

Approved March 26, 1990
Date

MINUTES OF THE SENATE COMMITTEE ON EDUCATION

The meeting was called to order by SENATOR JOSEPH C. HARDER at
Chairperson

1:30 ~~a.m.~~/p.m. on Monday, March 19, 1990 in room 123-S of the Capitol.

All members were present except:

Committee staff present:

Mr. Ben Barrett, Legislative Research Department
Ms. Avis Swartzman, Revisor of Statutes
Mr. Dale Dennis, Assistant Commissioner of Education
Mrs. Millie Randell, Committee Secretary

Conferees appearing before the committee:

HB 2883 - Professional negotiation, privileges accorded professional employees' organizations (Lawrence et al.)

Proponents:

Representative Barbara Lawrence, written testimony only
Mr. Craig Grant, Director of Political Action, Kansas-National Education Association
Mr. Jon Miller, President, National Education Association-Wichita, written testimony only

HB 2960 - School districts; competitive bid requirements (Education)

Proponents:

Mr. Art Griggs, Assistant Secretary, Department of Administration
Ms. Brilla Scott, Associate Executive Director, United School Administrators of Kansas

After Chairman Joseph C. Harder called the meeting to order, he requested the Committee to turn its attention to HB 2883, relating to privileges granted to certain professional employees' organizations. The Chairman informed members that Representative Barbara Lawrence, one of the sponsors of the bill who had planned to testify, was unable to attend, because the House still is in session. He told members that Representative Lawrence's testimony had been distributed to them. (Attachment 1)

The Chairman next called upon Mr. Craig Grant, proponent, representing Kansas-NEA. Mr. Grant testified that the only substantive change in HB 2883, found on page 4, lines 10 through 14, would mean that when privileges are granted through the negotiations process to the exclusive representative, those privileges would not be made available to any other employee organization. Mr. Grant said that although these changes would work against their organization in some local areas where K-NEA is not the recognized organization, he believes the principle in HB 2883 is sound and that the exclusive representative should have certain privileges which are not given to other organizations. (Attachment 2)

Mr. Grant called the Committee's attention to written testimony (Attachment 3) by Mr. Jon Miller, president, NEA-Wichita, which, he said, had been distributed on Mr. Miller's behalf. Mr. Grant noted that two court cases, as mentioned in Mr. Miller's testimony, lend credence to the principle afforded by HB 2883 and that this principle applies in 32 states, other than Kansas, which have collective bargaining laws.

Responding to a question, Mr. Grant stated that this bill does not change the period of time in which an election could be called; it means that at the conclusion of an election, those privileges which are negotiated would extend only to the one organization which had won the election.

Replying to another question, Mr. Grant responded that HB 2883 would clarify what his organization felt was the intent of the original law. He also replied that current law does acknowledge exclusive representation (page 1,

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION,

room 123-S, Statehouse, at 1:30 ~~xxx~~/p.m. on Monday, March 19, 1990

line 22, HB 2883).

Hearing no response from further conferees to testify on HB 2883, the Chairman announced that the hearing on HB 2883 was concluded and that the bill would be taken under advisement.

The Chair then called Committee attention to HB 2960, relating to school district purchases through competitive bid requirements, and he called upon the first proponent, Mr. Art Griggs, assistant secretary, Department of Administration.

Mr. Griggs explained that the purpose of HB 2960 is clarification for what his department believed was the intent of 1989 legislation giving school districts authority to make certain purchases from vendors involved in state purchasing contracts. The thrust of the bill, he explained, is to allow school districts to purchase goods and services through state contracts without the necessity for individual sealed bids. He noted that there were approximately 1100 state contracts on file with the State Purchasing Department and that over 1500 copies of these contracts have been mailed to school districts.

Mr. Griggs compared the language amended into statute last year with the the new language (page 1, lines 34-40) for clarification purposes as proposed in HB 2960.

Mr. Griggs then distributed copies of a balloon amendment (Attachment 4) which, he explained, is being requested by Representative David Miller. He said that although the substance of the amendment is contained in statutes relating to the Department of Corrections, the proposed amendment would, insert the language into statutes as they relate to school districts.

The Chairman next called upon Ms. Brilla Highfill Scott, associate executive director, United School Administrators of Kansas. Ms. Scott listed the other organizations for whom she also was testifying (Attachment 5) in support of HB 2960. Replying to a question, Ms. Scott responded that she saw no problem with the amendment as suggested by Representative Miller as long as it is an option.

