

MINUTES OF THE House COMMITTEE ON Labor and Industry

Held in Room 521-S, at the Statehouse at 9:30 a. m./~~p.m.~~,

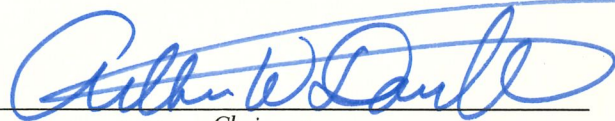
on February 23, 19 83.

All members were present except:

The next meeting of the Committee will be held at 9:30 a. m./~~p.m.~~,

on February 24, 19 83.

These minutes of the meeting held on _____, 19____ were considered, corrected and approved.



Chairman

The conferees appearing before the Committee were:

- Mr. Bill Morrissey, Division of Workmans' Compensation
- Mr. Arnold Berman, Dept. of Human Resources

Chairman Douville called the meeting to order at 9:30 a.m.

The Chairman called Jim Wilson to the speakers stand to go over the highlights of attachment #1, a proposed bill. "An act concerning the public employer-employee relations law.

A motion was made by Representative Sutter to introduce this bill as a committee bill but not for the purpose of discussion and possible voting on this, this session, but simply for the purpose of determining whether or not we want to recommend it as a study for this coming summer. The motion was seconded by Representative Cribbs. There was no discussion. The committee voted that the motion be passed favorably. Let the record show that Representative Friedeman voted no, that Representative Sallee voted no, and that Representative David Webb voted no.

The committee then took up S.B. 261. Chairman Douville called Mr. Bill Morrissey to the speakers stand. A discussion followed.

Mr. Arnold Berman spoke and made reference to S.C.R. 1610, which will be taken up when the committee has a copy of it in front of them.

Chairman Douville adjourned the meeting at 10:10 a.m.

2-23-83

Guest List

B Moore

Topeka

Dug Workers Comp

Bill Morrissey

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James Smith

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Budget

Kot Hofa

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KACI

Arnold Berman

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DHR

Harry D Helser

Wichita

AFL-CIO

Wayne Maichel

Topeka

" "

Loris Richardson

Winfield

Fetty Sherrard

Winfield

R & Ph McGee

Topeka

RS AFL-EIO

Larry Wolgast

"

DHR

Susan Reimer

Wichita

Topeka Close-up

Tricia Heger

Wichita

Topeka Close-up

Bill Oswalt

Wichita ^{Teacher} South H.S.

Close-up

Rene' Robertson

Wichita South ^{H.S.}

Close-up

Rene' Bowles

Wichita South ^{H.S.}

Close-up

George Welch

Topeka

Dof A

PROPOSED BILL NO. _____

For Consideration by House Committee on Labor and Industry

AN ACT concerning the public employer-employee relations law; creating the public employer-employee relations board and abolishing the existing public employee relations board; prescribing the powers, duties, functions and jurisdiction thereof; prescribing coverage of certain public employers and public employees and providing certain procedures thereunder; amending K.S.A. 75-4321, 75-4322, 75-4325, 75-4329, 75-4330, 75-4332 and 75-5713 and K.S.A. 1982 Supp. 75-4323 and 75-4327 and repealing the existing sections; also repealing K.S.A. 72-5413 to 72-5432, inclusive.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. The provisions of K.S.A. 75-4321 to 75-4337, inclusive, and amendments to such sections shall be known and may be cited as the Kansas public employer-employee relations act.

