES REQUEST FOR BINDING ARBITRATION
NEW YORK	DETERMINED BY PERB; 120 DAYS PRIOR TO FY END; MEDIATION - 30 MEMBER FACT FINDING BD. SPECIAL PROVISIONS FOR TEACHERS, FIREMEN AND POLICEMEN	PROHIBITED
HAWAII	MEDIATION BY PERB APPOINTEE; 3 MEMBER FACTFINDING BD.; ARBITRATION BY MUTUAL AGREEMENT	PROHIBITED FOR 60 DAYS AFTER FACT-FINDING REPORT; 10 DAYS NOTICE REQUIRED; NOT PERMITTED IF PUBLIC HEALTH OR SAFETY IS ENDANGERED - MAY BE ENJOINED BY CIRCUIT COURT

PROPOSED FEDERAL LEGISLATION

H.R. 77 (REP. THOMPSON - D-N.J.)

THIS BILL APPEARS SIMPLE ON ITS FACE. IT AMENDS THE NATIONAL LABOR RELATIONS ACT (NLRA) BY STRIKING OUT THE REFERENCE TO "OR ANY STATE OR POLITICAL SUBDIVISION THEREOF". IT PROVIDES THAT EMPLOYEES OF STATES AND POLITICAL SUBDIVISIONS THEREOF SHALL BE SUBJECT TO THE PROVISIONS OF THE ACT.

FEATURES: FEDERAL CONTROL RATHER THAN STATE CONTROL OF UNIT CERTIFICATION; ELECTIONS; STRIKE ALLOWED; MEDIATION, ARBITRATION, ETC., UNDER FEDERAL WING.

H.R. 1488 (REP. ROYBAL - D-CALIF.)

THIS BILL IS QUITE SIMILAR TO A BILL INTRODUCED A YEAR EARLIER (H.R. 8677) WHICH PROVIDED FOR A NATIONAL PUBLIC EMPLOYMENT RELATIONS ACT AND A SECOND SET OF ADMINISTRATIVE MACHINERY APART FROM THE NLRA. FEATURES: A 5 MEMBER COMMISSION WOULD BE RESPONSIBLE FOR ADMINISTERING AND ENFORCING THE ACT INCLUDING DETERMINATION OF ALL QUESTIONS RELATING TO EMPLOYEE REPRESENTATION, ELECTIONS, ETC. SUPERVISORS AND NON-SUPERVISORS WOULD BE REQUIRED TO BE IN SEPARATE UNITS; UNION SHOP NEGOTIABLE. EMPLOYEE ORGANIZATIONS WOULD HAVE A CHOICE OF WHETHER FACT FINDING WAS TO BE BINDING OR ADVISORY. IF ADVISORY ONLY THEN A STRIKE WOULD BE POSSIBLE. IF ANY STATE ESTABLISHED A STATUTE SUBSTANTIALLY SIMILAR IT WOULD BE PERMITTED TO OPERATE UNDER ITS OWN STATUTE.

STATE OF KANSAS

Public Employee Relations Board



701 JACKSON—OFFICES 202-204
TOPEKA, KANSAS 66603

ROBERT F. BENNETT
GOVERNOR

JERRY POWELL
Executive Director

~~XXXXXXXXXXXXXXXXXXXX~~ Chairman
WILLIAM B. McCORMICK
~~XXXXXXXXXXXX~~
NATHAN W. THATCHER
~~XXXXXXXXXXXX~~
PHYLLIS BURGESS

M E M O R A N D U M

DATE: July 8, 1975
TO: Kansas Legislative Special Committee on Public
Employer-Employee Relations
FROM: Jerry Powell, Executive Director
SUBJECT: Statewide Units in Kansas

There is enclosed information concerning statewide units determined by the April 18, 1974, Order of the Public Employee Relations Board. The attachments show that some units have held elections and are represented by employee organizations (or unions).

In these enclosures, we have named the State agency, the name of the employee unit, and where applicable, the name of the employee organization representing state employees, the number of employees in the unit, and if an election has been held, the date the employee organization was certified by this office for purposes of meet and confer.

