

Before the Committee on Commerce

**Testimony in favor of HB 2083
Presented on March 13, 2013
By Bradley R. Burke, Chief Attorney
Kansas Department of Labor**

Madam Chairwoman and Honorable members of the Committee:

Thank you for the opportunity to appear before you today on behalf of Secretary Lana Gordon and the Kansas Department of Labor to testify in support of House Bill 2083.

Objective of HB 2083

House Bill 2083 makes two simple changes to the Kansas Public Employer-Employee Relations Act (PEERA) that will enable the Department of Labor to have more flexibility to help reduce expenses related to labor disputes by shifting the cost of public union elections and disputes from the Kansas Department of Labor to the parties involved in the election and/or labor dispute.

Background of the Kansas Public Employer-Employee Relations Act (PEERA)

For background information, it is important to understand that the PEERA governs labor relations between public employers and some of their public employees, and that public employers, with the exception of state agencies, are not automatically covered under the PEERA. The governing body of a governmental subdivision must elect to bring the public body under the PEERA. Furthermore, not all public employees of public bodies that are covered by the PEERA have rights under the PEERA. Employees that are classified as supervisors, professional employees of school districts, elected officials, managers and confidential employees do not have rights under the PEERA.

Under Kansas law, public employers who are covered by the PEERA must recognize employee organizations for the purposes of representing the employee organization's members in relations with public agencies as to grievances and conditions of employment.

Under the PEERA, public employers are only required to meet and confer with a *recognized* employee organization. By statute, the recognized employee organization must represent at least a majority of the employees of an appropriate unit. Under the PEERA, the selection of a recognized employee organization requires selection by a majority of the employees in an appropriate unit who vote in a secret ballot election. Under the PEERA, the following elections may take place: (1) Whether an employee organization should be recognized as the formal representative of employees in a unit; (2) whether an employee organization should replace another employee organization as the formal representative of employees in a unit; and (3) whether a recognized employee organization should be decertified. Under current law, the cost of printing ballots, and the cost of postage for mailing ballots for such secret ballot elections are paid for by the Public Employee Relations Board (PERB) which is funded through the Kansas Department of Labor.

In addition to conducting secret ballot elections for public employee organizations, the PERB is required to assist public employers and employee organizations that reach impasse in contract negotiations or other disputes. Such assistance requires appointment of mediators and the conduct of fact finding which includes the use of court reporters. Under current law, the cost of fact finding and court reporters is borne by the Kansas Department of Labor. On the other hand, the Federal Mediation and Conciliation Service provides mediation to Kansas PEERA parties without charge, under federal law. So there is no cost to the Kansas Department of Labor for mediation services under PEERA, just fact finding and court reporter fees.

Proposed Amendments to Current Law

HB 2083, as amended by the House Committee, first amends K.S.A. 75-4327, regarding the cost of conducting secret ballot elections. The amendment grants the PERB the authority to

charge the costs of conducting the secret ballot elections to the party requesting the election. While the costs of conducting the election have been minimal in recent years, the Secretary feels that it is appropriate that the parties to the election pay the cost for those services. Based on concerns raised by opponents before the House Commerce, Labor, and Economic Development Committee, KDOL supported an amendment to clarify that the costs of conducting elections include the cost of printing ballots and postage. From 2010 to the present, a total of three elections were requested under PEERA, but the PERB conducted only one election and the other two requests were denied and dismissed for various reasons. The cost of the election, which was held in 2012, was less than \$100.00.

Secondly, HB 2083 amends K.S.A. 75-4332, regarding the cost of mediation and fact-finding services provided by the Secretary of Labor upon request of the PERB. Fact-finders utilized by KDOL charge \$400 per day plus expenses for hearings, plus \$66.66 per hour for preparation and report writing. From July 1, 2010 through present, the total spent by the Kansas Department of Labor on fact finding fees and expenses totals \$13,433.24.

It should be noted that under the Professional Negotiations Act, which is the Act governing public teachers' unions and contract negotiations, the parties, not the State, bear the costs of fact-finding and mediation. See, K.S.A. 72-5429.

Conclusion

Thank you again for the opportunity to present testimony favorable for passage of HB 2083. Please feel free to contact me with any questions you may have regarding HB 2083 or any matter related to the Department of Labor.

Respectfully submitted,



Bradley R. Burke