Sec. 2. K.S.A. 75-4321 is hereby amended to read as follows: 75-4321. (a) The legislature hereby finds and declares that:

(1) The people of this state have a fundamental interest in the development of harmonious and cooperative relationships between government and its employees;

(2) the denial by some public employers of the right of public employees to organize and the refusal by some to accept the principle and procedure of full communication between public employers and public employee organizations can lead to various forms of strife and unrest;

(3) the state has a basic obligation to protect the public by assuring, at all times, the orderly and uninterrupted operations and functions of government;

(4) there neither is, nor can be, an analogy of statuses

Atch. 1

between public employees and private employees, in fact or law, because of inherent differences in the employment relationship arising out of the unique fact that the public employer was established by and is run for the benefit of all the people and its authority derives not from contract nor the profit motive inherent in the principle of free private enterprise, but from the constitution, statutes, civil service rules, regulations and resolutions; and

(5) the difference between public and private employment is further reflected in the constraints that bar any abdication or bargaining away by public employers of their continuing legislative discretion and in the fact that constitutional provisions as to contract, property, and due process do not apply to the public employer and employee relationship.

(b) ~~Subject to the provisions of subsection (c),~~ It is the purpose of this act to obligate public agencies, public employees and their representatives to enter into discussions with affirmative willingness to resolve grievances and disputes relating to conditions of employment, acting within the framework of law. It is also the purpose of this act to promote the improvement of employer-employee relations within the various public agencies of the state and its political subdivisions by providing a uniform basis for recognizing the right of public employees to join organizations of their own choice, or to refrain from joining, and be represented by such organizations in their employment relations and dealings with public agencies.

~~(c) The governing body of any public employer, other than the state and its agencies, by a majority vote of all the members may elect to bring such public employer under the provisions of this act and upon such election the public employer and its employees shall be bound by its provisions from the date of such election. Once an election has been made to bring the public employer under the provisions of this act it continues in effect unless rescinded by a majority vote of all members of the governing body. No vote to rescind shall take effect until the~~

~~termination-of-the-next-complete-budget-year-following-such-vote.~~

Sec. 3. K.S.A. 75-4322 is hereby amended to read as follows: 75-4322. As used in ~~this~~ the Kansas public employer-employee relations act:

(a) "Public employee" means any person employed by any public agency, except those persons classed as supervisory employees, ~~professional-employees-of-school-districts, as defined by subsection (c) of K.S.A. 72-5413,~~ elected and management officials, and confidential employees.

(b) "Supervisory employee" means any individual who normally performs different work from ~~his~~ that performed by the individual's subordinates, having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or to responsibly ~~to~~ direct them, or to adjust their grievances, or effectively to recommend a preponderance of such actions, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. A memorandum of agreement may provide for a definition of "supervisory employees" as an alternative to the definition ~~herein~~ provided by this subsection.

(c) "Confidential employee" means any employee whose unrestricted access to confidential personnel files or other information concerning the administrative operations of a public agency, or whose functional responsibilities or knowledge in connection with the issues involved in the meet and confer process would make ~~his~~ such employee's membership in the same employee organization as other employees incompatible with ~~his~~ such employee's official duties.

(d) "Professional employee" includes any employee:

(1) whose work is (A) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (B) involves the consistent exercise of discretion and judgment; or (C) requires knowledge of an advanced type in a

field of science or learning customarily acquired by prolonged study in an institution of higher learning; or

(2) who has completed courses of prolonged study as described in paragraph (1) of this subsection, and is performing related work under the supervision of a professional person in order to qualify as a professional employee as defined in paragraph (1) of this subsection; or

(3) ~~attorneys-at-law~~ who is an attorney or any other person who is registered as a qualified professional by a board of registration or other public body established for such purposes under the laws of this state.

(e) "Elected and management officials" means any elective official and any appointed officer charged by law with major administrative and management responsibilities.

(f) "Public agency" or "public employer" means every governmental subdivision, including any county, township, city, school district, special district, board, commission or instrumentality or other similar unit whose governing body exercises similar governmental powers, and the state of Kansas and its state agencies.

(g) "Governing body" means the legislative body, policy board or other authority of the public employer possessing legislative or policymaking responsibilities pursuant to the constitution or laws of this state.