This memorandum will provide further information relating to the number of employees who voted for representation by an employee organization as well as the number of employees who voted for no representation by an employee organization. That information is as follows:

<u>Name of State Agency</u>	<u>For Rep.</u>	<u>No Rep.</u>
Kansas Industries for the Blind	14	3
Fort Dodge Soldiers' Home	63	5
State Highway Comm., Div. I	287	30
" " " Div. III	184	22
" " " Div. VI	118	46
Larned State Hospital	201	100
Osawatomie State Hospital	208	18

Memorandum - Legislative Comm. Meeting - July 8, 1975
July 8, 1975
Page two

<u>Name of State Agency</u>	<u>For Rep.</u>	<u>No Rep.</u>
Physical & Natural Sciences(all agencies)	217	37
Kansas State Printer (Composing Rm.Ees.)	23	0
" " " (Press Rm. Ees.)	25	1
" " " (Bindery Ees.)	23	5
Topeka State Hospital	271	26
Emporia Teachers College	54	19
Fort Hays State College	40	18
Kansas State University	219	53
Kansas State College - Pittsburg (Maintenance & Service Ees.)	60	5
Kansas State College - Pittsburg (Secretarial & Ofc. Ees.)	27	24
Kansas State College - Pittsburg (Faculty Ees.)	139	36
University of Kansas Medical Center	385	43
Wichita State University	52	9

We hope the additional information provided herein is helpful to you. Thank you very much.

CERTIFIED STATEWIDE UNITS - UNIVERSITY CASES

<u>UNIT</u>	<u>NAME</u>	<u>NAME OF EE. ORG.</u>	<u>NO. EES. IN UNIT</u>	<u>DATE CERTIFIED</u>
Emporia Kansas State College	Service & Maint. Ees.	Kansas Public Employees Union Council 64, AFSCME, AFL-CIO	103	September 26, 1973
Fort Hays Kansas State College	Employees	Service Employees Union Local 513, AFL-CIO	58	December 26, 1972
Kansas State Univ.	Serv. & Maint. Ees.	Kansas Assn. of Public Employees	716	May 25, 1973
Kansas State College of Pittsburg	Maint. & Serv. Ees.	Public Employees Association of Kansas (PEAK)	100	January 8, 1974
Kansas State College of Pittsburg	Secretarial and Office Employees	Public Employees Association of Kansas (PEAK)	105	November 13, 1973
Kansas State College of Pittsburg	Certain Faculty Members	KHEA	207	October 25, 1974
University of Kansas Medical Center	Serv. & Maint. Ees.	Public Service Employees Local Union 1132	630	February 9, 1973
University of Kansas	Maint. & Serv. Ees.	Public Service Employees Local Union 1132		
Wichita State University	Maint. & Serv. Ees.	Kansas Assn. of Public Employees	99	February 15, 1974

CERTIFIED STATEWIDE UNITS

<u>UNIT</u>	<u>NAME</u>	<u>NAME OF EMPLOYEE ORGANIZATION</u>	<u>NO. EES. IN UNIT</u>	<u>DATE CERTIFIED</u>
Kansas Industries for the Blind	Mattress Assemblers and Packagers	Same	17	September 25, 1974
Fort Dodge Soldiers' Home	Soldiers' Home Ees.	Kansas Public Employees Union Council 64, AFSCME, AFL-CIO	94	July 16, 1974
Highway Commission	Division I, Non-Professional Ees.	Kansas Public Employees Union Local 1417, AFSCME, AFL-CIO	363	April 14, 1975
Highway Commission	Division III, Non-Professional Ees.	Kansas Public Employees Union Local 1419, AFSCME, AFL-CIO	234	May 12, 1975
Highway Commission	Division VI, Non-Professional Ees.	Kansas Public Employees Union Local 1440, AFSCME, AFL-CIO	190	June 16, 1975
Larned State Hospital	Non-Professional Employees	Kansas Public Employees Union Local 1469, AFSCME, AFL-CIO	593	October 30, 1974
Osawatomie State Hospital	Professional, Clerical, Technician, Security and Maintenance and Service Employees	Kansas Public Employees Union, Local 1270, AFSCME, AFL-CIO	600	December 11, 1974
Physical and Natural Sciences	Professional Unit	Council of Ks. Gvmt. Engrs. & Scientists, Inc.	423	April 8, 1975
State Printer	Composing Room Ees.	International Typographical Union & Affiliated Local 121	24	March 26, 1973
State Printer	Press Room & Offset Preparity Equip. Devices Employees	International Printing Pressmen & Assts. Union of N. America Local 49	30	March 26, 1973
State Printer	Bindery, Stock Room & Ship. Dept. Ees.	Graphic Arts International Union Local 23	29	March 26, 1973
Topeka State Hospital	TSH Employees	NAGE	492	September 12, 1974

