

MINUTES OF THE HOUSE COMMITTEE ON EDUCATION K-12.

The meeting was called to order by Chairperson Kathe Decker at 9:00 a.m. on March 20, 2003 in Room 313-S of the Capitol.

All members were present except: Representative Yonally

Committee staff present: Kathie Sparks, Legislative Research Department
Jill Wolters, Office of the Revisor of Statutes
Ann Deitcher, Committee Secretary

SB 120 - Relating to hearings provided for teachers upon notice of non-renewal or termination of contracts of employment.

Jill Wolters explained the amendment being made to **SB 120**. (Attachment 1).

A motion was made by Representative DeCastro and seconded by Representative Williams to work SB 120 and pass favorably as amended out of committee.

Representative Flaharty moved that the amendment be made to SB 120. The motion was seconded by Representative DeCastro and passed on a voice vote.

The previous motion to pass SB 120 favorably out of committee as amended passed on a voice vote.

SB 55 - To delete requirement that school district boards of education publish resolution each July indicating day of week and week of month that meetings will be held for upcoming year.

A motion was made by Representative Powell and seconded by Representative Miller that SB 55 be worked by the committee and passed favorably.

The Chair pointed out that on page 1, beginning n line 18, the language could be returned to the bill that had been struck. It would then read, "If for any reason the meeting can not be held on the regular meeting date it will be noted in the resolution and in case of an emergency, if the school board meeting has to be cancelled, the board will give notice to the public within 24 hours of the new date of meeting."

Representative Crow asked that the struck words be replaced with "as well as the day of the week of the month. Such resolution shall also specify the alternate meeting day and time in the event that the regular meeting date occurs on a Sunday or on a legal holiday or on a holiday specified by the board."

A motion for this amendment to SB 55 was made by Representative Crow and seconded by Representative Peterson. The motion to amend passed on a voice vote.

The motion by Representative Powell and seconded by Representative Miller to pass favorably as amended passed on a voice vote. Representative Phelps and Representative Ostmeyer asked to be recorded as dissenting votes.

SB 117 - Relating to hearings provided for teachers upon notice of non-renewal or termination of contracts of employment.

Copies of an amended **SB 117** were distributed. (Attachment 2).

Dale Dennis spoke to the committee in explanation of **SB 117**.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON EDUCATION K-12 at on March 20, 2003 in Room 313-S of the Capitol.

A motion was made by Representative Storm and seconded by Representative Horst that **SB 119** be passed favorably out of committee.

Representative Storm moved that **SB 117** be amended into **SB 119**.

A motion was made by Representative Decker and seconded by Representative Morrison that on page 2, the last line of section 2, (b), following the words "shall be" be amended to read "split equally between all parties:.. The motion to amend failed on a show of hands.

The motion to pass **SB 119** favorably out of committee, as amended, passed on a voice vote.

The meeting was adjourned at 10:15. The next meeting is scheduled for Friday, March 21, 2003.

1 [As Amended by Senate Committee of the Whole]

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3 As Amended by Senate Committee

4 Session of 2003

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6 **SENATE BILL No. 120**

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8 By Committee on Education

9
10 1-31

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12 AN ACT concerning school districts; */relating to the powers and du-*
13 *ties of the board of education;/* relating to certain expenditures;
14 amending K.S.A. *[72-5126 and]* 72-6760 and repealing the existing
15 ~~section~~ *[sections]*.

16
17 *Be it enacted by the Legislature of the State of Kansas:*

18 *[Section 1. K.S.A. 72-5126 is hereby amended to read as fol-*
19 *lows: 72-5126. (a) The board of education of any school district may*
20 *enter into contracts with:*

21 *[(1) The governing authority of any nonpublic school or any*
22 *child-care institution for the provision of meals for children in at-*
23 *tendance at such nonpublic school or child-care institution;*

24 *[(2) the governing body of any municipality for the provision*
25 *of meals to persons for whom the municipality is responsible for*
26 *providing meals; and*

27 *[(3) subject to the provisions of K.S.A. 72-5127, and amend-*
28 *ments thereto, any state educational institution or corporation*
29 *whose operations are substantially controlled by a state educa-*
30 *tional institution for the provision of meals for students, alumni and*
31 *other members of the public in attendance at functions or activities*
32 *of the state educational institution; and*

33 *[(4) any nonprofit organization for the provision of food services for*
34 *the elderly, sick, homeless or other vulnerable persons.*

