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

SPECIAL COMMITTEE ON PUBLIC EMPLOYER-EMPLOYEE RELATIONS

November 3 and 4, 1975

Members Present

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

Staff Present

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

Conferees

Mr. Bob Wootton, K-NEA
Fred Rausch, KASB

November 3, 1975

Morning Session

Chairman Zimmerman called the meeting to order and requested a motion approving or correcting the minutes for October 15 and 16. Upon a motion by Representative Whiteside and seconded by Senator Sowers, these minutes were approved by the Committee.

Proposal No. 45 - Professional Negotia-
tions - School Districts and Community
Junior Colleges

Chairman Zimmerman reminded the Committee there was a motion on the floor when the meeting of October 16 was adjourned. He advised the Committee could either proceed by discussing changes proposed in the draft or the motion could be withdrawn and the bill reviewed. Representative Whiteside asked to withdraw his motion and the second. Senator Sowers agreed.

Senator Sowers suggested the staff make changes on page 3, so it will read the same as page 11, Section (d). He believed page 5, line 10 caused a language problem and requested the staff to make corrections required to make this more understandable.

Senator Sowers moved to add "as defined in Section 1 (e)" in line 3 on page 14. Representative Kearns seconded this motion. After Committee discussion, Senator Sowers changed his motion to read "as defined in Section 1(e) K.S.A. 72-5413, as amended," and Representative Kearns agreed.

Senator Francisco offered a substitute motion to strike all of subsection (d) on page 14, lines 9 through 13 and renumber existing sections. This substitute motion was declared lost for a lack of a second.

In further Committee discussion, Jim Wilson suggested a change be made in line 2 on page 1.

Senator Sowers withdrew the original motion in order to allow the change suggested by Jim Wilson. Mr. Kearns agreed to the withdrawal of the motion.

Senator Sowers then moved for the amendment suggested by Jim Wilson which inserts the phrase "and in the act of which this section is amendatory" after the word "act" in line 2 on page 1 and before the comma. Representative Morris seconded this motion which was approved by the Committee with Senator Francisco voting in opposition.

Senator Francisco moved to insert "board of education and administrative employee," after the word "organization" in line 10, page 14. Representative Morris seconded this motion. After brief discussion, Senator Francisco asked to strike the words "administrative employee" from his amendment. Representative Morris agreed.

Jim Wilson suggested a new section with the same wording as subsection (d) inserting "board of education" in lieu of "professional employees' organization". After further discussion, Representative Morris stated he wished to withdraw his second to the motion as the implications seemed to be far more reaching than originally indicated. Therefore, Chairman Zimmerman declared the motion lost for a lack of a second.

Senator Francisco told the Committee if it was not the Committee's intent to keep KNEA from endorsing candidates at the state level, then the Revisor of Statutes should be instructed to write it into the present bill. He then moved to direct Mr. Wilson to draft language to clarify that the intent is not to exclude KNEA from endorsing candidates. Chairman Zimmerman asked for a second to this motion and received none. Therefore, the motion was declared lost for a lack of a second.

Representative Morris questioned whether an individual has to be working as an administrative employee under the new definition starting on page 1, line 18. During discussion, Jim Wilson suggested correcting this by changing "to fulfill" in line 18 to "and is fulfilling". Representative Morris moved to make the suggested change. Senator Sowers seconded the motion which carried on a voice vote.

Senator Sowers moved to insert "and who is acting in that capacity and who" at the beginning of line 22 on page 1. Representative Morris seconded this motion which was approved by the Committee.

Representative Morris directed the Committee attention to page 11, line 7 and said he questioned if it might be felt this was more slanted toward the board of education than teachers. Therefore, Representative Morris moved to insert "and impartial" after the word "qualified" and before the word "individuals". Representative Kearns seconded this motion. After brief discussion, the motion carried by a voice vote.