STATE OF KANSAS

Public Employee  Relations Board

701 JACKSON—OFFICES 202-204
TOPEKA, KANSAS 68603

ROBERT B. DOCKING
GOVERNOR

ELDON V. DANENHAUER, *Chairman*
WILLIAM B. McCORMICK
ALAN L. NEELLY
NATHAN W. THATCHER
ARTHUR J. VEACH

M E M O R A N D U M

DATE: June 7, 1974

TO: ALL INTERESTED PARTIES

FROM: Jerry Powell, Executive Director

RE: Unit Determination of Appropriate Units for Public
Employees of the State of Kansas

Please make the following amendments and/or attach this memorandum to your copy of the above Order for State-Wide Units:

1. Administrative Services Employees at State Agencies
(Except: Universities; Social & Rehabilitative Services Division, Highway Commission, and State Hospitals & Institutions)

This is a state-wide unit comprised of all employees in the listed job classifications wherever employed throughout the State of Kansas. This unit includes approximately 2,220 employees.

2. Fiscal and Staff Professional Employees at State Agencies
(Except Universities)

This is a state-wide unit comprised of all employees in the listed job classifications wherever employed throughout the State of Kansas. This unit includes approximately 600 employees.

June 7, 1974

3. Highway Non-Professional Employees

The non-professional employees of the State Highway Department are divided into seven separate meet and confer units. Each unit is comprised of those non-professional employees of the State Highway Department working within the geographical confines of the divisions as shown on the attached map.

4. Inspection and Regulatory Employees at State Agencies (Except Universities)

This is a state-wide unit comprised of all employees in the listed job classifications wherever employed throughout the State of Kansas. This unit includes approximately 700 employees.

5. Professional - Legal Employees at State Agencies (Except Universities)

This is a state-wide unit comprised of all employees in the listed job classifications wherever employed throughout the State of Kansas. This unit includes approximately 27 employees.

6. Operational Services Employees at State Agencies (Except: Universities, Social & Rehabilitative Services Division, Highway Commission, and State Hospital and Penal Institutions)

This is a state-wide unit comprised of all employees in the listed job classifications wherever employed throughout the State of Kansas. This unit includes approximately 580 employees.

7. Patient Care - Professional Employees at State Agencies (Except Universities)

This is a state-wide unit comprised of all employees in the listed job classifications wherever employed throughout the State of Kansas. This unit includes approximately 220 employees.

June 7, 1974

8. Penal - Non-Guards at State Institutions

This is a state-wide unit comprised of all employees in the listed job classifications employed at state penal institutions.

9. Physical and Natural Sciences Professional Employees at State Agencies
(Except Universities)

This is a state-wide unit comprised of all employees in the listed job classifications wherever employed throughout the State of Kansas. This unit includes approximately 480 employees.

10. Security Services Employees at State Agencies
(Except Universities)

There are four meet and confer units comprised of all employees of job classifications as listed, wherever employed throughout the State of Kansas.

11. Social Services - Non-Professional Field Employees
(Except Universities)

All non-professional employees working within the geographical confines of the region as listed on the attached map are in that designated unit with the following exceptions:

All non-professional employees working within the Sedgwick County District shall be considered to be in a unit separate and apart from the region wherein Sedgwick County lies.

All non-professional employees working within the Shawnee County District shall be considered to be in a unit separate and apart from the region wherein Shawnee County lies.