When the Chair called for further conferees to testify on HB 2960, there was no response.

The Chair then called the Committee's attention to an amendment to HB 2960 which, he said, had been suggested by the revisor of statutes: on page 1, in line 34, after (5), by inserting "materials,"; also in line 34, after "goods", by inserting ", wares". The revisor explained that the suggested amendment is a cosmetic change.

When the Chair entertained a motion regarding the suggested amendment, Senator Langworthy made a conceptual motion to amend HB 2960, as suggested by the revisor, The motion was seconded by Senator Anderson, and the amendment was adopted.

Senator Montgomery moved that HB 2960, as amended, be recommended favorably for passage. Senator Allen seconded the motion.

Senator Karr made a substitute conceptual motion to amend HB 2960 with the balloon amendment as suggested by Representative David Miller. Senator Anderson seconded the motion, and the amendment was adopted.

In response to a question, Mr. Griggs reaffirmed that currently school districts are allowed the purchase option as stated in the balloon amendment.

The Chairman related that in deference to Committee members who were excused

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MINUTES OF THE SENATE COMMITTEE ON EDUCATION,
room 123-S, Statehouse, at 1:30 ~~a.m.~~/p.m. on Monday, March 19, 19 90

before the end of the meeting, he would postpone a vote on HB 2960 until tomorrow.

Senator Frahm moved, and Senator Allen seconded the motion to approve minutes of the meeting of March 13, and the minutes were approved.

The Chair adjourned the meeting.

SENATE EDUCATION COMMITTEE

TIME: 1:30 p.m. PLACE: 123-S DATE: Monday, March 19, 1990

GUEST LIST

| <u>NAME</u> | <u>ADDRESS</u> | <u>ORGANIZATION</u> |
|-----------------------|----------------|---------------------------|
| Ray Miles | Topeka | K-NEA |
| Craig Grant | Topeka | K-NEA |
| Chuck Stuart | Topeka | United School Adm's of KS |
| Beilla Highfile Scott | Topeka | USA |
| Arthur H. Crapp | Topeka | Dept. of Adm. |
| Pat Baker | Topeka | KASB |
| Charles Dodson | TOPEKA | KAPE |
| Monty Bertelli | Topeka | KDHR Labor Relations |
| Gerald Anderson | TOPEKA | USA of KS |
| Connie Haezel | Topeka | SE 05/40 |
| B. Joseph | AP | |
| Mary Birch | O.P. | Chambers of Commerce |

BARBARA LAWRENCE
REPRESENTATIVE, 84TH DISTRICT
SEDGWICK COUNTY
P.O. BOX 8582
WICHITA, KANSAS 67208



TOPEKA

HOUSE OF
REPRESENTATIVES

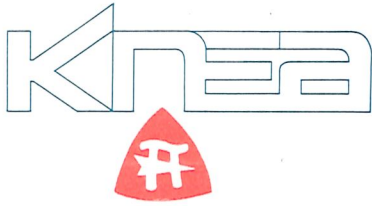
COMMITTEE ASSIGNMENTS
MEMBER: JUDICIARY
LABOR AND INDUSTRY
TRANSPORTATION

TESTIMONY BEFORE SENATE EDUCATION COMMITTEE
HB 2883

By: Representative Barbara Lawrence

HB 2883 is a bill which deals with the privileges which may be granted to the recognized exclusive professional employees' organization in the professional negotiations statute. There is a process that is used to have the employees vote on which, if any, professional employees' organization should represent the teachers in negotiations. When that process is completed, the winning organization is certified as the exclusive organization. The negotiations law sets forth a series of privileges which can be negotiated for the exclusive professional employees.

HB 2883 would change the present statute to indicate that once the elections were held and the privileges were granted through the negotiations process, that the board of education would not offer these privileges to any other employees organization.



Craig Grant Testimony Before The
Senate Education Committee
Monday, March 19, 1990

Thank you, Mr. Chairman. I am Craig Grant and I represent Kansas-NEA. I appreciate this opportunity to visit with the committee in support of HB 2883.