(h) "Representative of the public agency" means the chief executive officer of the public employer or ~~his or her~~ such officer's designee, except when the governing body provides otherwise, and except in the case of the state of Kansas and its state agencies. Such chief executive shall be for counties, the ~~chairman~~ chairperson of the board of county commissioners; for cities, the mayor, city manager or city superintendent; for school districts, the president of the board of education; and for other local units, such similar elected or appointed officer. In the case of the state of Kansas and its state agencies, "representative of the public employer" means a team of persons,

the head of which shall be a person designated by the secretary of administration and the heads of the state agency or state agencies involved or one person designated by each such state agency head.

(i) "Employee organization" means any organization which includes public employees of a public agency and which has as one of its primary purposes representing such public employees in dealings with that public agency over conditions of employment and grievances.

(j) "Recognized employee organization" means an employee organization which has been formally acknowledged by the public agency or certified as representing a majority of the public employees of an appropriate unit.

(k) "Business agent" means any authorized person who is a full-time official of an employee organization and whose principal duties are to act or to attempt to act for an employee organization (1) in proceedings to meet and confer and other proceedings involving a memorandum of agreement, (2) in servicing existing memorandums of agreement, or (3) in organizing public employees into employee organizations.

(l) "Board" means the public employee employer-employee relations board established pursuant to ~~this act~~ K.S.A. 75-4323 and amendments thereto.

(m) "Meet and confer in good faith" is the process whereby the representative 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 to endeavor to reach agreement on conditions of employment.

(n) "Memorandum of agreement" means a written memorandum of understanding arrived at by the representatives of the public agency and a recognized employee organization which may be presented to the governing body of a public employer or its statutory representative and to the membership of such organization for appropriate action.

(o) "Mediation" means effort by an impartial third party to assist in reconciling a dispute regarding conditions of employment between representatives of the public agency and recognized employee organizations through interpretation and advice.

(p) "Fact-finding" means investigation of such a dispute by an individual, panel, or board with the fact-finder submitting a report to the parties describing the issues involved; the report shall contain recommendations for settlement and may be made public.

(q) "Arbitration" means interpretation of the terms of an existing or a new memorandum of agreement or investigation of disputes by an impartial third party whose decision may or may not be final and binding. ~~Arbitration is advisory when the results are not binding upon the parties; it is final and binding when both parties, of their own volition, agree to submit a dispute to, and to abide by the decision of, the impartial third party~~ or the process of a neutral third party who is selected under subsection (d) of K.S.A. 75-4332 and amendments thereto to conduct a hearing and render a binding award in the event of a dispute over terms and conditions of employment which is not resolved by agreement of the parties after fact-finding.

(r) "Strike" means an action taken for the purpose of coercing a change in the conditions, rights, privileges or obligations of employment through the failure by concerted action with others to report for duty or to work at usual capability in the performance of the normal duties of employment.

(s) "Lockout" means action taken by the public employer to provoke interruptions of or prevent the continuity of work normally and usually performed by the public employees for the purpose of coercing the public employees into relinquishing rights guaranteed by this act.

(t) "Conditions of employment" means, but shall not be limited by salaries, wages, hours of work, vacation allowances, sick and injury leave, number of holidays, retirement benefits,

insurance benefits, prepaid legal service benefits, wearing apparel, premium pay for overtime, shift differential pay, jury duty and grievance procedures, but nothing in this act shall authorize the adjustment or change of such matters which have been fixed by statute or by the constitution of this state.

(u) "Grievance" means a statement of dissatisfaction by a public employee, supervisory employee, employee organization or public employer concerning interpretation of a memorandum of agreement ~~or traditional work practice~~.

(v) "Budget submission date" means (1) for any public employers subject to the budget law in K.S.A. 79-2925 et seq. the date of July 1, and (2) for any other public employer the date fixed by law. "Budget submission date" means, in the case of the state and its state agencies, the date of September 15.

(w) "Legislature" means the legislature of the state of Kansas.

