

HOUSE BILL No. 2034

By Committee on Education

1-16

1 AN ACT concerning schools; relating to negotiable terms and conditions
2 in the professional negotiations act; amending K.S.A. 2014 Supp. 72-
3 5413 and repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2014 Supp. 72-5413 is hereby amended to read as
7 follows: 72-5413. As used in this act and ~~in acts amendatory thereof or~~
8 ~~supplemental amendments~~ thereto:

9 (a) The term "persons" includes one or more individuals,
10 organizations, associations, corporations, boards, committees,
11 commissions, agencies, or their representatives.

12 (b) "Board of education" means the state board of education pursuant
13 to its authority under K.S.A. 76-1001a and 76-1101a, and amendments
14 thereto, the board of education of any school district, the board of control
15 of any area vocational-technical school and the board of trustees of any
16 community college.

17 (c) "Professional employee" means any person employed by a board
18 of education in a position which requires a certificate issued by the state
19 board of education or employed by a board of education in a professional,
20 educational or instructional capacity, but shall not mean any such person
21 who is an administrative employee and, commencing in the 2006-2007
22 school year, shall not mean any person who is a retirant from school
23 employment of the Kansas public employees retirement system, regardless
24 of whether an agreement between a board of education and an exclusive
25 representative of professional employees that covers terms and conditions
26 of professional service provides to the contrary.

27 (d) "Administrative employee" means, in the case of a school district,
28 any person who is employed by a board of education in an administrative
29 capacity and who is fulfilling duties for which an administrator's certificate
30 is required under K.S.A. 72-7513, and amendments thereto; and, in the
31 case of an area vocational-technical school or community college, any
32 person who is employed by the board of control or the board of trustees in
33 an administrative capacity and who is acting in that capacity and who has
34 authority, in the interest of the board of control or the board of trustees, to
35 hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or
36 discipline other employees, or responsibly to direct them or to adjust their

1 grievances, or effectively to recommend a preponderance of such actions,
2 if in connection with the foregoing, the exercise of such authority is not of
3 a merely routine or clerical nature, but requires the use of independent
4 judgment.

5 (e) "Professional employees' organizations" means any one or more
6 organizations, agencies, committees, councils or groups of any kind in
7 which professional employees participate, and which exist for the purpose,
8 in whole or part, of engaging in professional negotiation with boards of
9 education with respect to the terms and conditions of professional service
10 or for the purpose of professional development or liability protection.

11 (f) "Representative" means any professional employees' organization
12 or any person it authorizes or designates to act in its behalf or any person a
13 board of education authorizes or designates to act in its behalf.

14 (g) "Professional negotiation" means meeting, conferring, consulting
15 and discussing in a good faith effort by both parties to reach agreement
16 with respect to the terms and conditions of professional service.

17 (h) "Mediation" means the effort through interpretation and advice by
18 an impartial third party to assist in reconciling a dispute concerning terms
19 and conditions of professional service which arose in the course of
20 professional negotiation between a board of education or its
21 representatives and representatives of the recognized professional
22 employees' organization.

23 (i) "Fact-finding" means the investigation by an individual or board of
24 a dispute concerning terms and conditions of professional service which
25 arose in the course of professional negotiation, and the submission of a
26 report by such individual or board to the parties to such dispute which
27 includes a determination of the issues involved, findings of fact regarding
28 such issues, and the recommendation of the fact-finding individual or
29 board for resolution of the dispute.

30 (j) "Strike" means an action taken for the purpose of coercing a
31 change in the terms and conditions of professional service or the rights,
32 privileges or obligations thereof, through any failure by concerted action
33 with others to report for duty including, but not limited to, any work
34 stoppage, slowdown, or refusal to work.

35 (k) "Lockout" means action taken by a board of education to provoke
36 interruptions of or prevent the continuity of work normally and usually
37 performed by the professional employees for the purpose of coercing
38 professional employees into relinquishing rights guaranteed by this act and
39 the act of which this section is amendatory.

