

SENATE BILL No. 469

By Committee on Ways and Means

2-18

Proposed Amendment to SB 469 #2
Senate Committee on Commerce
March 10, 2016
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Office of Revisor of Statutes

1 AN ACT concerning public employees; relating to the professional
2 negotiations act; relating to recertification of exclusive representation
3 in professional negotiations; amending K.S.A. 72-5416, 72-5417 and
4 72-5418 and K.S.A. 2015 Supp. 72-5432 and repealing the existing
5 sections; also repealing K.S.A. 72-5419.
6

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

8 New Section 1. (a) No professional employees' organization that is
9 designated or selected as the exclusive representative shall continue to
10 represent professional employees without the concurrence of a majority of
11 all professional employees in the represented unit.

12 (b) From and after July 1, 2016, the secretary shall cause ~~annual~~
13 elections to be held to certify majority support of professional employees'
14 organizations. Such elections shall occur no earlier than August 1 and no
15 later than December 1 each year.

16 (c) Upon the conclusion of a recertification election conducted
17 pursuant to this section, if the professional employees' organization
18 receives votes from a majority of all professional employees in the
19 represented unit, the professional employees' organization shall continue to
20 represent such unit. If the professional employees' organization fails to
21 receive votes from a majority of all professional employees in the
22 represented unit, or if no election is held within the time period required
23 under subsection (b), the professional employees' organization shall no
24 longer be recognized and the professional employees shall be
25 unrepresented.

26 (d) If a professional employees' organization is no longer recognized
27 after an election held pursuant to this section, the terms of any agreement
28 between the professional employees and the board of education shall
29 continue and remain in effect for the remaining term of such agreement,
30 except for any provisions involving, in any manner, the professional
31 employees' organization, including, but not limited to, organization
32 security, dues and fees and grievance and arbitration.

33 (e) A new professional employees' organization may be recognized in
34 accordance with K.S.A. 72-5416, and amendments thereto, provided the
35 professional employees' organization is not substantially similar to or
36 affiliated with any professional employees' organization that lost its

triennial

1 recognition as the exclusive representative within the immediately
2 preceding 12 months.

3 (f) In any election conducted pursuant to this section, in addition to
4 the name of any professional employees' organization entitled to be
5 contained on the ballot, the ballot also shall contain the choice of "no
6 representation." When an election in which the ballot contains three or
7 more choices results in no choice receiving a majority of the votes of all
8 professional employees in the unit, the secretary shall hold a run-off
9 election. Any run-off election shall be conducted in accordance with the
10 provisions of this section and shall only provide for a selection between
11 the two choices receiving the largest and second largest number of votes in
12 the initial election. The secretary shall certify the results of any election to
13 the parties involved therein.

14 (g) (1) The secretary shall adopt rules and regulations necessary to
15 implement the provisions of this section. Such rules and regulations, at a
16 minimum, shall:

17 (A) Ensure the purity of elections held pursuant to this section, and
18 preserve the secrecy of the ballot in any such elections;

19 (B) establish the manner in which such elections are conducted,
20 including whether elections are conducted in person, by mail, by
21 telephone, by internet-based systems or by any other means determined by
22 the secretary to be fair, confidential and reliable;

23 (C) prohibit the practice of voting by proxy in such elections; and

24 (D) allow professional employees to cast ballots for a period of seven
25 days from the start of any such election.

26 (2) The secretary may establish by rules and regulations a fee
27 schedule for the purpose of paying the expenses of conducting elections
28 held pursuant to this section. Such fees shall be collected from
29 professional employees' organizations participating in such elections.

30 (h) The provisions of this section shall be part of and supplemental to
31 the professional negotiations act.

32 New Sec. 2. The provisions of K.S.A. 72-5413 through 72-5418, 72-
33 5420 through 72-5433 and section 1, and amendments thereto, shall be
34 known and may be cited as the professional negotiations act.

35 Sec. 3. K.S.A. 72-5416 is hereby amended to read as follows: 72-
36 5416. (a) If professional employees of a board of education are not
37 represented by a professional employees' organization for the purpose of
38 professional negotiation, any professional employees' organization may
39 file a request with the board of education alleging that a majority of the
40 professional employees in an appropriate negotiating unit wish to be
41 represented for such purpose by such organization and asking the board of
42 education to recognize it as the exclusive representative under K.S.A. 72-
43 5415, and amendments thereto. Such request shall describe the grouping of

1 jobs or positions which constitute the unit claimed to be appropriate and
2 shall include a demonstration of majority support through verified
3 membership lists. Notice of such request shall immediately be posted by
4 the board of education on a bulletin board at each school or other facility
5 in which members of the unit claimed to be appropriate are employed.