(x) "State agency" means the same as is ascribed thereto in K.S.A. 75-3701 and amendments thereto.

Sec. 4. K.S.A. 1982 Supp. 75-4323 is hereby amended to read as follows: 75-4323. (a) There is hereby created the public employee employer-employee relations board, which shall consist of ~~five~~ three members appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 1982 Supp. 75-4315b. ~~One member shall be representative of public employers; one member shall be representative of public employees; and three members shall be representative of the public at large and hold no other public office or public employment. Of the three members representing the public, one shall be selected by the board as chairperson thereof.~~ Not more than ~~three~~ two members of the board shall be members of the same political party. Each member shall be appointed and serve for a term of four years and until a successor is appointed and qualified, except that of the first members appointed, one shall be appointed for a one-year term, one shall be appointed for a two-year term and one shall be appointed for a three-year term.

The governor shall appoint qualified successors to fill vacancies occurring by reason of the expiration of the terms. In case of any other vacancy on the board, the governor shall appoint a qualified successor for the unexpired term.

(b) Members of the ~~public--employee--relations~~ board ~~attending--meetings--of--the--board,--or--attending--a--subcommittee--meeting--thereof--authorized--by--the--board,--shall--be--paid~~ compensation, ~~subsistence allowances, mileage and other expenses~~ as provided in K.S.A. 75-3223 and amendments thereto shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary of human resources, subject to approval by the governor. The secretary of human resources shall provide office space and such clerical and other staff assistance as necessary to assist the board in carrying out the provisions of ~~this~~ the Kansas public employer-employee relations act.

(c) The ~~secretary--of--human--resources~~ board may establish, after consulting with representatives of employee organizations and of public agencies, panels of qualified persons, broadly representative of the public, to be available to serve as mediators, arbitrators or members of fact-finding boards and may appoint or may contract with such persons as necessary for the performance of the board's functions, including but not limited to mediators, members of fact-finding boards and representatives of employee organizations and public employers to serve as technical advisors to fact-finding boards. Such persons shall perform the duties and exercise the powers ~~prescribed by the secretary,~~ by the board or by law. The ~~secretary~~ board shall fix the compensation of such persons and shall provide for reimbursement of their expenses within the amounts made available therefor by the legislature.

(d) In addition to the authority provided in other sections, the board may:

(1) Establish procedures for the prevention of improper public employer practices and employee organization practices as

provided in K.S.A. 75-4333, ~~except that the board shall provide only for the entering of an order directing the public agency or employee organization to meet and confer in good faith in the case of a claimed violation of subsection (b)(5) or (c)(3) of that section.~~ The pendency of proceedings under this paragraph (1) shall not be used as the basis to delay or interfere with determination of representation status pursuant to K.S.A. 1992 Supp. 75-4327 and amendments thereto or with meeting and conferring.

(2) Hold such hearings and make such inquiries as it considers necessary to carry out properly its functions and powers. For the purpose of such hearings and inquiries, the board may administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence and compel attendance of witnesses and the production of documents by the issuance of subpoenas. Any of these powers may be delegated to any member of the board or to any person appointed by the ~~secretary of human resources~~ board to perform the functions of the board. The subpoenas shall be regulated and enforced in the same manner as provided for the secretary of human resources under the provisions of K.S.A. 44-611 and amendments thereto.

(3) ~~Make~~ Adopt, amend and ~~rescind~~ revoke such rules and regulations, and exercise such other powers, as appropriate to effectuate the purposes and provisions of ~~this~~ the Kansas public employer-employee relations act.

(e) The board shall intervene in the public employer-public employee relations of political subdivisions to the minimum extent possible to secure the objectives expressed in K.S.A. 75-4321 and amendments thereto.

(f) (1) The public employee relations board is hereby abolished. All of the powers, duties and functions of the public employees relations board are hereby transferred to and conferred and imposed upon the public employer-employee relations board created by this section as provided by this act.