On page 9, lines 9 and 10, Senator Sowers voiced disapproval of the use of "their wishes" and requested clarification by the staff. Representative Kearns said he did not object to clarification at this point but could see no major problem with the word "wishes". Staff was instructed to clarify this portion allowing the word "wishes" to remain.

Representative Morris questioned the word "adduced" on page 7, line 29 and moved to have it changed to "produced". Representative Whiteside seconded this motion which carried by a vote of 4 to 3.

Representative Whiteside moved to strike two words at the end of line 8 and all of line 9 on page 3. Senator Francisco seconded this motion which carried.

Afternoon Session

Changes made before the lunch-break were reviewed and staff suggested the same changes be made on page 10, lines 19 and 20 as were made on page 11, lines 7 and 8.

Chairman Zimmerman stated if there were no objections, the staff would be instructed to make the suggested changes. No objections were voiced.

Staff advised the Committee that on page 3, lines 17 and 18, the language had been made the same as the language under the Public Employer-Employee Relations Act.

There was Committee discussion regarding language on page 14, line 8. Senator Sowers moved to change the language to "(5) Authorize, instigate, aid or engage in a strike or in any picketing of any facility under the jurisdiction and control of the board of education." Representative Whiteside seconded this motion which was approved by the Committee.

Staff advised the words "9 or section 10" should be inserted after the word "section" and the word ",respectively" should be inserted after the word "act" in line 5 on page 14.

Senator Francisco said the bill contains no time limitation on fact finding or on impasse and this was a concern to him. In the Committee discussion which followed, Mr. Bob Wootton was asked his opinion. He stated he would like the mediator to have some set number of days with which to work. Senator Sowers asked Mr. Wootton if his position would be satisfied if a set number of days would be allowed for mediation and then have fact finding and Mr. Wootton replied it would.

Mr. Wootton was asked by Senator Francisco what his position would be if both parties agreed on an extension of time. Mr. Wootton believed this was usually built into a bill if progress is being made.

There was discussion as to exclusion of Saturdays when determining the time. Staff advised that Saturdays are presently counted. Chairman Zimmerman asked what the Committee wanted in this regard. Senator Sowers moved to exclude Saturdays in figuring of time. Representative Morris seconded the motion which was approved by the Committee.

Mr. Fred Rausch stated he also preferred a time limitation. He suggested 7 to 10 days for mediation and 10 to 14 days for fact finding.

Chairman Zimmerman asked if the Committee had a recommendation as to time limitations. Senator Sowers moved for a time limitation of seven days be provided in subsection (c) on page 10, and 10 days provided for fact finding in subsection (d) on page 12. Representative Kearns seconded the motion.

Representative Morris made a substitute motion allowing 7 days for mediation and 14 days for fact finding with a provision for extending the time limit by mutual agreement. This substitute motion was lost for lack of a second. The original motion by Senator Sowers passed on a voice vote.

Senator Francisco moved to amend the fact finding procedure providing for an extension of 7 days, if mutually agreeable. Senator Sowers seconded the motion which was approved by the Committee.

Representative Whiteside moved for acceptance of the draft as amended. Representative Campbell seconded the motion. Voice vote passed this motion with Senator Francisco voting in opposition.

The final report for Proposal No. 45 was reviewed by Ben Barrett. Representative Morris stated his belief there should be some mention made in the report of the strong feeling of the Committee that the two laws should eventually be combined. He made the motion to instruct the staff to amend the final report. Senator Sowers seconded this motion which was approved by the Committee with Senator Francisco voting in opposition.

Senator Sowers requested striking the word "The" on page 1 in line 1. Chairman Zimmerman asked if there were any objections by the Committee and none were voiced.

Ben Barrett directed the Committee to item 1 on page 3 and stated this section would have to be changed to indicate the time limitations the Committee just voted to include in the draft.

Senator Sowers questioned the accuracy of the first sentence on page 5 and asked that it be removed. This was discussed with the staff and it was agreed the sentence was accurate and would remain in the report.

Representative Whiteside moved to strike the last sentence of that paragraph at the top of page 5. Representative Kearns seconded the motion which was approved by the Committee.