6 (b) A request for recognition under subsection (a) shall be granted by
7 the board of education unless:

8 (1) The board of education has a good faith doubt as to the accuracy
9 or validity of the evidence demonstrating majority support; ~~or~~

10 (2) another professional employees' organization files with the board
11 of education within ~~ten (10)~~ 10 calendar days after the posting of notice of
12 the original request a competing request alleging majority support and
13 asking the board of education to recognize it as the exclusive
14 representative; ~~or~~

15 (3) one or more of the professional employees, included in the unit
16 claimed to be appropriate, files with the board of education within ~~ten (10)~~
17 10 calendar days after the posting of notice of the original request a
18 competing request alleging majority support and asking the board of
19 education to deny the request for recognition; ~~or~~

20 (4) the board of education, within the previous ~~twelve (12)~~ 12
21 months, has lawfully denied or withdrawn the recognition of a ~~such~~
22 professional employees' organization as the exclusive representative of the
23 professional employees included in the unit claimed to be appropriate; or
24 (5) the secretary, within the previous ~~twelve (12)~~ 12 months, has
25 conducted a secret ballot election under the provisions of ~~this act, or the~~
26 ~~act of which this section is amendatory section 1, and amendments thereto,~~
27 and the election resulted in a majority vote for no representation.

28 Sec. 4. K.S.A. 72-5417 is hereby amended to read as follows: 72-
29 5417. (a) A petition may be filed with the secretary, ~~asking the secretary to~~
30 ~~investigate and decide the question of whether (1) professional employees~~
31 ~~in an appropriate negotiating unit have designated a professional~~
32 ~~employees' organization for recognition as an exclusive representative for~~
33 ~~purposes of K.S.A. 72-5415; (2) a professional employees' organization~~
34 ~~which is the recognized exclusive representative should be replaced by~~
35 ~~another professional employees' organization; (3) recognition of a~~
36 ~~professional employees' organization as the exclusive representative~~
37 ~~should be withdrawn requesting that the secretary;~~

38 (1) Determine whether a board of education has a good faith doubt
39 as to the accuracy or validity of the claims made in a request for
40 recognition as the exclusive representative; or

41 (2) include a professional employees' organization as one of the
42 choices for exclusive representation in the immediately next succeeding
43 election held pursuant to section 1, and amendments thereto.

(b) A petition under subsection (a) may be filed by:

(1) A board of education alleging that it has received a request for exclusive recognition from a professional employees' organization and has a good faith doubt as to the accuracy or validity of the claims made in the request; or

(2) a professional employees' organization; or
~~(3) one or more professional employees seeking withdrawal of recognition of a professional employees' organization as the exclusive representative.~~

Sec. 5. K.S.A. 72-5418 is hereby amended to read as follows: 72-5418. (a) ~~Except as provided in subsection (b), upon receipt of a petition filed under K.S.A. 72-5417 and except as provided in subsection (b), the secretary or a person or persons designated by the secretary may direct and conduct a secret ballot election in order to decide the questions raised by the petition, and amendments thereto, the secretary shall place the issue raised in the petition on the ballot at the immediately next succeeding election held pursuant to section 1, and amendments thereto.~~

(b) The secretary shall dismiss, without determining the questions raised therein, any petition filed under K.S.A. 72-5417, and amendments thereto, if:

(1) The petition is filed by a professional employees' organization and is not supported by credible evidence that at least thirty percent (30%) 30% of the professional employees in the appropriate unit are desirous to be members of the professional employees' organization filing the petition; or

(2) the petition is filed by one or more professional employees, asks the secretary to determine the question of whether recognition of a professional employees' organization should be withdrawn, and is not supported by credible evidence that at least thirty percent (30%) of the professional employees in the appropriate unit support the request; or

(3) the board of education, within the previous twelve (12) months, has lawfully recognized a professional employees' organization other than the petitioner as the exclusive representative of any professional employees included in the unit described in the petition; or

(4) the board of education, within the previous twelve (12) 12 months, has lawfully denied or withdrawn the recognition of a professional employees' organization as the exclusive representative of the professional employees included in the unit described in the petition; or

~~(5) the secretary, within the previous twelve (12) months, has conducted and certified the result of a secret ballot election under the provisions of this act, or the act of which this section is amendatory.~~

Sec. 6. K.S.A. 2015 Supp. 72-5432 is hereby amended to read as follows: 72-5432. (a) The secretary of labor may adopt such rules and regulations as are necessary to implement and administer the provisions of

1 ~~K.S.A. 72-5413 through 72-5431, and amendments thereto the~~
2 ~~professional negotiations act, which place specific duties and~~
3 ~~responsibilities upon the secretary.~~

4 (b) Any rules and regulations adopted by the secretary of labor prior
5 to the effective date of this act to implement and administer the provisions
6 of ~~K.S.A. 72-5413 through 72-5431, and amendments thereto the~~
7 ~~professional negotiations act~~, shall remain in full force and effect until
8 amended, modified, suspended, revoked or nullified pursuant to law.

9 (c) The secretary of labor has the power to issue subpoenas requiring
10 the attendance of any witnesses and the production of any records, books,
11 papers and documents that the secretary considers necessary to implement
12 and administer the provisions of ~~K.S.A. 72-5413 through 72-5431, and~~
13 ~~amendments thereto the professional negotiations act~~, which place specific
14 duties and responsibilities upon the secretary. In the event of refusal to
15 obey a subpoena on the part of any person or persons, the secretary shall
16 have the authority to bring an action to enforce the subpoena in a court of
17 competent jurisdiction.

18 Sec. 7. ~~K.S.A. 72-5416, 72-5417, 72-5418 and 72-5419 and K.S.A.~~
19 ~~2015 Supp. 72-5432 are hereby repealed.~~

20 Sec. 8. This act shall take effect and be in force from and after its
21 publication in the statute book.