40 (l) (1) "Terms and conditions of professional service" means: (A)
41 *With respect to the board of control of any area vocational-technical*
42 *school and the board of trustees of any community college: ~~(A)~~(i) Salaries*
43 *and wages, including pay for duties under supplemental contracts; hours*

1 and amounts of work; vacation allowance, holiday, sick, extended,
2 sabbatical, and other leave, and number of holidays; retirement; insurance
3 benefits; wearing apparel; pay for overtime; jury duty; grievance
4 procedure; including binding arbitration of grievances; disciplinary
5 procedure; resignations; termination and nonrenewal of contracts;
6 reemployment of professional employees; terms and form of the individual
7 professional employee contract; probationary period; professional
8 employee appraisal procedures; each of the foregoing being a term and
9 condition of professional service, regardless of its impact on the employee
10 or on the operation of the educational system; ~~(B)~~(ii) matters which relate
11 to privileges to be granted the recognized professional employees'
12 organization including, but not limited to, voluntary payroll deductions;
13 dissemination of information regarding the professional negotiation
14 process and related matters to members of the bargaining unit on school or
15 college premises through direct contact with members of the bargaining
16 unit; reasonable leaves of absence for members of the bargaining unit for
17 organizational purposes such as engaging in professional negotiation and
18 partaking of instructional programs properly related to the representation
19 of the bargaining unit; any of the foregoing privileges which are granted
20 the recognized professional employees' organization through the
21 professional negotiation process shall not be granted to any other
22 professional employees' organization; and ~~(C)~~(iii) such other matters as the
23 parties mutually agree upon as properly related to professional service
24 including, but not limited to, employment incentive or retention bonuses
25 authorized under K.S.A. 72-8246, and amendments thereto.

26 ~~(2)~~(B) *With respect to the state board of education pursuant to its*
27 *authority under K.S.A. 76-1001a and 76-1101a, and amendments thereto,*
28 *and the board of education of any school district: (i) Salaries and wages,*
29 *including pay for duties under supplemental contracts, and hours and*
30 *amounts of work; and (ii) such other matters as the parties mutually agree*
31 *upon as properly related to professional service including, but not limited*
32 *to: (a) Vacation allowance, holiday, sick, extended, sabbatical and other*
33 *leave, number of holidays, retirement, insurance benefits, wearing*
34 *apparel, pay for overtime, jury duty, grievance procedure, including*
35 *binding arbitration of grievances, disciplinary procedure, resignations,*
36 *termination and nonrenewal of contracts, reemployment of professional*
37 *employees, terms and form of the individual professional employee*
38 *contract, probationary period, professional employee appraisal*
39 *procedures, employment incentive or retention bonuses authorized under*
40 *K.S.A. 72-8246, and amendments thereto; and (b) matters which relate to*
41 *privileges to be granted the recognized professional employees'*
42 *organization including, but not limited to, voluntary payroll deductions,*
43 *dissemination of information regarding the professional negotiation*

1 *process and related matters to members of the bargaining unit on school*
2 *or college premises through direct contact with members of the bargaining*
3 *unit and reasonable leaves of absence for members of the bargaining unit*
4 *for organizational purposes such as engaging in professional negotiation*
5 *and partaking of instructional programs properly related to the*
6 *representation of the bargaining unit. Any of the foregoing privileges*
7 *which are granted the recognized professional employees' organization*
8 *through the professional negotiation process shall not be granted to any*
9 *other professional employees' organization.*

10 (2) Nothing in this act, and amendments thereto, shall authorize any
11 professional employees' organization to be granted the exclusive privilege
12 of access to the use of school or college facilities for meetings, the use of
13 bulletin boards on or about the facility or the use of school or college mail
14 systems.

15 (3) Nothing in this act, and amendments thereto, shall authorize the
16 diminution of any right, duty or obligation of either the professional
17 employee or the board of education which have been fixed by statute or by
18 the constitution of this state. Except as otherwise expressly provided in
19 this subsection (1), the fact that any matter may be the subject of a statute
20 or the constitution of this state does not preclude negotiation thereon so
21 long as the negotiation proposal would not prevent the fulfillment of the
22 statutory or constitutional objective.

23 (4) Matters which relate to the duration of the school term, and
24 specifically to consideration and determination by a board of education of
25 the question of the development and adoption of a policy to provide for a
26 school term consisting of school hours, are not included within the
27 meaning of terms and conditions of professional service and are not
28 subject to professional negotiation.

29 (m) "Secretary" means the secretary of labor or a designee thereof.

30 (n) "Statutory declaration of impasse date" means June 1 in the
31 current school year.

32 (o) "Supplemental contracts" means contracts for employment duties
33 other than those services covered in the principal or primary contract of
34 employment of the professional employee and shall include, but not be
35 limited to, such services as coaching, supervising, directing and assisting
36 extracurricular activities, chaperoning, ticket-taking, lunchroom
37 supervision, and other similar and related activities.

38 New Sec. 2. Except as otherwise expressly provided, this act shall not
39 operate so as to annul or modify any existing agreement between a board
40 of education and a professional employees' organization or professional
41 employee.

42 Sec. 3. K.S.A. 2014 Supp. 72-5413 is hereby repealed.

43 Sec. 4. This act shall take effect and be in force from and after its

- 1 publication in the statute book.