Senator Sowers referred to page 6, line 5 and the sentence beginning "When possible". He asked that the words "when possible" be changed to "practicable" or "preferably". It was decided to use the word "practicable".

Staff noted item 4 on page 8 would be removed.

Senator Sowers requested that the phrase "As proposed in the bill" be inserted at the beginning of the last sentence in the second paragraph on page 11 to clarify the meaning.

Senator Francisco made the motion to add in parenthesis under item (f) at the bottom of page 10, the following: "The Committee's intent is not to prohibit the spending of income for nonpartisan political voter registration." This motion was declared lost for a lack of a second.

Representative Morris moved to recommend the final report as amended. Senator Sowers seconded the motion which was approved by the Committee with Senator Francisco voting in opposition.

It was noted that the motion recommending the draft would also include recommendation of the bill's introduction.

Senator Francisco moved to have this bill introduced in the Senate. This motion failed for lack of a second.

November 4, 1975

Morning Session

Proposal No. 44 - Public Employer-
Employee Relations (State Employees)

Jim Wilson reviewed the study draft of this proposal, advising the Committee of changes made.

Representative Whiteside moved for the reinsertion of "rule and regulation" in line 33 on page 22. Representative Beninga seconded this motion which was approved by the Committee with Senator Francisco voting in opposition.

Senator Sowers moved to insert "in any case" at the beginning of line 14 on page 23 after "and," and strike "the memorandum of agreement shall provide that" in line 15 and 16 and strike the word "is" in line 16 inserting in lieu thereof "shall be." Representative Whiteside seconded this motion which was approved by the Committee.

Representative Whiteside moved to insert "the board," on page 24 in line 4 after the words "findings on," strike the words "fact finding" at the beginning of line 6, and insert the words "if the parties have not resolved the impasse" in line 7 after the word "parties" and before the period. This motion was seconded by Representative Campbell and approved by the Committee.

Jim Wilson suggested adding "as provided in this act" after the word "binding" and before the period on page 7 in line 17. The Committee agreed.

There was Committee discussion regarding language at the bottom of page 19 and through line 3 on page 20 with several suggested changes being offered. Senator Sowers moved to delete line 33, page 19, starting with the word "in" through the word "final" on page 20 in line 1 and to amend the last sentence in that section to read "Appeals from orders or findings of arbitrators or fact finding boards may be taken in accordance with the provision of K.S.A. 60-2101." Senator Francisco seconded this motion which was approved by the Committee with Representative Kearns voting against the motion.

Representative Whiteside made the motion to have the staff spell out on page 19 that the PER Board cannot tell them it is final and binding arbitration. He instructed that if memorandum of agreement is silent on this point, the board does not have the authority to deem that arbitration is binding. Representative Morris seconded this motion. Committee discussion followed with Representative Whiteside withdrawing the motion with the permission of Representative Morris.

Senator Sowers moved to insert the word "only" at the end of line 18 on page 7. Representative Whiteside seconded this motion which the Committee approved with Senator Francisco voting in opposition.

On page 3, line 6, Senator Sowers moved to insert after the word "act" and before the period the phrase ", except where the context requires otherwise". Representative Kearns seconded this motion which was approved by the Committee.

Senator Sowers voiced confusion regarding page 11, line 3 and at the top of page 12. In the discussion which followed, Jim Wilson suggested a language change starting in line 5 through the word "unit" in line 7 such as "the board shall investigate a question concerning the determination of an appropriate unit and after a hearing thereon". Senator Sowers suggested that Mr. Wilson make the conceptual changes as discussed. Chairman Zimmerman asked if there was objections to this change and none were voiced.

On page 14, line 31, the word "both" was added at the beginning of the sentence before the word "uniformed" and in line 32 after the word "such" and before the word "public" the words "uniformed police employees" be inserted. In line 34, it was suggested by Senator Sowers that the same type clarifying language be inserted.