All non-professional employees working within the Wyandotte County District shall be considered to be in a unit separate and apart from the region wherein Wyandotte County lies.

June 7, 1974

12. Special Services - Professional Employees at State Agencies
(Except Universities)

This is a state-wide unit comprised of all employees in the listed job classifications wherever employed throughout the State of Kansas. This unit includes approximately 600 employees.

13. Non-Professional Employees at State Institutions

There are nine institutions within the State of Kansas. All non-professional employees as listed comprise a unit at each institution.

14. Technical Employees at State Agencies
(Except Universities)

This is a state-wide unit comprised of all employees in the listed job classifications wherever employed throughout the State of Kansas. This unit includes approximately 930 employees.

Jerry Powell
by cju

17 copies

STATE OF KANSAS



DIVISION OF PERSONNEL

801 HARRISON ST.—TOPEKA 66612

M E M O R A N D U M

DATE: June 5, 1974

TO: State Agency Heads

FROM: Lowell Long, State Director of Personnel

SUBJECT: Labor Relations

The Public Employee Relations Board has recently issued an order determining certain units to be appropriate for employee organization under K.S.A. 75-4321 et. seq. All eligible classified and classified-exempt employees in State agencies are included in these units with the exception of those earlier included in an appropriate unit or as excepted in the order itself.

Your agency should have or will receive a copy of this order from the Public Employee Relations Board from which your agency can determine the unit or units employees in your agency have been placed.

Now that the board has determined "appropriate units" it is reasonable to assume that employee groups, associations, or unions, etc. (local, state, national, or international) will be looking toward organizing employees in these determined units for the purpose of representing employees in the units. In order to achieve this right, they must first obtain a 30% showing of interest of employees in a unit, verify this with the Public Employee Relations Board, and win in an election which the Board may order.

In view of this, your agency may receive requests from representatives of employee groups, associations, and/or unions for names, addresses, phone numbers, social security numbers, or similar type information about employees in your agency. You are not obligated, nor do the regulations provide authorization to furnish such information outside official State use.

In addition, your agency may receive requests from representatives of employee groups, associations, and/or unions to talk to employees in your agency during working hours on-the-job. You are not obligated, nor should you allow employees' work to be interfered with during working hours on the job.

DO'S AND DON'TS WHICH MAY BE USEFUL AS GUIDELINES IN AGENCY LABOR
RELATIONS MATTERS

1. Do have management and supervision in the agencies obtain and be familiar with the Kansas Public Employer-Employee Relations Act. K.S.A. 75-4321 through 4335.
2. Do have personnel policies and procedures reduced to writing and administered equitably in all departments of an agency and in conformance with Department of Administration Rules and Regulations.
3. Do answer questions asked by employees honestly and factually without promise or threat.

e.g. Question: If a unit is formed in our agency and a union wins the election, do I have to join?

Answer: No you don't. The law says you have the right to join or not join, as you wish.

4. Do have management and supervision in the agencies review, revise, or develop rules and regulations relative to operation of an agency which, if improper or non-existent, might give rise to problems at any time, particularly during employee organizational activities within the agency. Such rules and regulations should be communicated fully and on a timely basis to all supervision, employees and employee organizations.

A few key examples of rules and regulations, usually administered by a person in an agency such as the personnel director, which have particular importance during periods of employee organizational activity in an agency include:

(a) Use of Agency Bulletin Boards.

Agencies should have control of their bulletin boards by virtue of a rule or regulations stating where they are, who can post what on them, what approval to post is needed, who removes posting. Whatever the rule, lack of one, privilege should be equitably administered throughout the agency and communicated to all.

(b) Use of Agency Facilities for Non-Agency Group Meetings.

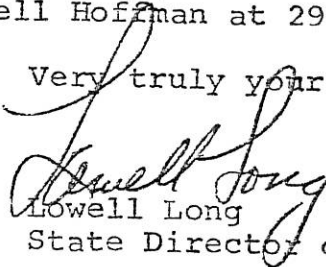
Agencies should have control of facilities by virtue of a rule or regulation stating the circumstances under which facilities may or may not be used by various in-house groups including any charge, reservation, or other provision. Whatever the rule or lack of one, privilege should be extended equitably and communicated to interested groups.