(2) Whenever the public employee relations board, or words

of like effect, is referred to or designated by a statute, contract, memorandum of agreement or other document, such reference or designation shall be deemed to apply to the public employer-employee relations board created by this section.

(3) All orders, directives and rules and regulations of the public employee relations board in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted orders, directives and rules and regulations of the public employer-employee relations board created by this section until revised, amended, revoked or nullified pursuant to law.

(4) All records, papers and property of the public employee relations board are hereby transferred to and shall become the property of the public employer-employee relations board created by this section.

Sec. 5. K.S.A. 75-4325 is hereby amended to read as follows: 75-4325. Nothing herein in the Kansas public employer-employee relations act shall prohibit any individual employed as a supervisory employee or confidential employee from becoming or remaining a member of an employee organization, but no public employer subject to this the Kansas public employer-employee relations act shall be compelled to deem individuals defined herein under this act as supervisory employees or confidential employees as public employees for the purposes of this the Kansas public employer-employee relations act.

Sec. 6. K.S.A. 1982 Supp. 75-4327 is hereby amended to read as follows: 75-4327. (a) Public employers shall recognize employee organizations for the purpose of representing their members in relations with public agencies as to grievances and conditions of employment. Employee organizations may establish reasonable provisions for an individual's admission to or dismissal from membership.

(b) Where an employee organization has been certified by the board as representing a majority of the public employees in

an appropriate unit, or recognized formally by the public employer pursuant to the provisions of ~~this~~ the Kansas public employer-employee relations act, the appropriate employer shall meet and confer in good faith with such employee organization in the determination of conditions of employment of the public employees as provided in ~~this~~ the Kansas public employer-employee relations act, and may enter into a memorandum of agreement with such recognized employee organization.

(c) A recognized employee organization shall represent not less than a majority of the public employees of an appropriate unit. When a question concerning the designation of an appropriate unit is raised by a public agency, employee organization or by five or more public employees, the ~~public employee-relations~~ board, at the request of any of the parties, shall investigate such question and, after a hearing, rule on the definition of the appropriate unit in accordance with subsection (e) of this section.

(d) (1) Following determination of the appropriate unit of public employees, the ~~public-employee-relations~~ board, at the request of the public employer or on petition of public employees, shall investigate questions and certify to the parties in writing, the names of the representatives that have been designated for an appropriate unit. The filing of a petition for the investigation or certification of a representative of public employees shall show the names of not less than 30% of the public employees within an appropriate unit. In any such investigation, the board may provide for an appropriate hearing, shall determine voting eligibility and shall take a secret ballot of public employees in the appropriate unit involved to ascertain such representatives for the purpose of formal recognition. Recognition shall be granted only to an employee organization that has been selected as a representative of an appropriate unit, in a secret ballot election, by a majority of the public employees in an appropriate unit who voted at such election.

(2) Each public employee eligible to vote shall be provided

the opportunity to choose the employee organization such public employee wishes to represent such public employee, from among those on the ballot, or to choose "no representation." When an election in which the ballot provided for three or more choices between representatives and no representation resulted in no choice receiving a majority of the valid votes cast, the board shall conduct a run-off election by secret ballot. The ballot in a run-off election shall only provide for a selection between the two choices receiving the largest and second largest number of votes in the original election.

(3) The board is authorized to hold elections to determine whether: ~~(1)~~ (A) An employee organization should be recognized as the formal representative of public employees in a an appropriate unit; ~~(2)~~ (B) an employee organization should replace another employee organization as the formal representative of public employees in a an appropriate unit; ~~(3)~~ (C) a recognized employee organization should be decertified as the formal representative of public employees in an appropriate unit.

(4) Any petition calling for an election in accordance with this section shall be dismissed by the board without determining the questions raised therein if such petition is filed more than 150 days or less than 90 days prior to the expiration date of an existing memorandum of agreement which governs the terms and conditions of employment of the public employees within the appropriate unit.

