

P R E L I M I N A R Y
M I N U T E S

SPECIAL COMMITTEE ON EMPLOYER-EMPLOYEE RELATIONS

October 15 and 16, 1975

Members Present

Senator D. Wayne Zimmerman, Chairman
Representative Bill Morris, Vice-Chairman (1st day only)
Senator James Francisco
Senator Ed Reilly
Senator Wes Sowers
Representative Harold Beninga
Representative Albert Campbell
Representative Victor Kearns
Representative Lynn Whiteside

Staff Present

Jim Wilson, Revisor of Statutes' Office
Mike Heim, Legislative Research Department
Ben Barrett, Legislative Research Department
Ramon Powers, Legislative Research Department

Conferees

Tom Pitner, Chief Attorney, Secretary of Administration
Ernie Mosher, League of Kansas Municipalities
Jerry Powell, Public Employee Relations Board
Bob Wootton, K-NEA
Lowell Long, Personnel Division

Morning Session
October 15, 1975

Chairman Zimmerman called the meeting to order and asked for approval or corrections of the minutes of September 10 and 11. Upon a motion the Committee approved the minutes.

Proposal No. 44

Mr. Tom Pitner referred the Committee to the letter from the Governor and the proposed draft by the Governor's Task Force Committee which had been sent each member and noted that this proposed draft was not really so different from the present law. Mr. Pitner said that in essence, Kansas has a meet and confer law and the proposed draft is the interpretation of the legislative intent by the Governor and the Task Force Committee. The draft he said, is an attempt to encourage an "open door" policy where all items except management rights, which are set by statute, can be discussed.

Mr. Pitner stated that up to this point, some subjects had not been discussed because of the vagueness of the present act, but with the amendments proposed by this draft anything can be discussed. The Committee was reminded that an employer was not bound to enter into a memorandum of agreement on any of the subjects discussed but could hear and respond to those subjects having statewide policy. Employers, he noted, can enter into memorandum of agreements on the time and length of coffee breaks wearing apparel and rotation of overtime which are considered to be local issues.

The Department of Administration has tried to operate with the present meet and confer law on what was believed to be legislative intent, according to Mr. Pitner.

The proposed amendments to the present act were then reviewed by Mr. Pitner.

Afternoon Session

Chairman Zimmerman read the proposal's subject of study to the Committee. He noted that some states have no provisions at all for recognizing public employees, some have a detailed law and some have a meet and confer law such as Kansas. He asked that a decision be made by the Committee as to the type bill to be recommended to the Legislature and the vehicle to be used as a draft for further consideration by the Committee.

Senator Francisco stated he preferred to use S.B. 61 as the vehicle from which to work. Senator Sowers favored the use of the task force draft with some changes and believed the coalition bargaining provision in S.B. 61 should be considered.

Senator Zimmerman stated that both the task force proposal and S.B. 61 seemed to proceed on a meet and confer basis and said he believed it would be appropriate at this time for this special committee to make the determination of the type bill to be recommended to the full legislature.

Representative Morris moved that the Committee recommend a meet and confer type law. Senator Sowers seconded this motion which was approved by the Committee.

Chairman Zimmerman noted that during the morning session several questions were raised on which decisions need to be reached. He reminded the Committee that the draft with the task force's proposed amendments included all sections of the present act and S.B. 61 changes could be included if so desired.

Representative Morris stated that although he had originally felt the Committee should start from S.B. 61, it now appeared that the proposed draft presented by Mr. Pitner makes an honest effort to alleviate the problems. Representative Morris moved to work from the task force draft. Representative Whiteside seconded this motion which was approved by the Committee with Senator Francisco and Representative Campbell voting in opposition.

Senator Francisco objected that a replacement had not been made for Representative Pete Loux.

Chairman Zimmerman referred the members to the proposed draft and suggested proceeding page by page for policy making decisions.

The first question was on page 3, section A, regarding the definition of "full-time" employee. After considerable discussion, including Mr. Lowell Long's statement as to the retirement law's definition and Mr. Jerry Powell's reminder of the problem with the Board of Regents if a definite number of hours was set out by the bill, the Committee agreed to leave the draft as written.

On page 5, line 8, the Committee instructed the staff to draft language to clarify and replace "elected or appointed".

Page 5, section 2 was discussed and staff was instructed to draft a provision providing for the appointing authority to be made a part of the management team, giving the Department of Administration authority and providing that appointing authority or a designee would represent the employer in meet and confer proceedings concerning unclassified employees.

On page 6, 4th line from the bottom of the page, Senator Sowers stated his belief that a provision should be made allowing an employer and employee to reach an agreement changing the pay schedule, for example, and forward this suggestion to people with authority to make the change such as the legislature or committee or leadership thereof.

Mr. Jerry Powell suggested that the words "In the case of the State of Kansas" be inserted at the beginning of the sentence in line 20 on page 6. Mr. Pitner had no objections but did not feel it belonged at the beginning of the sentence.

Page 9, the staff was instructed to delete or make necessary changes to sections (X) and (Y).