Chairman Zimmerman asked if there was objection to this amendment. With none being heard, the staff was directed to make the discussed changes.

Representative Whiteside moved for adoption of the study draft on Proposal No. 44 as amended by the Committee. Representative Kearns seconded the motion. A show of hands vote was taken with the motion passing by a vote of 8 to 1. Senator Francisco voted in opposition.

Afternoon Session

Mike Heim reviewed the final Committee report with the members and suggested the addition of language similar to that inserted in the report on Proposal No. 45, stating the Committee's belief that the two bills should eventually be combined.

Mike Heim also suggested the addition of point 9 and 10 at the bottom of page 9 of the report since no mention was made of the Committee's view of handling the local units of government or how state memorandum of agreements are to be handled.

Chairman Zimmerman asked for a decision by the Committee regarding the inclusion of a statement in the report similar to that inserted in the report on Proposal No. 45 regarding the Committee's belief that these two bills should eventually be combined. Upon a motion by Senator Sowers and seconded by Representative Campbell, the Committee requested staff to make insertion discussed above.

Senator Gaines made the motion to include the statement on page 5 at the end of the second paragraph "Some members of the Committee believe that under the Kansas Constitution, no rights other than meet and confer rights can be lawfully granted." Senator Sowers seconded this motion which was approved by the Committee.

Chairman Zimmerman directed the Committee's attention to Mike Heim's suggestion regarding insertion of a 9th and 10th point at the end of the report and asked for Committee direction.

Representative Whiteside moved to have staff put together language on the previously mentioned 9th point. Representative Morris seconded the motion which was approved by the Committee. Senator Sowers requested this language be short and simple.

Representative Whiteside made the motion to handle the 10th point, regarding handling of memorandum of agreements for state employees, as directed on the 9th point with the same request for brevity. Representative Morris seconded this motion which was approved by the Committee.

Representative Morris directed the attention of staff and Committee to the middle of page 3 and the paragraph starting "It was". He moved to strike from that point on page 3 through the second full paragraph on page 4 ending with the word "Act". He asked that a sentence be inserted in lieu thereof as follows: "The Committee was given considerable information and material regarding meet and confer concepts and collective bargaining concepts of legislation." Senator Sowers seconded this motion. Senator Francisco stated he felt strongly this portion should be included in the report, and added he was opposed to this motion and to the deletion of any portion of the report.

A voice vote was taken with the Committee approving Representative Morris' motion with Senator Francisco voting in opposition.

Senator Sowers moved to amend line 3 of the last paragraph on page 4 of the report by striking the words "he noted"

and "to represent" and adding "but did not fully achieve." leaving line 3 to read "ments to the Kansas law which attempted but did not fully achieve a". Representative Whiteside seconded this motion which was approved by the Committee.

On page 6, line 2, Senator Sowers moved to strike all after the word "plan,". Senator Gaines seconded the motion, which was approved by the Committee.

Senator Sowers moved to strike the word "amendment" in line 1 of the second full paragraph on page 7 and insert in lieu thereof the word "prohibition". Senator Gaines seconded this motion which was approved by the Committee with Senator Francisco voting in opposition.

On page 7, fifth line from the bottom of the page, Senator Sowers moved to strike from the sentence beginning with the word "On" through the remainder of that paragraph on page 8. Senator Gaines seconded this motion which was approved by the Committee with Senator Francisco voting in opposition.

On page 9, item 8, Senator Sowers moved to add the wording "as being too vague and confusing" after the word "grievance" and before the period. Representative Kearns seconded the motion which was approved by the Committee.

Senator Gaines moved to adopt the Committee report as amended. Representative Morris seconded the motion which was approved by the Committee with Senator Francisco voting in opposition.

After discussion, it was determined five days would be allowed after mailing for the members to reply or object to any portion of the final report.

No recommendations were made by the Committee regarding preference for house of introduction on this bill.

Prepared by Mike Heim

Approved by Committee on:

Nov 12, 1975
(Date)