35 *[(b) Any contract entered into by a board of education pursuant*
36 *to the provisions of this section shall provide for payment by the*
37 *nonpublic school, child care institution, municipality, state educational*
38 *institution or corporation, as applicable, of the costs incurred by to the*
39 *district. Such payment shall not be less than the cost incurred by the*
40 *school district. Moneys received by a school district under any such*
41 *contract shall be deposited in the food service fund of the district*
42 *and may be expended whether budgeted or not.*

43 *[(c) The provisions contained in article 51 of chapter 72 of Kan-*

Proposed amendment
Requested by Wichita Public Sc
March 19, 2003

House Education Committee
Date: 3/20/03
Attachment # 1-1

1 *sas Statutes Annotated, except the provisions contained in K.S.A.*
 2 *72-5117 and 72-5118, and amendments thereto, shall apply to meals*
 3 *provided by the board of education of a school district under any*
 4 *contract entered into pursuant to the provisions of this section.*

5 *[(d) As used in this section, the term "nonpublic school" means a*
 6 *nonpublic school approved by the state board of education for partici-*
 7 *ipation in food service programs defined in K.S.A. 72-5112, and amend-*
 8 *ments thereto, the term "child care institution" has the meaning ascribed*
 9 *thereto in K.S.A. 72-5124, and amendments thereto, the term "municipi-*
 10 *ality" means any county, township, city, or other political or taxing sub-*
 11 *division of the state, or any agency, authority, institution or other instru-*
 12 *mentality thereof, and the term "state educational institution" has the*
 13 *meaning ascribed thereto in K.S.A. 76-711, and amendments thereto;*

14 *[(1) "Nonpublic school" means a nonpublic school approved by the*
 15 *state board of education for participation in food service programs defined*
 16 *in K.S.A. 72-5112, and amendments thereto;*

17 *[(2) "child-care institution" has the meaning ascribed thereto in*
 18 *K.S.A. 72-5124, and amendments thereto;*

19 *[(3) "municipality" means any political or taxing subdivision of the*
 20 *state and any agency, authority, institution or instrumentality of a mu-*
 21 *nicipality; and*

22 *[(4) "state educational institution" has the meaning ascribed thereto*
 23 *by K.S.A. 76-711, and amendments thereto.]*

24 ~~Section 1.~~ *[Sec. 2.] K.S.A. 72-6760 is hereby amended to read as*
 25 *follows: 72-6760. (a) Except as provided by this section and K.S.A. 72-*
 26 *6760b, no expenditure involving an amount greater than ~~\$10,000~~ \$20,000*
 27 *for construction, reconstruction or remodeling or for the purchase of*
 28 *materials, goods or wares shall be made by the board of education of any*
 29 *school district except upon sealed proposals, and to the lowest responsible*
 30 *bidder.*

31 *(b) The provisions of subsection (a) do not apply to expenditures by*
 32 *a board of education for the purchase of:*

33 *(1) Services;*

34 *(2) products required to be purchased under the provisions of K.S.A.*
 35 *75-3317 through 75-3322, and amendments thereto;*

36 *(3) educational materials directly related to curriculum and secured*
 37 *by copyright;*

38 *(4) motor fuels required to provide or furnish transportation;*

39 *(5) ~~perishable foods and foodstuffs required for operation of a school~~*
 40 *lunch program food and foodstuffs necessary for the implementation or*
 41 *operation of any federal child nutrition program;*

42 *(6) articles or products that are produced, manufactured or provided*
 43 *by inmates under the prison-made goods act of Kansas;*

will read

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1 (7) natural gas that will be consumed in buildings owned or operated
2 by the school district;

3 (8) materials, goods or wares required for reconstructing, remodel-
4 ing, repairing or equipping buildings when such purchase has been nec-
5 essitated by the occurrence of a loss against which the board of education
6 has purchased property or casualty insurance; and

7 (9) materials, goods or wares which are purchased;

8 (A) From vendors who have entered into contracts with the state
9 director of purchases pursuant to state purchasing statutes for purchases
10 by state agencies; ~~and~~

11 (B) under the same pricing provisions established in the state con-
12 tracts, subject to agreement of the vendor to honor the state contract
13 prices;

14 (c) Whenever the board of education of any school district lets bids
15 for the purchase of materials, goods or wares and bids are submitted by
16 bidders domiciled within the school district and by bidders domiciled
17 outside the school district and the low bid is submitted by a bidder dom-
18 iciled outside the school district, the school district domiciliary which
19 submitted the lowest bid may be deemed the preferred bidder and
20 awarded the bid if:

21 (1) The quality, suitability and usability of the materials, goods or
22 wares are equal;

23 (2) the amount of the bid of the school district domiciliary is not more
24 than 1% greater than the amount of the low bid; and

25 (3) the school district domiciliary agrees to meet the low bid by filing
26 a written agreement to that effect within 72 hours after receiving notifi-
27 cation of being deemed the preferred bidder.

