

HOUSE BILL No. 2591

By Committee on Education

2-1

9 AN ACT concerning schools; relating to inclement weather days; amend-
10 ing K.S.A. 2009 Supp. 72-5413 and repealing the existing section.

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12 *Be it enacted by the Legislature of the State of Kansas:*

13 New Section 1. (a) As used in this section:

14 (1) "Professional employee" means any person employed by a board
15 of education in a position which requires a license issued by the state
16 board of education or employed by a board of education in a professional,
17 educational or instructional capacity and any professional employee who
18 is a retirant from school employment of the Kansas public employees
19 retirement system, regardless of whether an agreement between a board
20 of education and an exclusive representative of professional employees
21 that covers terms and conditions of professional service provides to the
22 contrary.

23 (2) "Administrative employee" means any person who is employed
24 by a board of education in an administrative capacity and who is fulfilling
25 duties for which an administrator's license is required under K.S.A. 72-
26 7513, and amendments thereto.

27 (3) "Board of education" means the board of education of any school
28 district.

29 (4) "Inclement weather day" means any day during the school year
30 on which all attendance centers in a school district have been closed
31 because of weather or weather-related conditions.

32 (b) The board of education shall not be required to pay compensation
33 to any professional employee, administrative employee or other employee
34 of the district on inclement weather days.

35 (c) The provisions of subsection (b) shall not apply to:

36 (1) An inclement weather day, if the district is required to conduct
37 school beyond the regularly scheduled term for the school year in order
38 to comply with K.S.A. 72-1106, and amendments thereto; or

39 (2) an inclement weather day which is the subject of a contract en-
40 tered into prior to the effective date of this act.

41 Sec. 2. K.S.A. 2009 Supp. 72-5413 is hereby amended to read as
42 follows: 72-5413. As used in this act and in acts amendatory thereof or
43 supplemental thereto:

- 1 (a) The term “persons” includes one or more individuals, organiza-
2 tions, associations, corporations, boards, committees, commissions, agen-
3 cies, or their representatives.
- 4 (b) “Board of education” means the state board of education pursuant
5 to its authority under K.S.A. 76-1001a and 76-1101a, and amendments
6 thereto, the board of education of any school district, the board of control
7 of any area vocational-technical school and the board of trustees of any
8 community college.
- 9 (c) “Professional employee” means any person employed by a board
10 of education in a position which requires a certificate issued by the state
11 board of education or employed by a board of education in a professional,
12 educational or instructional capacity, but shall not mean any such person
13 who is an administrative employee and, commencing in the 2006-2007
14 school year, shall not mean any person who is a retirant from school
15 employment of the Kansas public employees retirement system, regard-
16 less of whether an agreement between a board of education and an ex-
17 clusive representative of professional employees that covers terms and
18 conditions of professional service provides to the contrary.
- 19 (d) “Administrative employee” means, in the case of a school district,
20 any person who is employed by a board of education in an administrative
21 capacity and who is fulfilling duties for which an administrator’s certificate
22 is required under K.S.A. 72-7513, and amendments thereto; and, in the
23 case of an area vocational-technical school or community college, any
24 person who is employed by the board of control or the board of trustees
25 in an administrative capacity and who is acting in that capacity and who
26 has authority, in the interest of the board of control or the board of
27 trustees, to hire, transfer, suspend, layoff, recall, promote, discharge, as-
28 sign, reward or discipline other employees, or responsibly to direct them
29 or to adjust their grievances, or effectively to recommend a preponder-
30 ance of such actions, if in connection with the foregoing, the exercise of
31 such authority is not of a merely routine or clerical nature, but requires
32 the use of independent judgment.
- 33 (e) “Professional employees’ organizations” means any one or more
34 organizations, agencies, committees, councils or groups of any kind in
35 which professional employees participate, and which exist for the pur-
36 pose, in whole or part, of engaging in professional negotiation with boards
37 of education with respect to the terms and conditions of professional
38 service.
- 39 (f) “Representative” means any professional employees’ organization
40 or any person it authorizes or designates to act in its behalf or any person
41 a board of education authorizes or designates to act in its behalf.
- 42 (g) “Professional negotiation” means meeting, conferring, consulting
43 and discussing in a good faith effort by both parties to reach agreement

1 with respect to the terms and conditions of professional service.

2 (h) "Mediation" means the effort through interpretation and advice
3 by an impartial third party to assist in reconciling a dispute concerning
4 terms and conditions of professional service which arose in the course of
5 professional negotiation between a board of education or its representa-
6 tives and representatives of the recognized professional employees'
7 organization.