(5) If the board has certified a formally recognized representative in an appropriate unit, it shall not be required to consider the matter again for a period of one year, unless the board determines that sufficient reason exists. The board may ~~promulgate~~ adopt such rules and regulations as may be appropriate to carry out the provisions of subsections (c) and (d) of this section.

(e) ~~Any~~ When considering the scope of an appropriate unit, ~~each~~ group of public employees ~~considering the formation of an employee organization for formal recognition,~~ any each public

employer ~~considering the recognition of an employee organization on its own volition~~ and the board ~~in investigating questions at the request of the parties as specified in this section~~ shall take into consideration, along with other relevant factors: (1) The principle of efficient administration of government; (2) the existence of a community of interest among the public employees; (3) the history and extent of public employee organization; (4) geographical location; (5) the effects of overfragmentation and the splintering of a work organization; (6) the provisions of K.S.A. 75-4325 and amendments thereto; and (7) the recommendations of the parties involved.

(f) ~~A recognized employee organization~~ An appropriate unit of public employees shall not include: (1) Both professional and other employees, unless a majority of the professional employees vote for inclusion in the organization; (2) uniform police employees and public property security guards with any other public employees, but such employees may form their own separate homogenous units; or (3) uniformed firemen with any other public employees, but such employees may form their own separate homogenous units. The employees of a public safety department of cities of any city which has both police and fire protection duties shall be an appropriate unit.

(g) It is the intent of ~~this~~ the Kansas public employer-employee relations act that employer-employee relations affecting the finances of a public employer shall be conducted at such times as will permit any resultant memorandum of agreement to be duly implemented in the budget preparation and adoption process. A public employer, during the 60 days immediately prior to its budget submission date, shall not be required to recognize an employee organization not previously recognized, nor shall it be obligated to initiate or begin meet and confer proceedings with any recognized employee organization for a period of 30 days before and 30 days after its budget submission date.

(h) No employee organization shall be recognized unless it establishes and maintains standards of conduct providing for: (1)

The maintenance of democratic procedures and practices, including periodic elections by secret ballot and the fair and equal treatment of all members; and (2) the maintenance of fiscal integrity, including accurate accounting and periodic financial reports open to all members and the prohibition of business or financial interests by officers which conflict with their fiduciary responsibilities.

Sec. 7. K.S.A. 75-4329 is hereby amended to read as follows: 75-4329. Every public agency, other than the state, acting through its governing body, may establish procedures, not inconsistent with the provisions of K.S.A. 75-4327 and 75-4328 and amendments thereto, and, after consultation with interested employee organizations and employer representatives, may resolve disputes concerning the recognition status of employee organizations composed of employees of ~~such~~ the public agency. In the absence of such procedures, such disputes shall be submitted to the ~~public-employee-relations~~ board in accordance with K.S.A. 75-4327 and amendments thereto.

Sec. 8. K.S.A. 75-4330 is hereby amended to read as follows: 75-4330. (a) The scope of a memorandum of agreement may extend to all matters relating to conditions of employment, except proposals relating to (1) any subject preempted by federal or state law or by a municipal ordinance passed under the provisions of section 5 of article 12 of the Kansas constitution, (2) public employee rights defined in K.S.A. 75-4324, (3) public employer rights defined in K.S.A. 75-4326, or (4) 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 and to rate candidates in the order of their relative excellence, from which appointments or promotions may be made to positions in the competitive division of the classified service of the public employer served by such civil service commission or personnel board. Any memorandum of agreement relating to conditions of employment entered into may be executed for a maximum period of

three ~~(3)~~ years, notwithstanding the provisions of the cash basis law as contained in K.S.A. 10-1102 et seq. and the budget law as contained in K.S.A. 79-2925 et seq.

