

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) ~~{(1)}~~ 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 1~~ **be held on or after January 1** and no later than ~~December 1~~ each
16 year **April 1**.

17 **{(2) For purposes of administering such elections on a staggered**
18 **basis, the secretary shall organize all boards of education into three**
19 **groups and assign the year 2017, 2018 or 2019 to each group. On or**
20 **before August 1, 2016, the secretary shall advise all boards of education**
21 **and professional employees' organizations of the group designation and**
22 **the year of their first triennial elections.}**

23 (c) Upon the conclusion of a recertification election conducted
24 pursuant to this section, if the professional employees' organization
25 receives votes from a majority of ~~all~~ **{votes cast by}** professional
26 employees in the represented unit, the professional employees'
27 organization shall continue to represent such unit. If the professional
28 employees' organization fails to receive votes from a majority of ~~all~~ **{votes**
29 **cast by}** professional employees in the represented unit, ~~or if no election is~~
30 ~~held within the time period required under subsection (b)~~, the professional
31 employees' organization shall no longer be recognized and the professional
32 employees shall be unrepresented.

33 **{If no election is held within the time period required under**
34 **subsection (b), the secretary shall cause an election to be held pursuant**

1 *to subsection (b) the following year.}*

2 (d) If a professional employees' organization is no longer recognized
3 after an election held pursuant to this section, the terms of any agreement
4 between the professional employees and the board of education shall
5 continue and remain in effect for the remaining term of such agreement,
6 except for any provisions involving, in any manner, the professional
7 employees' organization, including, but not limited to, organization
8 security, dues and fees and grievance and arbitration.

9 (e) A new professional employees' organization may be recognized in
10 accordance with K.S.A. 72-5416, and amendments thereto, provided the
11 professional employees' organization is not substantially similar to or
12 affiliated with any professional employees' organization that lost its
13 recognition as the exclusive representative within the immediately
14 preceding ~~12~~ **36** months.

15 (f) In any election conducted pursuant to this section, in addition to
16 the name of any professional employees' organization entitled to be
17 contained on the ballot, the ballot also shall contain the choice of "no
18 representation." When an election in which the ballot contains three or
19 more choices results in no choice receiving a majority of the votes of all
20 professional employees in the unit, the secretary shall hold a run-off
21 election. Any run-off election shall be conducted in accordance with the
22 provisions of this section and shall only provide for a selection between
23 the two choices receiving the largest and second largest number of votes in
24 the initial election. The secretary shall certify the results of any election to
25 the parties involved therein.

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

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

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

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

36 (D) allow professional employees to cast ballots for a period of ~~seven~~
37 **{14}** days from the start of any such election.

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

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

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

4 Sec. 3. K.S.A. 72-5416 is hereby amended to read as follows: 72-
5 5416. (a) If professional employees of a board of education are not
6 represented by a professional employees' organization for the purpose of
7 professional negotiation, any professional employees' organization may
8 file a request with the board of education alleging that a majority of the
9 professional employees in an appropriate negotiating unit wish to be
10 represented for such purpose by such organization and asking the board of
11 education to recognize it as the exclusive representative under K.S.A. 72-
12 5415, *and amendments thereto*. Such request shall describe the grouping of
13 jobs or positions which constitute the unit claimed to be appropriate and
14 shall include a demonstration of majority support through verified
15 membership lists. Notice of such request shall immediately be posted by
16 the board of education on a bulletin board at each school or other facility
17 in which members of the unit claimed to be appropriate are employed.

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

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

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

27 (3) one or more of the professional employees, included in the unit
28 claimed to be appropriate, files with the board of education within ~~ten (10)~~
29 10 calendar days after the posting of notice of the original request a
30 competing request alleging majority support and asking the board of
31 education to deny the request for recognition; ~~or~~

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

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

40 Sec. 4. K.S.A. 72-5417 is hereby amended to read as follows: 72-
41 5417. (a) A petition may be filed with the secretary, ~~asking the secretary to~~
42 ~~investigate and decide the question of whether (1) professional employees~~
43 ~~in an appropriate negotiating unit have designated a professional~~

1 employees' organization for recognition as an exclusive representative for
2 purposes of K.S.A. 72-5415; (2) a professional employees' organization
3 which is the recognized exclusive representative should be replaced by
4 another professional employees' organization; (3) recognition of a
5 professional employees' organization as the exclusive representative
6 should be withdrawn requesting that the secretary:

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

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

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

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

18 (2) a professional employees' organization; or

19 (3) one or more professional employees seeking withdrawal of
20 recognition of a professional employees' organization as the exclusive
21 representative.

22 Sec. 5. K.S.A. 72-5418 is hereby amended to read as follows: 72-
23 5418. (a) *Except as provided in subsection (b), upon receipt of a petition*
24 *filed under K.S.A. 72-5417 and except as provided in subsection (b), the*
25 *secretary or a person or persons designated by the secretary may direct and*
26 *conduct a secret ballot election in order to decide the questions raised by*
27 *the petition, and amendments thereto, the secretary shall place the issue*
28 *raised in the petition on the ballot at the immediately next succeeding*
29 *election held pursuant to section 1, and amendments thereto.*

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

33 (1) The petition is filed by a professional employees' organization and
34 is not supported by credible evidence that at least thirty percent (30%)
35 30% of the professional employees in the appropriate unit *are desire to be*
36 members of the professional employees' organization filing the petition; or

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

42 (3) the board of education, within the previous twelve (12) months,
43 has lawfully recognized a professional employees' organization other than

1 ~~the petitioner as the exclusive representative of any professional~~
2 ~~employees included in the unit described in the petition; or~~

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

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

10 Sec. 6. K.S.A. 2015 Supp. 72-5432 is hereby amended to read as
11 follows: 72-5432. (a) The secretary of labor may adopt such rules and
12 regulations as are necessary to implement and administer the provisions of
13 K.S.A. ~~72-5413 through 72-5431, and amendments thereto~~ *the*
14 *professional negotiations act*, which place specific duties and
15 responsibilities upon the secretary.

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

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

30 Sec. 7. K.S.A. 72-5416, 72-5417, 72-5418 and 72-5419 and K.S.A.
31 2015 Supp. 72-5432 are hereby repealed.

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