Kansas-NEA certainly does believe in the concepts in HB 2883. Presently, under the negotiation statute, professional employees can designate if they wish to be represented by an organization for the purpose of negotiations. When an organization is selected, a number of responsibilities are thrust upon it. The organization must negotiate for all employees, must deal with contract problems for all employees no matter whether they are members of the organization or not. These are all responsibilities the organization accepts when it seeks to be the recognized organization. By stating in KSA 72-5415 that the group shall be the "exclusive representative of all the professional employees in the unit", we understand that such responsibilities exist.

When drafting the PN act, the legislature recognized that certain privileges possibly should be granted the recognized professional employees organization. In passing the list of what was negotiable, the legislature established an entire section of things which were determined to be privileges which could be negotiated. On page 3 of the bill, starting on line 41, you will find the list of such privileges which can be negotiated.

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Attachment 2

What we found was that in some locations, when privileges were negotiated, the same set of privileges were granted to another employees organization. This was not done through the negotiations process, but just done. Kansas-NEA believes that HB 2883 would clarify what we believe to be the essential element of being an exclusive representative--that certain privileges would be allowed only to that group.

Page 4, lines 10 through 14, are the only substantive changes in the bill. The policy change would mean that when privileges are granted through the negotiations process to the exclusive representative, those privileges would not be made available to any other employee organization. If they are not granted through that process, they could be available to all organizations. I would add that when a challenge to an exclusive representative is made, privileges of access to the teachers would be equal among all the organizations.

These changes will work against our organization in some local areas as we are not the recognized organization in all of the 270+ districts which recognize an employee organization. However, we believe that the principle is sound and that the exclusive representative should have certain privileges which are not given to other organizations.

Kansas-NEA asks that this committee pass HB 2883 favorably. Thank you for listening to the concerns of our members.

Jon Miller, President, NEA-Wichita
Written Testimony before the Senate Education Committee
on HB 2883

Thank you for allowing me to offer my testimony in writing. Mr. Chairman, members of the committee, my name is Jon Miller and I am the president of the National Education Association-Wichita, the employee organization which was certified as the bargaining agent for USD 259's more than 3,000 teachers on January 31, 1990.

Our organization heartily and fully supports HB 2883 and we hope it will receive a favorable vote and recommendation from this Committee to the full Senate.

In the past eight years, the teachers of Wichita have faced six representation elections. NEA-Wichita has emerged as the winner each time and has remained as the exclusive bargaining agent for teachers in Wichita. We have undertaken all of the responsibilities which belong with that designation. However, we have found that we have not received all of the rights we believe should go with those responsibilities.

Our situation brings to mind this analogy: When I see President Bush on television, I do not see Mr. Dukakis pictured nearby waiting his turn to be recognized. As I address this committee, I do not see standing behind each of you the losing candidate waiting his or her turn to speak or vote. Nor do I receive franked communications from these losing candidates. When President Bush, and each of you, won your elections, there came with those victories certain privileges and rights due the victor.

Yet, NEA-Wichita does not have the rights which should go to an elected and exclusive representative. We share those rights with the losing organization. We believe HB 2883 would finally give recognition to the rights which should belong to the duly elected representative of teachers.

Two court cases lend credence to our call for exclusivity and overcome potential objections to the concept: Local 858 of the American Federation of Teachers v. School District No. 1 in the County of Denver, and Federation of Delaware Teachers v. De La Warr Board of Education. In both cases, prevailing state law provided that certain exclusive rights were due the winning organization (just like HB 2883).

In both cases the scenario ran something like this: There were two teacher organizations in the district which sought the loyalty of that district's teachers (just like Wichita). In order to determine which organization should serve as the exclusive representative for all, a representation election was held (just like Wichita's six elections). A winner was announced and certified as the sole and exclusive spokesman for all the certificated employees in that district (just like Wichita).

Here the similarity ends. In each of the above cases, prevailing state law provided that certain exclusive rights were due the winning organization (which is not the situation currently in Kansas). The losing organization sought redress through the courts.

In both cases, the Courts found that exclusive representation:

1. Allows all employees to exercise the right to form and join unions in the context of public employment;
2. Provides the duly elected representative a ready means of communicating with all employees, not just its membership, thus assuring a viable, effective employee organization;
3. Ensures labor peace in the public sector, enabling government bodies to effectively execute their assigned duties.