(b) ~~Such~~ A memorandum of agreement may contain a grievance procedure and may provide for the impartial arbitration of any disputes that arise on the interpretation of the memorandum agreement. Such arbitration shall be advisory or final and binding, as determined by the memorandum of agreement, ~~and may provide for the use of a fact-finding board.~~ The public-employee relations board is authorized to establish adopt rules and regulations for procedure of arbitration in the event the agreement has not established such rules procedure. In the absence of arbitrary and capricious rulings by the ~~fact-finding board~~ arbitrator during arbitration, the decision of that ~~board~~ arbitrator shall be final. Appeals shall be taken in accordance with the provision of K.S.A. 60-2101 and amendments thereto.

(c) Notwithstanding the other provisions of this section and the act of which this section is a part, when a memorandum of agreement applies to the state or to any state agency, the same shall not be effective as to any matter requiring passage of legislation ~~or state finance council approval~~ until approved as provided in this subsection (c). ~~When executed, each memorandum of agreement shall be submitted to the state finance council.~~ Any part or parts of a memorandum of agreement which relate to a matter which can be implemented by amendment of rules and regulations of the secretary of administration ~~or~~ may be approved or rejected by the secretary of administration, subject to approval by the governor, and if approved, the secretary of administration shall act to implement such part or parts of the memorandum of agreement, effective at the time or times specified by the secretary of administration. Any part or parts of a memorandum of agreement which relate to a matter which can be implemented by amendment of the pay plan and pay schedules of the state may be approved or rejected by the ~~state finance council~~ governor, and if approved, by the governor shall thereupon be

~~implemented by it to become~~ act to implement such part or parts of the memorandum of agreement, effective at ~~such~~ the time or times ~~as it specifies~~ specified by the governor. Any part or parts of a memorandum of agreement which require passage of legislation for the implementation thereof shall be submitted to the legislature at its next regular session, and if approved by the legislature shall become effective on a date specified by the legislature.

Sec. 9. K.S.A. 75-4332 is hereby amended to read as follows: 75-4332. (a) Public employers may include in memoranda of agreement concluded with recognized employee organizations a ~~provision,~~ provisions setting forth the procedures to be invoked in the event of disputes which reach an impasse in the course of meet and confer proceedings. Such ~~memorandum~~ provisions shall define conditions under which an impasse exists, and if the employer is bound by the budget law set forth in K.S.A. 79-2925 et. seq., and amendments thereto, ~~the memorandum~~ such provisions shall provide that an impasse is deemed to exist if the parties fail to achieve agreement at least ~~fourteen-(14)~~ 45 days prior to budget submission date.

(b) In the absence of such ~~memorandum of~~ procedures in a memorandum of agreement, or upon the failure of such procedures resulting in an impasse, either party may request the assistance of the ~~public-employee-relations~~ board, or the board may render such assistance on its own motion. In either event, if the board determines an impasse exists in meet and confer proceedings between a public employer and a recognized employee organization, the board shall aid the parties in effecting a voluntary resolution of the dispute, and shall request the appointment of a mediator or mediators, representative of the public, from a list of qualified persons maintained by the ~~secretary--of--human resources~~ board, and such appointment of a mediator or mediators shall be made ~~forthwith~~ immediately by the ~~secretary~~ board.

(c) If the impasse persists seven ~~(7)~~ days after the mediators have been appointed, the board shall request the

appointment of a fact-finding board of not more than three ~~(3)~~ members, each representative of the public, from a list of qualified persons maintained by the ~~secretary-of-human-resources board~~. The fact-finding board shall conduct a hearing, may administer oaths, and may request the board to issue subpoenas. It shall make written findings of facts and recommendations for resolution of the dispute and, not later than ~~twenty-one-(21)~~ 21 days from the day of appointment, shall serve such findings on the public employer and the recognized employee organization. The board may make this report public seven ~~(7)~~ days after it is submitted to the parties. If the dispute continues ~~fourteen-(14)~~ 14 days after the report is submitted to the parties, the report shall be made public.

