

48-802. Public policy.

To make operative the provisions of section 9, Article XV, of the Constitution of Nebraska, the public policy of the State of Nebraska is hereby declared to be as follows:

(1) The continuous, uninterrupted and proper functioning and operation of the governmental service including governmental service in a proprietary capacity and of public utilities engaged in the business of furnishing transportation for hire, telephone service, telegraph service, electric light, heat, or power service, gas for heating or illuminating, whether natural or artificial, or water service, or any one or more of them, to the people of Nebraska are hereby declared to be essential to their welfare, health, and safety. It is contrary to the public policy of the state to permit any substantial impairment or suspension of the operation of governmental service, including governmental service in a proprietary capacity or any such utility by reason of industrial disputes therein. It is the duty of the State of Nebraska to exercise all available means and every power at its command to prevent the same so as to protect its citizens from any dangers, perils, calamities, or catastrophes which would result therefrom. It is therefor further declared that governmental service, including governmental service in a proprietary capacity, and the service of such public utilities are clothed with a vital public interest and to protect the same it is necessary that the relations between the public employers and public employees in such industries be regulated by the State of Nebraska to the extent and in the manner provided in the Industrial Relations Act;

(2) No right shall exist in any natural or corporate person or group of persons to hinder, delay, limit, or suspend the continuity or efficiency of any governmental service or governmental service in a proprietary capacity of this state, either by strike, lockout, or other means; and

(3) No right shall exist in any natural or corporate person or group of persons to hinder, delay, limit, or suspend the continuity or efficiency of any public utility service, either by strike, lockout, or other means.

Source: Laws 1947, c. 178, § 2, p. 587; Laws 2011, LB397, § 3.

Operative Date: October 1, 2011

Annotations

If the Commission of Industrial Relations finds that an accused party has committed a prohibited practice under subsection (2) of section 48-825, it has the authority to order an appropriate remedy, and such authority is to be liberally construed to effectuate the public policy enunciated in this section. *Operating Engrs. Local 571 v. City of Plattsmouth*, 265 Neb. 817, 660 N.W.2d 480 (2003).

If public employees may not refuse to work without risk of discharge, public employers may not refuse to pay employees the wage established by the governmental employer for such work. *AFSCME Local No. 2088 v. County of Douglas*, 208 Neb. 511, 304 N.W.2d 368 (1981).

It is the public interest in having uninterrupted public service that is principally sought to

be protected by the Commission of Industrial Relations Act, not the creation of a specialty forum for the trying of breach of contract cases by public employees. *Transport Workers of America v. Transit Authority of City of Omaha*, 205 Neb. 26, 286 N.W.2d 102 (1979).

Supervisory or managerial personnel may not enter into a bargaining unit with rank and file employees and may not retain the same bargaining agent. *Nebraska Assn. of Pub. Emp. v. Nebraska Game & Parks Commission*, 197 Neb. 178, 247 N.W.2d 449 (1976).

While there are many nebulous areas that may overlap working conditions, school boards should not be required to enter into negotiations which are predominately of educational policy, management prerogatives, or statutory duties of the board of education. *School Dist. of Seward Education Assn. v. School Dist. of Seward*, 188 Neb. 772, 199 N.W.2d 752 (1972).