On page 10 the staff was to correct the terms of appointment at the top of the page.

On page 13, 75-4327(b), the Committee discussed the application of a possible grandfather clause.

On page 14, line 9, Representative Morris made a motion removing the requirement of 10 employees signatures and leaving the 30% requirement. Senator Sowers seconded this motion which was approved by the Committee.

On page 15, line 10, Representative Kearns made the motion to strike the words after the word "vote" in line 10 making this read "of those voting the result thereof shall be no representation and no run off election shall be conducted." Senator Francisco seconded this motion.

After brief discussion, Representative Kearns asked permission to withdraw his motion and Senator Francisco granted permission. Representative Kearns then made the conceptual motion suggesting that a majority of those voting represent a majority of those eligible to vote thus making the decision. This motion died for a lack of a second.

Representative Whiteside moved to accept the language on page 15 except to change the "3" to "2" in line 13 and the word "by" to "of" in lines 10, 16 and 22. Representative Morris seconded this motion which was approved by the Committee with Senator Francisco voting in opposition.

Page 16, line 15, the staff was instructed to punctuate properly.

On page 17, line 14, Senator Sowers moved to change the wording in lines 14 through 18 to read "process. A public employer, during the sixty (60) days immediately prior to its budget submission date, shall not be required or be obligated to initiate, or begin meet and confer proceedings with a certified". Senator Reilly seconded this motion which was approved by the Committee with Senator Francisco voting in opposition.

Representative Kearns made the motion to strike the words "during the sixty (60) days immediately prior to its budget submission date," in lines 14 and 15. Senator Sowers seconded this motion which was approved by the Committee.

Again there was discussion concerning the need for a grandfather clause and staff was instructed to draft appropriate language where needed.

On page 18, Senator Sowers moved to strike the word "or" at the end of line 4, page 18 and the words "previously recognized" at the beginning of line 5 and strike the words "or formal recognition." at the end of line 10. Representative Morris seconded this motion which was approved by the Committee.

Mr. Jerry Powell suggested the Committee consider striking 75-4329 entirely. After brief discussion, Representative Morris moved to strike 75-4329 and Senator Francisco seconded the motion which was approved by the Committee.

On page 21, line 7, Representative Morris suggested striking the word "determination" and inserting in lieu thereof "acceptance or rejection." There was no objection by the Committee.

Mr. Jerry Powell referred to page 22, line 8, saying the 14 days was not adequate and suggested 45 days time be allowed. Senator Sowers moved to change the 14 days to 45 days in line 8. Senator Francisco seconded the motion which was approved by the Committee.

On page 23, subsection (e), Mr. Powell said he believed the board should be responsible for the cost of mediation only. He said he had been advised by mediators that parties involved in disputes were not interested in settling the dispute before going to fact finding because it was free to them. Upon a motion by Representative Kearns and seconded by Senator Sowers, staff was instructed to change the draft so the board was responsible for the cost of mediation only and the parties involved in the dispute would share all other costs. This motion carried with Senator Francisco voting in opposition.

On page 23, subsection (d), staff was directed to correct the 14 day time limitation.

Morning Session
October 16, 1975

Mr. Ernie Mosher, Executive Director of the League of Kansas Municipalities submitted a prepared statement. He said that he believed the position of the League was consistent with the constitutional amendment delegating the power of home rule to cities. A copy of Mr. Mosher's statement is attached (Attachment I).

Reference was made to page 3 and the definition of "supervisory employee" by Mr. Mosher. He asked that the last sentence in that section which has been stricken in the task force draft be reinstated. He stated that at the local level a supervisory employee may be difficult to define.

In referring to 75-4327(e), Mr. Mosher supported the 30% of eligible voters requirement and would prefer 51% be required from a particular unit. However, he said he was uncertain as to whether or not the League had a position on page 14 regarding a set number of employees being required.

On page 18, Mr. Mosher believed it was very important to retain 75-4329 on the local level. He reminded the Committee of

the 105 counties and 625 cities which could come under this act with different needs to be met. He asked why the state should intervene when there are locally elected officials to deal with problems. Mr. Mosher believed local people should be responsible for their own problems with the board acting only as an arbitrator.

Senator Sowers moved for reconsideration of Committee action on 75-4329 on page 18. Representative Kearns seconded the motion which was approved by the Committee.

Senator Sowers then moved to reinstate 75-4329 as it appears on page 18 of the task force draft. Representative Campbell seconded this motion.

Mr. Jerry Powell told the Committee the board is not involved with day to day operations of units and has no objection to problems being solved at the local level. However, Mr. Powell felt 75-4329 was unclear in its meaning and suggested rewriting it. It was further pointed out by Mr. Powell that if cities are allowed to recognize units without an election, it poses a problem for the board when a dispute is brought to them from that particular unit because the board does not know whether that unit actually represents the workers. He cited the present problem with the Topeka police as an example.