The courts explained that "orderly functioning of the schools as education institutions is insured through limiting of the span when they may become a labor battlefield," and that "the representation union is not subject to competition within the schools, and thus is better able to function as a representative, its efforts not spent in constant competition with the union that lost the representation election." The courts went on to summarize, "All the benefits from the grant of exclusive privileges to the elected representative serve the principal policy of insuring labor peace in public schools. Labor peace means a continuity of ordered collective bargaining between school officials and representatives of the teachers. It means a lower incidence of labor conflict and strife, thus insuring less interference with the functioning of the public schools as educational institutions." In essence, employers can expect that their employees will be focusing their full attention on being employees rather than constantly diverting their attention to employee union matters.

The courts also noted that the responsibilities of the winning organization were counterbalanced with certain exclusive rights. That is not the situation currently in Kansas. It is, however, the case in the other 32 states that have collective bargaining laws.

We urge you to lend credibility to the rights of the elected representative and recommend HB 2883 favorably for passage. Thank you for your time, and for your consideration.

HOUSE BILL No. 2960

By Committee on Education

2-8

9 AN ACT concerning school districts; relating to certain expenditures;
10 amending K.S.A. 1989 Supp. 72-6760 and repealing the existing
11 section.
12

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

14 Section 1. K.S.A. 1989 Supp. 72-6760 is hereby amended to read
15 as follows: 72-6760. (a) No expenditure involving an amount greater
16 than \$10,000 for construction, reconstruction or remodeling or for
17 the purchase of materials, goods or wares shall be made by the board
18 of education of any school district except:

19 (1) upon sealed proposals, *and* to the lowest responsible bidder;
20 ~~or~~

21 (2) upon inspection of the file or record of bids and bidders
22 required by K.S.A. 75-3740; and amendments thereto; to be
23 maintained by the director of purchases; to a bidder whose
24 name is a part of such file or record.

25 (b) The provisions of subsection (a) do not apply to expenditures
26 for the purchase of:

27 (1) Products required to be purchased under the provisions of
28 K.S.A. 75-3317 to 75-3322, inclusive, and amendments thereto;

29 (2) educational materials directly related to curriculum and se-
30 cured by copyright;

31 (3) motor fuels required to provide or furnish transportation; and

32 (4) perishable foods and foodstuffs required for operation of a
33 school lunch program; ~~and~~

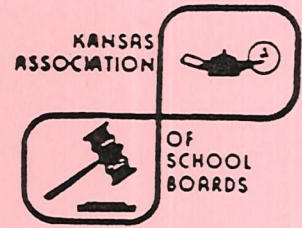
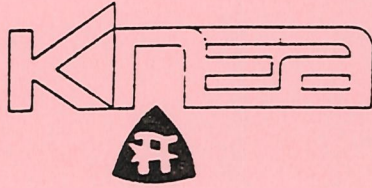
34 (5) *goods or services which are purchased.*

35 (A) *From vendors who have entered into contracts with the state*
36 *director of purchases pursuant to state purchasing statutes for pur-*
37 *chases by state agencies; and*

38 (B) *under the same pricing provisions established in the state*
39 *contracts, subject to agreement of the vendor to honor the state*
40 *contract prices.*

41 (c) Whenever the board of education of any school district lets
42 bids for the purchase of materials, goods or wares and bids are
43 submitted by bidders domiciled within the school district and by

; and (6) purchases made from the secretary of corrections
pursuant to K.S.A. 75-5276.



House Bill 2960

SCHOOL DISTRICT STATE BID LIST EXPENDITURES

Testimony presented before the Senate Education Committee

by
Brilla Highfill Scott, Associate Executive Director
United School Administrators of Kansas

March 19, 1990

**Kansas Association of School Boards
Kansas-National Education Association
Schools for Quality Education
United School Administrators of Kansas
Blue Valley USD 229
Shawnee Mission USD 512
Topeka USD 501
Wichita USD 259**

Mr. Chairman and Members of the Committee:

My testimony today represents the collective views of the organizations and school districts listed above. The education community supports this bill as a means of modifying statutes to reflect state bid options offered to school districts during the last legislative session.

This bill will allow school districts to exceed the compulsory bid limit of \$10,000 if purchases are made from the State Purchasing List. Since this list is established through a state bidding process, the local school districts will benefit in both time and monies saved.

Thank you for your consideration of our request.

Education
3/19/90
Attachment 5