

48-813. Commission; notice of pendency of proceedings; service; response; filing; final offer; included with petition; included with answers; procedure; exception; hearing; waiver of notice.

(1) Whenever the jurisdiction of the commission is invoked, notice of the pendency of the proceedings shall be given in such manner as the commission shall provide for serving a copy of the petition and notice of filing upon the adverse party. A public employer or labor organization may be served by sending a copy of the petition filed to institute the proceedings and a notice of filing, which shall show the filing date, in the manner provided for service of a summons in a civil action. Such employer or labor organization shall have twenty days after receipt of the petition and notice of filing in which to serve and file its response.

(2) The petitioner shall include its final offer, as voted by the petitioner, the governing body, or the bargaining unit or as considered pursuant to a ratification process, with its petition. The respondent shall include its final offer, as voted by the respondent, the governing body, or the bargaining unit or as considered pursuant to a ratification process, with its answer. Within fourteen days after filing of the answer, the parties shall vote to accept or reject or consider pursuant to a ratification process the other's final offer and file a subsequent pleading indicating the result. The vote concerning the governing body's final offer shall be published on its agenda and held where the public may attend. The commission shall not enter a final order on wages or conditions of employment unless both parties have rejected the others' final offer. This subsection does not apply to public employers subject to the State Employees Collective Bargaining Act.

(3) When a petition is filed to resolve an industrial dispute, a hearing shall mandatorily be held within sixty days from the date of filing thereof. A recommended decision and order in cases arising under section 48-818, an order in cases not arising under section 48-818, and findings if required, shall mandatorily be made and entered thereon within thirty days after such hearing. The time requirements specified in this section may be extended for good cause shown on the record or by agreement of the parties. Failure to meet such mandatory time requirements shall not deprive the commission of jurisdiction. However, if the commission fails to hold a hearing on the industrial dispute within sixty days of filing or has failed to make a recommended decision and order, and findings of fact if required, in cases arising under section 48-818, or an order, and findings of fact if required, in cases not arising under section 48-818, and findings, within thirty days after the hearing and good cause is not shown on the record or the parties to the dispute have not jointly stipulated to the enlargement of the time limit, then either party may file an action for mandamus in the district court for Lancaster County to require the commission to hold the hearing or to render its order and findings if required. For purposes of this section, the hearing on an industrial dispute shall not be deemed completed until the record is prepared and counsel briefs have been submitted, if such are required by the commission.

(4) Any party, including the State of Nebraska or any of its employer-representatives as defined in section 81-1371 or any political subdivision of the State of Nebraska, may waive such notice and may enter a voluntary appearance in any matter in the commission. The giving of such notice in such manner shall subject the public employers, the labor organizations, and the persons therein to the jurisdiction of the commission.

Source: Laws 1947, c. 178, § 13, p. 590; Laws 1972, LB 1228, § 2; Laws 1974, LB 819, § 7; Laws 1983, LB 447, § 72; Laws 1984, LB 832, § 1; Laws 1987, LB 661, §

25; Laws 2011, LB397, § 7.

Operative Date: October 1, 2011

Cross References

State Employees Collective Bargaining Act, see section 81-1369.

Annotations

The Commission of Industrial Relations, as an administrative body, has only that authority specifically conferred upon it by statute or by construction necessary to achieve the purpose of the relevant act. *Jolly v. State*, 252 Neb. 289, 562 N.W.2d 61 (1997).

Under the Industrial Relations Act, section 48-801 et seq., and the State Employees Collective Bargaining Act, section 81-1369 et seq., the Commission of Industrial Relations does not have the statutory authority to entertain or grant motions for summary judgment. *Jolly v. State*, 252 Neb. 289, 562 N.W.2d 61 (1997).

A city attorney is not a "principal officer" within the meaning of that phrase in this section. *Communication Workers of America, AFL-CIO v. City of Hastings*, 198 Neb. 668, 254 N.W.2d 695 (1977).

The provision that a case shall be heard within sixty days and order entered thirty days thereafter is directory and not mandatory. *Local Union No. 647 v. City of Grand Island*, 196 Neb. 693, 244 N.W.2d 515 (1976).