8 (i) "Fact-finding" means the investigation by an individual or board
9 of a dispute concerning terms and conditions of professional service which
10 arose in the course of professional negotiation, and the submission of a
11 report by such individual or board to the parties to such dispute which
12 includes a determination of the issues involved, findings of fact regarding
13 such issues, and the recommendation of the fact-finding individual or
14 board for resolution of the dispute.

15 (j) "Strike" means an action taken for the purpose of coercing a
16 change in the terms and conditions of professional service or the rights,
17 privileges or obligations thereof, through any failure by concerted action
18 with others to report for duty including, but not limited to, any work
19 stoppage, slowdown, or refusal to work.

20 (k) "Lockout" means action taken by a board of education to provoke
21 interruptions of or prevent the continuity of work normally and usually
22 performed by the professional employees for the purpose of coercing
23 professional employees into relinquishing rights guaranteed by this act
24 and the act of which this section is amendatory.

25 (l) (1) "Terms and conditions of professional service" means (A) sal-
26 aries and wages, including pay for duties under supplemental contracts;
27 hours and amounts of work; vacation allowance, holiday, sick, extended,
28 sabbatical, and other leave, and number of holidays; retirement; insurance
29 benefits; wearing apparel; pay for overtime; jury duty; grievance proce-
30 dure; including binding arbitration of grievances; disciplinary procedure;
31 resignations; termination and nonrenewal of contracts; reemployment of
32 professional employees; terms and form of the individual professional
33 employee contract; probationary period; professional employee appraisal
34 procedures; each of the foregoing being a term and condition of profes-
35 sional service, regardless of its impact on the employee or on the opera-
36 tion of the educational system; (B) matters which relate to privileges to
37 be granted the recognized professional employees' organization includ-
38 ing, but not limited to, voluntary payroll deductions; use of school or
39 college facilities for meetings; dissemination of information regarding the
40 professional negotiation process and related matters to members of the
41 bargaining unit on school or college premises through direct contact with
42 members of the bargaining unit, the use of bulletin boards on or about
43 the facility, and the use of the school or college mail system to the extent

1 permitted by law; reasonable leaves of absence for members of the bar-
2 gaining unit for organizational purposes such as engaging in professional
3 negotiation and partaking of instructional programs properly related to
4 the representation of the bargaining unit; any of the foregoing privileges
5 which are granted the recognized professional employees' organization
6 through the professional negotiation process shall not be granted to any
7 other professional employees' organization; and (C) such other matters
8 as the parties mutually agree upon as properly related to professional
9 service including, but not limited to, employment incentive or retention
10 bonuses authorized under K.S.A. 72-8246 and amendments thereto.

11 (2) Nothing in this act, and amendments thereto, shall authorize the
12 diminution of any right, duty or obligation of either the professional em-
13 ployee or the board of education which have been fixed by statute or by
14 the constitution of this state. Except as otherwise expressly provided in
15 this subsection (1), the fact that any matter may be the subject of a statute
16 or the constitution of this state does not preclude negotiation thereon so
17 long as the negotiation proposal would not prevent the fulfillment of the
18 statutory or constitutional objective.

19 (3) Matters which relate to the duration of the school term, and spe-
20 cifically to consideration and determination by a board of education of
21 the question of the development and adoption of a policy to provide for
22 a school term consisting of school hours, are not included within the
23 meaning of terms and conditions of professional service and are not sub-
24 ject to professional negotiation.

25 (4) *Matters which relate to inclement weather days as provided in*
26 *section 1, and amendments thereto, are not included within the meaning*
27 *of terms and conditions of professional service and are not subject to*
28 *professional negotiation.*

29 (m) "Secretary" means the secretary of labor or a designee thereof.

30 (n) "Statutory declaration of impasse date" means June 1 in the cur-
31 rent school year.

32 (o) "Supplemental contracts" means contracts for employment duties
33 other than those services covered in the principal or primary contract of
34 employment of the professional employee and shall include, but not be
35 limited to, such services as coaching, supervising, directing and assisting
36 extracurricular activities, chaperoning, ticket-taking, lunchroom supervi-
37 sion, and other similar and related activities.

38 Sec. 3. K.S.A. 2009 Supp. 72-5413 is hereby repealed.

39 Sec. 4. This act shall take effect and be in force from and after its
40 publication in the statute book.