Senator Sowers then requested and received permission from Representative Campbell to withdraw his motion and requested Mr. Powell and Mr. Mosher to work with the staff to draft 75-4329 and 75-4335 so as to be mutually satisfactory for resolving disputes.

Senator Sowers also requested that a copy of the proposed draft be mailed to the members of the Committee a few days in advance of the next meeting.

Jerry Powell referred to page 8 regarding final and binding arbitration of agreements and noted that the task force draft states "shall be advisory only." Mr. Mosher stated he believed there should be the option of final and binding arbitration at the local level if desired.

Senator Francisco moved to strike the word "only" in line 20 of page 19 reinserting the language stricken in the task force draft in lines 20, 21 and 22. This motion did not receive a second.

Senator Sowers then asked the members if it would make sense to adjust the language to allow the cities to have binding arbitration. Senator Francisco then moved to have the staff draft page 19, section (b) allowing cities to have binding arbitration. Senator Sowers seconded this motion which was approved by the Committee.

Senator Zimmerman instructed the staff to keep the local option in mind throughout the draft.

There was Committee discussion on page 25, subsection (d) and page 5, section J. Senator Sowers then moved for the staff to integrate page 25, subsection (d) and page 5, section J so that prohibition of political activities on page 25 will be applicable to all employees organizations whose purpose is representation of employees on conditions of employment. Representative Kearns seconded the motion which was approved by the Committee with Senator Francisco voting in opposition.

There was then discussion considering the drafting of a coalition bargaining provision such as contained in S.B. 61 with no action being taken.

It was noted by Mr. Pitner that the task force had considered limiting the number of units but felt the smaller units seemed more applicable. He also advised the Committee all memorandums of agreement discussed at the last meeting had been acted on by the finance council.

Chairman Zimmerman asked for further discussion or recommendations to be considered in this draft. There was discussion regarding the provision requiring the Department of Administration to provide office space for the Public Employee Relations Board. However, no action was taken to change this.

Senator Francisco then moved to incorporate a provision for dues check off into this act. The motion failed for lack of a second.

Mr. Mosher requested the Committee consider reinserting the last sentence of section B on page 3. After brief discussion, it was suggested that Mr. Mosher work with the staff on a uniform definition of "supervisory employee" rather than reinsertion of the sentence in question.

The staff asked for direction regarding a contract bar provision. The Committee decided to leave the draft as written in this regard.

Chairman asked the staff to draft the bill incorporating decisions made at this meeting for final decision at the November meeting. Regarding the staff question on the final report, instructions were given to follow the general procedure of the interim report of last year indicating the Committee had complied with the directions of the proposal. Representative Campbell asked that the final report indicate that the minutes of each meeting are on file for further reference.

Afternoon Session

Proposal No. 45. Jim Wilson started a section by section review of the changes in the proposed draft.

Senator Sowers moved to amend page 4, lines 8 and 9 to require a demonstration of substantial interest by a verified list of at least 30% of the persons in a proposed unit. Senator Francisco seconded this motion which was approved by the Committee.

On page 4 and 5, staff was instructed to draft equivalent procedures for withdrawal and certification for the Committee's review at the November meeting.

Senator Francisco moved to leave the present language dealing with elections as is except for necessary technical changes. Representative Kearns seconded this motion. After discussion, Senator Sowers suggested reconsideration of his earlier motion. Senator Francisco then asked for and received permission from Representative Kearns to withdraw his motion.

Senator Sowers then moved for reconsideration of Committee action taken earlier on page 4. Representative Campbell seconded this motion which was approved by the Committee.

Senator Sowers then moved to nullify the original motion. Senator Francisco seconded this motion which was approved by the Committee.

Senator Francisco moved to change the 36 month provision on page 5, subsection 4 to 12 months. Representative Beninga seconded this motion. Mr. Bob Wooten was asked by the Chairman if he cared to comment on this. Mr. Wooten stated he preferred the 36-month time period.

Senator Francisco then asked for permission to withdraw his motion and Representative Beninga agreed.

Mr. Wooten referred to line 16 on page 1 saying he believed this would definitely reduce the number to be covered by the act and would exclude people the Committee wants to be covered by the act.

Senator Sowers made the motion amending subsection d on page 1 to say one who is fulfilling duties that would require an administrative certificate in case of school districts and one who has the authority to hire, transfer, fire, etc., in the case of community junior college. The Committee approved this motion.

Representative Whiteside moved to accept the three technical changes to be proposed by Mr. Wilson and then approve the draft as written. Senator Sowers seconded the motion.

Mr. Wilson reminded the Committee that the staff was directed to draft language for Committee discussion and decision on page 2 subsection(g), which he said had been done. Senator Francisco objected to this discussion after the motion made by Representative Whiteside.

Chairman Zimmerman stated he would entertain a motion to adjourn. Senator Sowers made a motion to adjourn. After instructing the staff to check on changing the November meeting from the 4th and 5th to the 3rd and 4th, the meeting was adjourned.

Prepared by Mike Heim

Approved by Committee on:

Nov 3, 1975
Date