

Substitute for HOUSE BILL NO. 2325

By Committee on Commerce, Labor and Economic Development

AN ACT concerning public and professional employee organizations; relating to transparency in collective bargaining; amending K.S.A. 2015 Supp. 72-5423 and 75-4327 and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 72-5423 is hereby amended to read as follows: 72-5423.

(a) Nothing in this act, or the act of which this section is amendatory, shall be construed to change or affect any right or duty conferred or imposed by law upon any board of education, except that boards of education are required to comply with this act, and the act of which this section is amendatory, in recognizing professional employees' organizations, and when such an organization is recognized, the board of education and the professional employees' organization shall enter into professional negotiations on request of either party at any time during the school year prior to issuance or renewal of the annual teachers' contracts. Notices to negotiate on new items or to amend an existing contract must be filed on or before March 31 in any school year by either party, such notices shall be in writing and delivered to the chief administrative officer of the board of education or to the representative of the bargaining unit and shall contain in reasonable and understandable detail the purpose of the new or amended items desired.

(b) (1) Upon entering negotiations pursuant to this section, the parties shall negotiate compensation of professional employees and hours and amounts of work. In addition, each party may select not more than three additional terms and conditions of professional service from the list described in K.S.A. 72-5413(l)(1), and amendments thereto, for negotiation. All other terms and conditions of professional service described in K.S.A. 72-5413(l)(1), and amendments thereto, shall be deemed permissive topics for negotiation and shall only be negotiated upon the

mutual agreement of the parties.

(2) For purposes of this section, the term "compensation" means salary and wages, supplemental contract salaries and pay for overtime.

(3) The provisions of this subsection shall not apply to negotiations between a board of education and a professional employees' organization negotiating for the purpose of reaching their first agreement.

(c) (1) Except as otherwise expressly provided in this subsection, every meeting, conference, consultation and discussion between a professional employees' organization or its representatives and a board of education or its representatives during the course of professional negotiation and every hearing conducted by the secretary under K.S.A. 72-5426, and amendments thereto, for determination of the question of the existence of impasse is subject to the provisions of the Kansas open meetings law, and any amendments or supplements thereto. Meetings, conferences, consultations and discussions held by the secretary under K.S.A. 72-5426, and amendments thereto, for investigation of the question of the existence of impasse, and meetings, conferences, consultations and discussions held during the course of and in connection with, and the meeting required at the conclusion of, impasse resolution proceedings, as provided for in K.S.A. 72-5427 and 72-5428, and amendments thereto, are specifically made exempt from the provisions of the Kansas open meetings law, and any amendments or supplements thereto.

(2) Offers and counteroffers and any document discussed, referred to or distributed by or to either party during the course of professional negotiations between a professional employees' organization or its representatives and a board of education or its representatives shall be subject to the provisions of the Kansas open records act, except that the exceptions to

public disclosure under K.S.A. 45-221(a)(15) and (a)(25), and amendments thereto, shall not apply. The board of education and the professional employees' organization shall place the offers, counteroffers and other documents on the respective websites of the board of education and the professional employee organization within 30 days after the offer, counteroffer or document has been discussed, referred to or distributed. In the case where the website does not exist or is not available, the offers, counteroffers and other documents shall be provided in electronic format to the public upon request.

(d) Nothing in this act, or the act of which this section is amendatory, shall be construed to authorize a strike by professional employees.

(e) Any agreement lawfully made under the provisions of this act, or the act of which this section is amendatory, may be adopted by reference and made a part of the employment contract between any professional employee of the applicable negotiating unit and a board of education for a period of not to exceed three years.

(f) Those individuals selected by the board of education and the professional employees' organization to conduct negotiations pursuant to this act shall complete training on conducting negotiations each year. The content and format of the training for these individuals shall be determined by the respective party each individual represents in negotiations.

Sec. 2. K.S.A. 2015 Supp. 75-4327 is hereby amended to read as follows: 75-4327. (a) Public employers shall recognize employee organizations for the purpose of representing their members in relations with public agencies as to grievances and conditions of employment. Employee organizations may establish reasonable provisions for an individual's admission to or dismissal from membership.

(b)(1) Where an employee organization has been certified by the board as representing a majority of the employees in an appropriate unit, or recognized formally by the public employer pursuant to the provisions of this act, the appropriate employer shall meet and confer in good faith with such employee organization in the determination of conditions of employment of the public employees as provided in this act, and may enter into a memorandum of agreement with such recognized employee organization.

(2) Except as otherwise provided in this act, every meeting, conference, consultation and discussion between a public employer or its representatives and an employee organization or its representatives in the course of meeting and conferring for the purpose of determining the conditions of employment of the public employees as provided in this act shall be subject to the provisions of the Kansas open meetings act, except that the exception under K.S.A. 75-4319(b)(3), and amendments thereto, shall not apply.