Memo to: State Agency Heads
June 5, 1974
Page 2

We have attached a list of general do's and don'ts which may be useful as guidelines relative to labor relations matters in your agency.

If you have questions or need for consultation in the areas of labor relations please call Darrell Hoffman at 296-3891.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Lowell Long".

Lowell Long
State Director of Personnel

LL:jr

(c) Use of Working Time for Non-Agency Discussion or Meetings.

Agencies should have control of employees work time. Group meetings involving employees with in-house or outside parties on non-agency subjects should not be permitted during working hours. Whatever the rule, it should be communicated and administered equitably to all employees.

(d) Access to Agency Premises by Non-Agency Personnel.

Agencies should have control over who comes on agency premises by virtue of a rule and conspicuous posting requiring reporting presence, purpose for which admittance is requested, time requested, and authorization to proceed. Whatever the rule, it should be administered equitably to all.

(e) Agency Sponsored Newsletters or Bulletins.

Agencies having such media for disseminating information to employees should have rules spelling who can submit what for inclusion. Such information should be strictly non-partisan and whatever the rule, it should apply equitably to all.

(f) Use of In-Agency Mail Service.

Agencies should use agency delivery service strictly for in-agency business only. If policy or rule is otherwise, privilege should be communicated and administered equitably to all.

Good agency rules and regulations should be practical, should not interfere with the mission of an agency, should have standard application to all parties, and should not be in conflict with existing statutes and regulations.

Even though some agencies have lacked formal rules and regulations in the past, and some have formally or informally allowed or practiced things which they now wish to change, it is always timely for management to evaluate the need for changed or new ones which meet the criteria above provided proper communication is made to all involved, reasonably prior to implementation.

While the above subjects are most pertinent to avoidance of problems before and during employee organizational periods, it is equally important for agencies to have good personnel and operational practices on all other subjects developed and applied on a standard basis throughout the agency at all times. To the extent that these are inadequate or non-existent and will give rise to employee organization demands when and if a "meet and confer" situation develops in the agency.

Generally speaking, there is an extensive list of Don'ts of which management and supervision should be aware. In recognizing these, K.S.A. 75-4326 and K.S.A. 75-4333 of The Act should be kept well in mind. A few specific Don'ts would include:

Don't discharge, demote, discipline, etc. because of his "employee organization" views or sympathies.

Don't threaten employees in any way to deter them from "employee organization" activity.

Don't accept a statement from an employee organization that they represent your employees until such time as an election and certification from P.E.R.B. makes this a fact.

Don't meet, confer and discuss subjects defined as "conditions of employment" in the Act for the purpose of reaching oral or written agreement with an employee organization prior to determination of a unit and certification by P.E.R.B. that they exclusively represent employees in the unit and P.E.R.B. orders you to meet and confer with them.

(It may be in your best interest, at your option, to meet with anyone you wish at any time on any subject, if, in fact, you gain information helpful in running your agency. If this is done, it should be divorced from any formal meet and confer requirements.)

Don't cut out privileges (such as smoking) or suddenly crack down on tardiness and absence, or institute tougher work rules, or otherwise attempt to punish employees for "employee organization" activity.

Don't question employees about their "employee organization" views, activities, or sympathies.

Don't interrogate an employee as to how he is going to vote (or how he did vote) in an election.

Don't enforce rules strictly against "employee organization" supporters, but be lenient on pro-management employees.

Don't sponsor, circulate, or post anti-employee organization among employees.

Don't solicit or assist employees in revoking authorization cards or in resigning from an employee organization.

Don't prevent employees from talking with each other or "employee organization" or "employee organization" officials during their free time, including before and after work, rest periods, or lunch periods.

Don't prohibit employees from passing out "employee literature" in non-working areas on their own time.

Don't promise or give employees special favors for influencing other employees against the "employee organization."

Don't question applicants for employment as to whether they are or have been union members.