

Labor Organizations: Legal Fees and Court Costs

This Act changes state collective bargaining provisions. It directs that in no event shall a contract between an employer and an exclusive collective bargaining agent act as a bar for more than three years to any other party seeking to represent employees. It addresses collective bargaining elections. It also directs that employees may choose their own representative in any grievance or legal action, and such right of representation regardless of whether or not an exclusive collective-bargaining agent has been certified. However, if an employee who is not a member of a labor organization chooses to have legal representation from a labor organization in any grievance or legal action, then the employee must reimburse the labor organization for their pro rata share of the actual legal fees and court costs incurred by the labor organization in representing the employee in the grievance or legal action.

Submitted as:

Nebraska

LB 29

Status: enacted into law in 2002.

Suggested Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act may be cited as may be cited as “An Act Relating to Collective
2 Bargaining Elections, Agents and Legal Fees.”

3
4 Section 2. [*Collective Bargaining Elections, Agents and Legal Fees.*]

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

15 (2) The election shall be conducted by one member of the [commission] who shall be designated to
16 act in such capacity by the presiding judge of the [commission], or the [commission] may appoint the clerk of
17 the district court of the county in which the principal office of the employer is located to conduct the election
18 in accordance with the rules and regulations established by the [commission]. Except as provided in the [State
19 Employees Collective Bargaining Act], the [commission] shall also determine the appropriate unit for
20 bargaining and for voting in the election, and in making such determination, the [commission] shall consider
21 established bargaining units and established policies of the employer. It shall be presumed, in the case of
22 governmental subdivisions such as municipalities, counties, power districts, or utility districts with no
23 previous history of collective bargaining, that units of employees of less than departmental size shall not be
24 appropriate.

25 (3) Except as provided in the [State Employees Collective Bargaining Act], the [commission] shall
26 not order an election until it has determined that at least [thirty (30)] percent of the employees in an
27 appropriate unit have requested in writing that the [commission] hold such an election. Such request in
28 writing by an employee may be in any form in which an employee specifically either requests an election or
29 authorizes the employee organization to represent him or her in bargaining, or otherwise evidences a desire

30 that an election be conducted. Such request of an employee shall not become a matter of public record. No
31 election shall be ordered in one unit more than [once] a year.

32 (4) Except as provided in the [State Employees Collective Bargaining Act], the [commission] shall
33 only certify an exclusive collective-bargaining agent if a majority of the employees voting in the election vote
34 for the agent. A certified exclusive collective-bargaining agent shall represent all employees in the appropriate
35 unit with respect to wages, hours, and conditions of employment, except that such right of exclusive
36 recognition shall not preclude any employee, regardless of whether or not he or she is a member of a labor
37 organization, from bringing matters to the attention of his or her superior or other appropriate officials.

38 (5) Any employee may choose his or her own representative in any grievance or legal action
39 regardless of whether or not an exclusive collective-bargaining agent has been certified. If an employee who
40 is not a member of the labor organization chooses to have legal representation from the labor organization in
41 any grievance or legal action, such employee shall reimburse the labor organization for his or her pro rata
42 share of the actual legal fees and court costs incurred by the labor organization in representing the employee
43 in such grievance or legal action.

44 (6) The certification of an exclusive collective-bargaining agent shall not preclude any employer from
45 consulting with lawful religious, social, fraternal, or other similar associations on general matters affecting
46 employees so long as such contracts do not assume the character of formal negotiations in regard to wages,
47 hours, and conditions of employment. Such consultations shall not alter any collective-bargaining agreement
48 which may be in effect.

49
50 Section 3. [*Severability.*] [Insert severability clause.]

51
52 Section 4. [*Repealer.*] [Insert repealer clause.]

53
54 Section 5. [*Effective Date.*] [Insert effective date.]