28 (d) The provisions of subsection (c) do not apply to expenditures for
29 construction, reconstruction or remodeling.

30 Sec. ~~2~~ [3.] K.S.A. ~~72-6760 is~~ [72-5126 and 72-6760 are] hereby
31 repealed.

32 Sec. ~~2~~ [4.] This act shall take effect and be in force from and after
33 its publication in the statute book.

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_____ ; and
(C) under the same pricing provisions established in federal, national or
other state contracts facilitated by a federal or local governmental entity or
agency, subject to:
(i) Agreement of the vendor to honor the contract prices; and
(ii) approval by the board of education for expenditures in an amount
greater than \$20,000

SENATE BILL No. 119

By Committee on Education

1-31

AN ACT concerning teachers ~~employed at the state school for the blind or the state school for the deaf~~ relating to hearings provided upon notice of nonrenewal or termination of contracts of employment; amending K.S.A. ~~76-11a05, 76-11a06, 76-11a07, 76-11a08, 76-11a09, 76-11a10, 76-11a11, 76-11a12, 76-11a13 and 76-11a14~~ and repealing the existing sections.

72-5438, 72-5440,

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

Section 1. K.S.A. 76-11a05 is hereby amended to read as follows: 76-11a05. All contracts of employment of teachers shall be deemed to continue for the next succeeding school year unless written notice of termination or nonrenewal is served as provided in this section. Written notice to terminate a contract may be served by the state board upon any teacher prior to the time the contract has been completed, and written notice of intention to nonrenew a contract shall be served by the state board upon any teacher on or before ~~April 10~~ *May 1*. A teacher shall give written notice to the state board that the teacher does not desire continuation of the contract on or before ~~May 10~~ *15*. Terms of a contract may be changed at any time by mutual consent of both the teacher and the state board.

Sec. 2. K.S.A. 76-11a06 is hereby amended to read as follows: 76-11a06. (a) Whenever a teacher is given written notice of intention by the state board to nonrenew or to terminate the contract of the teacher as provided in K.S.A. 76-11a05, *and amendments thereto*, the written notice of the proposed nonrenewal or termination shall include: (1) A statement of the reasons for the proposed nonrenewal or termination; and (2) a statement that the teacher may have the matter heard by a hearing ~~committee officer~~ upon written request filed with the commissioner of education within 15 days from the date of such notice of nonrenewal or termination.

(b) ~~The~~ *Within 10 calendar days after the filing of a* written request ~~of the~~ *by any* teacher to be heard ~~shall include therein a designation of one hearing committee member. Upon the filing of any such request as provided in subsection (a), the state board shall designate, within 15 days thereafter, one hearing committee member. The two hearing committee members shall designate a third hearing committee member who shall~~

Section 1. K.S.A. 72-5438 is hereby amended to read as follows: 72-5438. (a) Whenever a teacher is given written notice of intention by a board to not renew or to terminate the contract of the teacher as provided in K.S.A. 72-5437, and amendments thereto, the written notice of the proposed nonrenewal or termination shall include: (1) A statement of the reasons for the proposed nonrenewal or termination; and (2) a statement that the teacher may have the matter heard by a hearing officer upon written request filed with the clerk of the board of education or the board of control or the secretary of the board of trustees within 15 calendar days from the date of such notice of nonrenewal or termination.

(b) ~~Upon~~ *Within 10 calendar days after* the filing of any written request of a teacher to be heard as provided in subsection (a), ~~within 10 calendar days thereafter~~, the board shall notify the commissioner of education that a list of qualified hearing officers is required. Such notice shall contain the mailing address of the teacher. Within 10 days after receipt of notification from the board, the commissioner shall provide to the board and to the teacher, a list of ~~nine~~ *five* randomly selected, qualified hearing officers.

(c) Within ~~5~~ *five* days after receiving the list from the commissioner, each party shall eliminate ~~four~~ *two* names from the list, and the remaining individual on the list shall serve as hearing officer. In the process of elimination, each party shall eliminate no more than one name at a time, the parties alternating after each name has been eliminated. The first name to be eliminated shall be chosen by the teacher; within ~~5~~ *five* days after the teacher receives the list. The process of elimination shall be completed within ~~5~~ *five* days thereafter.

