

*As Amended by Senate Committee*

*Session of 2016*

**SENATE BILL No. 469**

By Committee on Ways and Means

2-18

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 **triennial** elections to be held to certify majority support of professional  
14 employees' organizations. Such elections shall ~~occur no earlier than~~  
15 ~~August~~ **be held on or after January 1** and no later than ~~December~~ **each**  
16 ~~year~~ **April 1**.

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

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

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

1 affiliated with any professional employees' organization that lost its  
2 recognition as the exclusive representative within the immediately  
3 preceding ~~12~~ 36 months.

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

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

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

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

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

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

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

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

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

36 Sec. 3. K.S.A. 72-5416 is hereby amended to read as follows: 72-  
37 5416. (a) If professional employees of a board of education are not

38 represented by a professional employees' organization for the purpose of  
39 professional negotiation, any professional employees' organization may  
40 file a request with the board of education alleging that a majority of the  
41 professional employees in an appropriate negotiating unit wish to be  
42 represented for such purpose by such organization and asking the board of  
43 education to recognize it as the exclusive representative under K.S.A. 72-

1 5415, *and amendments thereto*. Such request shall describe the grouping of  
 2 jobs or positions which constitute the unit claimed to be appropriate and  
 3 shall include a demonstration of majority support through verified  
 4 membership lists. Notice of such request shall immediately be posted by  
 5 the board of education on a bulletin board at each school or other facility  
 6 in which members of the unit claimed to be appropriate are employed.

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

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

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

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

21 (4) the board of education, within the previous ~~twelve (12)~~ ~~12~~ 36  
 22 months, has lawfully denied or withdrawn the recognition of a *such*  
 23 professional employees' organization as the exclusive representative of the  
 24 professional employees included in the unit claimed to be appropriate; or

25 (5) the secretary, within the previous ~~twelve (12)~~ ~~12~~ 36 months, has  
 26 conducted a secret ballot election under the provisions of ~~this act, or the~~  
 27 ~~act of which this section is amendatory~~ *section 1, and amendments thereto*,  
 28 and the election resulted in a majority vote for no representation.

29 Sec. 4. K.S.A. 72-5417 is hereby amended to read as follows: 72-

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

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

42 (2) *include a professional employees' organization as one of the*  
 43 *choices for exclusive representation in the immediately next succeeding*

1 *election held pursuant to section 1, and amendments thereto.*

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

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

7 (2) a professional employees' organization; ~~or~~

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

11 Sec. 5. K.S.A. 72-5418 is hereby amended to read as follows: 72-  
12 5418. (a) *Except as provided in subsection (b), upon receipt of a petition*  
13 *filed under K.S.A. 72-5417 and except as provided in subsection (b), the*  
14 *secretary or a person or persons designated by the secretary may direct and*  
15 *conduct a secret ballot election in order to decide the questions raised by*  
16 *the petition, and amendments thereto, the secretary shall place the issue*  
17 *raised in the petition on the ballot at the immediately next succeeding*  
18 *election held pursuant to section 1, and amendments thereto.*

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

22 (1) The petition is filed by a professional employees' organization and  
23 is not supported by credible evidence that at least ~~thirty percent (30%)~~  
24 *30%* of the professional employees in the appropriate unit *are desire to be*  
25 members of the professional employees' organization filing the petition; or

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

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

35 (4) the board of education, within the previous ~~twelve (12)~~ *12 36*  
36 months, has lawfully denied or withdrawn the recognition of a professional  
37 employees' organization as the exclusive representative of the professional  
38 employees included in the unit described in the petition; ~~or~~

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

42 Sec. 6. K.S.A. 2015 Supp. 72-5432 is hereby amended to read as  
43 follows: 72-5432. (a) The secretary of labor may adopt such rules and

1 regulations as are necessary to implement and administer the provisions of  
2 ~~K.S.A. 72-5413 through 72-5431, and amendments thereto~~ *the*  
3 *professional negotiations act*, which place specific duties and  
4 responsibilities upon the secretary.

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

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

19 Sec. 7. K.S.A. 72-5416, 72-5417, 72-5418 and 72-5419 and K.S.A.  
20 2015 Supp. 72-5432 are hereby repealed.

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