(d) If the parties have not resolved the impasse by the end of a forty-day period, commencing with the appointment of the fact-finding board, or by a date not later than ~~fourteen-(14)~~ 14 days prior to the budget submission date, whichever date occurs first: ~~(1) The representative of the public employer involved shall submit to the governing body of the public employer involved a copy of the findings of fact and recommendations of the fact-finding board, together with his or her recommendations for settling the dispute; (2) the employee organization may submit to such governing body its recommendations for settling the dispute; (3) the governing body or a duly authorized committee thereof shall forthwith conduct a hearing at which the parties shall be required to explain their positions; and (4) thereafter, the governing body shall take such action as it deems to be in the public interest, including the interest of the public employees involved. The provisions of this subsection shall not be applicable to the state and its agencies and employees.~~ The recognized employee organization or the public agency may submit a request to the board for a panel of arbitrators from which within 10 days after receipt of the names of such arbitrators, the parties shall select an arbitrator to hear the dispute. The arbitrator selected by the parties shall

conduct a hearing to determine the issues involved, the parties' position on each issue and shall issue a binding award within 30 days after the close of the hearing. The arbitrator shall comply with and adhere to all rules and regulations adopted by the board to provide for arbitration procedures. Such rules and regulations shall include but shall not be limited to provisions defining the scope of the arbitrator's authority.

(e) The cost for the any mediation and, fact-finding or arbitration services provided by the ~~secretary of human resources upon request of the~~ board shall be borne by ~~the secretary of human resources.~~ ~~All other costs, including that of a neutral arbitrator, shall be borne~~ equally by the parties to a dispute.

Sec. 10. K.S.A. 75-5713 is hereby amended to read as follows: 75-5713. ~~(a)~~ The public employee employer-employee relations board created by K.S.A. ~~1975--Supp.~~ 75-4323 and amendments thereto is hereby attached to the department of human resources, ~~and on and after July 1, 1976,~~ shall be within the department of human resources as a part thereof. All budgeting, purchasing and related management functions of the public employee employer-employee relations board shall be administered under the direction and supervision of the secretary of human resources as a part of the division of labor-management relations. All vouchers for expenditures and all payrolls of the public employee employer-employee relations board shall be approved by the secretary of human resources.

~~(b) The public employee relations board created by K.S.A. 1975--Supp. 75-4323 is hereby specifically continued in existence. Persons who are members of the public employee relations board on July 1, 1976, shall continue to hold such offices under the conditions and limitations provided in K.S.A. 1975--Supp. 75-4323. Subject to the provisions of subsection (c) and unless otherwise specifically provided herein, the powers, duties and functions vested in or exercised or performed by the public employee relations board pursuant to law immediately prior to July 1, 1976, shall not be transferred but shall remain the~~

~~lawful powers, duties and functions of said board.~~

~~(c) The powers, duties and functions vested in the public employee relations board by K.S.A. 1975 Supp. 75-4323 relating to appointments and contracts with persons deemed necessary for the performance of its functions and to the establishment of panels of qualified persons to serve as mediators, arbitrators or members of fact-finding boards are hereby specifically transferred to and conferred and imposed upon the secretary of human resources and said secretary shall be the successor in every way to said powers, duties and functions.~~

~~(d) All rules and regulations and all orders or directives of the public employee relations board or of any persons authorized by said board to issue orders or directives in existence on July 1, 1976, shall continue to be effective and shall be deemed to be the rules and regulations and orders or directives of the public employee relations board until revised, amended, revoked or nullified pursuant to law. Nothing in this order shall affect the authority of the public employee relations board to adopt or promulgate rules and regulations or to issue orders or directives as authorized by law.~~

Sec. 11. K.S.A. 72-5413 to 72-5432, inclusive, 75-4321, 75-4322, 75-4325, 75-4329, 75-4330, 75-4332 and 75-5713 and K.S.A. 1982 Supp. 75-4323 and 75-4327 are hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.