(3) Except as otherwise provided in this act, offers, counteroffers, memoranda of agreement or any other document discussed, referred to or distributed by or to either party during the course of meet and confer meetings or negotiations between a public employer or its representatives and an employee organization or its representatives shall be subject to the provisions of the Kansas open records act, except that the exceptions to public disclosure under K.S.A. 45-221(a)(15) and (a)(25), and amendments thereto, shall not apply. The public employer and the employee organization shall place the offers, counteroffers, memoranda of agreement and other documents on the respective websites of the public employer and the employee organization within 30 days of the document being discussed, referred to or distributed. In the case where the website does not exist or is unavailable, the offers, counteroffers, memoranda of

agreement and other documents shall be provided in electronic format to the public upon request.

(c) A recognized employee organization shall represent not less than a majority of the employees of an appropriate unit. When a question concerning the designation of an appropriate unit is raised by a public agency, employee organization or by five or more employees, the public employee relations board, at the request of any of the parties, shall investigate such question and, after a hearing in accordance with the provisions of the Kansas administrative procedure act, rule on the definition of the appropriate unit in accordance with subsection (e).

(d) Following determination of the appropriate unit of employees, the public employee relations board, at the request of the public employer or on petition of employees, shall investigate questions and certify to the parties in writing, the names of the representatives that have been designated for an appropriate unit. The filing of a petition for the investigation or certification of a representative of employees shall show the names of not less than 30% of the employees within an appropriate unit. In any such investigation, the board may provide for an appropriate hearing, shall determine voting eligibility and shall take a secret ballot of employees in the appropriate unit involved to ascertain such representatives for the purpose of formal recognition. Recognition shall be granted only to an employee organization that has been selected as a representative of an appropriate unit, in a secret ballot election, by a majority of the employees in an appropriate unit who voted at such election. Each employee eligible to vote shall be provided the opportunity to choose the employee organization such employee wishes to represent such employee, from among those on the ballot, or to choose "no representation." When an election in which the ballot provided for three or more choices between representatives and no representation resulted in no choice receiving a majority of the valid votes cast, the board

shall conduct a run-off election by secret ballot. The ballot in a run-off election shall only provide for a selection between the two choices receiving the largest and second largest number of votes in the original election. The board is authorized to hold elections to determine whether: (1) An employee organization should be recognized as the formal representative of employees in a unit; (2) an employee organization should replace another employee organization as the formal representative of employees in a unit; or (3) a recognized employee organization should be decertified.

Any petition calling for an election in accordance with this section shall be dismissed by the board without determining the questions raised therein if such petition is filed more than 150 days or less than 90 days prior to the expiration date of an existing memorandum of agreement which governs the terms and conditions of employment of the employees within the appropriate unit.

If the board has certified a formally recognized representative in an appropriate unit, it shall not be required to consider the matter again for a period of one year, unless the board determines that sufficient reason exists. The board may promulgate such rules and regulations as may be appropriate to carry out the provisions of subsections (c) and (d).

(e) Any group of public employees considering the formation of an employee organization for formal recognition, any public employer considering the recognition of an employee organization on its own volition and the board, in investigating questions at the request of the parties as specified in this section, shall take into consideration, along with other relevant factors: (1) The principle of efficient administration of government; (2) the existence of a community of interest among employees; (3) the history and extent of employee organization;

(4) geographical location; (5) the effects of overfragmentation and the splintering of a work organization; (6) the provisions of K.S.A. 75-4325, and amendments thereto; and (7) the recommendations of the parties involved.

(f) A recognized employee organization shall not include: (1) Both professional and other employees, unless a majority of the professional employees vote for inclusion in the organization; (2) uniform police employees and public property security guards with any other public employees, but such employees may form their own separate homogenous units; or (3) uniformed firemen with any other public employees, but such employees may form their own separate homogenous units. The employees of a public safety department of cities which has both police and fire protection duties shall be an appropriate unit.

(g) It is the intent of this act that employer-employee relations affecting the finances of a public employer shall be conducted at such times as will permit any resultant memorandum of agreement to be duly implemented in the budget preparation and adoption process. A public employer, during the 60 days immediately prior to its budget submission date, shall not be required to recognize an employee organization not previously recognized, nor shall it be obligated to initiate or begin meet and confer proceedings with any recognized employee organization for a period of 30 days before and 30 days after its budget submission date.

(h) No employee organization shall be recognized unless it establishes and maintains standards of conduct providing for: (1) The maintenance of democratic procedures and practices, including periodic elections by secret ballot and the fair and equal treatment of all members; and (2) the maintenance of fiscal integrity, including accurate accounting and periodic financial reports open to all members and the prohibition of business or financial interests by officers

which conflict with their fiduciary responsibilities.

(i) The board shall assess the reasonable costs for conducting a secret ballot of the employees against the party seeking the election. For the purposes of this subsection, the term "costs" shall include amounts expended by the board for printing of ballots and necessary postage.

Sec. 3. K.S.A. 2015 Supp. 72-5423 and 75-4327 are hereby repealed.

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