(d) Either party may request that one new list be provided within ~~5~~ *five* days after receiving the list. If such a request is made, the party

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making the request shall notify the commissioner and the other party, and the commissioner shall generate a new list and distribute it to the parties in the same manner as the original list.

(e) In lieu of using the process provided in subsections (b) and (c), if the parties agree, they may make a request to the American Arbitration Association for an arbitrator to serve as the hearing officer. Any party desiring to use this alternative procedure shall so notify the other party in the notice required under subsection (a). If the parties agree to use this procedure, the parties shall make a joint request to the American Arbitration Association for a hearing officer within 10 days after the teacher files a request for a hearing. If the parties choose to use this procedure, the parties shall each pay one-half of the cost of the arbitrator and of the arbitrator's expenses.

(f) The commissioner of education shall compile and maintain a list of hearing officers comprised of residents of this state who are attorneys at law. Such list shall include a statement of the qualifications of each hearing officer.

(g) Attorneys interested in serving as hearing officers under the provisions of this act shall submit an application to the commissioner of education. The commissioner shall determine if the applicant is eligible to serve as a hearing officer pursuant to the provisions of subsection (h).

(h) An attorney shall be eligible for appointment to the list if the attorney has: (1) Completed a minimum of 10 hours of continuing legal education credit in the area of education law, due process, administrative law or employment law within the past five years; or (2) previously served as the chairperson of a due process hearing committee prior to the effective date of this act. An attorney shall not be eligible for appointment to the list if the attorney has been employed to represent a board or a teacher in a due process hearing within the past five years.

8-8

Sec. 2. K.S.A. 72-5440 is hereby amended to read as follows: 72-5440. (a) For appearing before the hearing officer at a hearing, witnesses who are subpoenaed shall receive \$5 per day and mileage at the rate prescribed under K.S.A. 75-3203, and amendments thereto, for miles actually traveled in going to and returning from attendance at the hearing. The fees and mileage for the attendance of witnesses shall be paid by the party calling the witness, except that fees and mileage of witnesses subpoenaed by the hearing officer shall be paid by the board. Witnesses voluntarily appearing before the hearing officer shall not receive fees or mileage for attendance at the hearing.

(b) The hearing officer shall be paid ~~\$240 per diem compensation, or a portion thereof, for each day of in actual attendance at the hearing or and for any meeting held for the purpose of performing compensation for time spent in actual attendance at the hearing and for time spent in performance of the hearing officer's official duties.~~ In addition to compensation, the hearing officer shall be paid subsistence allowances, mileage, and other expenses as provided in K.S.A. 75-3223, and amendments thereto. The costs for the services of the hearing officer shall be paid by the board.

(c) Testimony at a hearing shall be recorded by a certified shorthand reporter. The cost for the certified shorthand reporter's services shall be paid by the board. The ~~transcript~~ testimony shall be transcribed if the decision of the hearing officer is appealed to the district court, or if either party requests transcription. The appellant or the party making the request shall pay for the cost of transcription. If both parties jointly request that the ~~transcript~~ testimony be transcribed at the hearing level, the parties shall each pay one-half of the cost of transcription.

(d) Each party shall be responsible for the payment of its own attorney fees.

(e) All costs of a hearing which are not specifically allocated in this section shall be paid by the board.

Re-number remaining sections accordingly.

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1 tial evidence to support the teacher's claim, the state board shall be re-
2 quired to submit to the ~~committee~~ *hearing officer* any reasons which may
3 have been involved in the nonrenewal *or termination*:

4 (e) if the state board ~~has~~ *presents* any substantial evidence to support
5 its reasons, the state board's decision not to renew *or to terminate* the
6 contract shall be upheld.

7 New Sec. 11. If any clause, paragraph, subsection or section of this
8 act shall be held invalid or unconstitutional, it shall be conclusively pre-
9 sumed that the legislature would have enacted the remainder of the act
10 without such invalid or unconstitutional clause, paragraph, subsection or
11 section.

12 Sec. 12. K.S.A. 76-11a05, 76-11a06, 76-11a07, 76-11a08, 76-11a09, 72-5438, 72-5440,
13 76-11a10, 76-11a11, 76-11a12, 76-11a13 and 76-11a14 are hereby
14 repealed.

15 Sec. 13. This act shall take effect and be in force from and after its
16 publication in the statute book.

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