

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 29
FINAL READING

Introduced by Redfield, 12; Schimek, 27; Byars, 30;
Dw. Pedersen, 39; Preister, 5

Read first time January 4, 2001

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to labor; to amend section 48-838, Reissue
2 Revised Statutes of Nebraska; to change collective
3 bargaining representation provisions; and to repeal the
4 original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-838, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-838. (1) The commission shall determine questions of
4 representation for purposes of collective bargaining for and on
5 behalf of employees and shall make rules and regulations for the
6 conduct of elections to determine the exclusive
7 collective-bargaining agent for employees, except that in no event
8 shall a contract between an employer and an exclusive
9 collective-bargaining agent act as a bar for more than three years
10 to any other party seeking to represent employees, nor shall any
11 contract bar for more than three years a petition by employees
12 seeking an election to revoke the authority of an agent to
13 represent them. Except as provided in the State Employees
14 Collective Bargaining Act, the commission shall certify the
15 exclusive collective-bargaining agent for employees affected by the
16 Industrial Relations Act following an election by secret ballot,
17 which election shall be conducted according to rules and
18 regulations established by the commission.

19 (2) The election shall be conducted by one member of the
20 commission who shall be designated to act in such capacity by the
21 presiding judge of the commission, or the commission may appoint
22 the clerk of the district court of the county in which the
23 principal office of the employer is located to conduct the election
24 in accordance with the rules and regulations established by the
25 commission. Except as provided in the State Employees Collective
26 Bargaining Act, the commission shall also determine the appropriate
27 unit for bargaining and for voting in the election, and in making
28 such determination, the commission shall consider established

1 bargaining units and established policies of the employer. It
2 shall be presumed, in the case of governmental subdivisions such as
3 municipalities, counties, power districts, or utility districts
4 with no previous history of collective bargaining, that units of
5 employees of less than departmental size shall not be appropriate.

6 (3) Except as provided in the State Employees Collective
7 Bargaining Act, the commission shall not order an election until it
8 has determined that at least thirty percent of the employees in an
9 appropriate unit have requested in writing that the commission hold
10 such an election. Such request in writing by an employee may be in
11 any form in which an employee specifically either requests an
12 election or authorizes the employee organization to represent him
13 or her in bargaining, or otherwise evidences a desire that an
14 election be conducted. Such request of an employee shall not
15 become a matter of public record. No election shall be ordered in
16 one unit more than once a year.

17 (4) Except as provided in the State Employees Collective
18 Bargaining Act, the commission shall only certify an exclusive
19 collective-bargaining agent if a majority of the employees voting
20 in the election vote for the agent. A certified exclusive
21 collective-bargaining agent shall represent all employees in the
22 appropriate unit with respect to wages, hours, and conditions of
23 employment, except that such right of exclusive recognition shall
24 not preclude any employee, regardless of whether or not he or she
25 is a member of a labor organization, from bringing matters to the
26 attention of his or her superior or other appropriate officials. 7
27 and any

28 Any employee may choose his or her own representative in

1 any grievance or legal action, ~~and such right of representation~~
2 regardless of whether or not an exclusive collective-bargaining
3 agent has been certified. If an employee who is not a member of
4 the labor organization chooses to have legal representation from
5 the labor organization in any grievance or legal action, such
6 employee shall reimburse the labor organization for his or her pro
7 rata share of the actual legal fees and court costs incurred by the
8 labor organization in representing the employee in such grievance
9 or legal action.

10 The certification of an exclusive collective-bargaining
11 agent shall not preclude any employer from consulting with lawful
12 religious, social, fraternal, or other similar associations on
13 general matters affecting employees so long as such contracts do
14 not assume the character of formal negotiations in regard to wages,
15 hours, and conditions of employment. Such consultations shall not
16 alter any collective-bargaining agreement which may be in effect.

17 Sec. 2. Original section 48-838, Reissue Revised
18 Statutes of Nebraska, is repealed.