

Senate Substitute for HOUSE BILL No. 2326

By Committee on Education

3-19

1 AN ACT concerning school districts; relating to the professional
2 negotiations act; amending K.S.A. 72-5423 and K.S.A. 2014 Supp. 72-
3 5413 and repealing the existing sections.

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
24 of 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 Salaries and wages, including pay for duties under supplemental contracts;
42 hours and amounts of work; vacation allowance, holiday, sick, extended,
43 sabbatical; and other leave, and number of holidays; retirement; insurance

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

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

29 (3) Nothing in this act, and amendments thereto, shall authorize the
30 diminution of any right, duty or obligation of either the professional
31 employee or the board of education which have been fixed by statute or by
32 the constitution of this state. Except as otherwise expressly provided in
33 this subsection (1), the fact that any matter may be the subject of a statute
34 or the constitution of this state does not preclude negotiation thereon so
35 long as the negotiation proposal would not prevent the fulfillment of the
36 statutory or constitutional objective.

37 (4) Matters which relate to the duration of the school term, and
38 specifically to consideration and determination by a board of education of
39 the question of the development and adoption of a policy to provide for a
40 school term consisting of school hours, are not included within the
41 meaning of terms and conditions of professional service and are not
42 subject to professional negotiation.

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

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

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

9 Sec. 2. K.S.A. 72-5423 is hereby amended to read as follows: 72-
10 5423. (a) Nothing in this act, ~~or the act of which this section is~~
11 ~~amendatory~~, shall be construed to change or affect any right or duty
12 conferred or imposed by law upon any board of education, except that
13 boards of education are required to comply with this act, ~~and the act of~~
14 ~~which this section is amendatory~~, in recognizing professional employees'
15 organizations, and when such an organization is recognized, the board of
16 education and the professional employees' organization shall enter into
17 professional negotiations on request of either party at any time during the
18 school year prior to issuance or renewal of the annual teachers' contracts.
19 Notices to negotiate on new items or to amend an existing contract must be
20 filed on or before ~~February 1~~ March 31 in any school year by either party,
21 such notices shall be in writing and delivered to the chief administrative
22 officer of the board of education or to the representative of the bargaining
23 unit and shall contain in reasonable and understandable detail the purpose
24 of the new or amended items desired.

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

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

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

39 (c) Except as otherwise expressly provided in this subsection, every
40 meeting, conference, consultation and discussion between a professional
41 employees' organization or its representatives and a board of education or
42 its representatives during the course of professional negotiation and every
43 hearing conducted by the secretary under K.S.A. 72-5426, and

1 amendments thereto, for determination of the question of the existence of
2 impasse is subject to the provisions of the Kansas open meetings law, and
3 ~~any amendments or supplements~~ thereto. Meetings, conferences,
4 consultations and discussions held by the secretary under K.S.A. 72-5426,
5 and amendments thereto, for investigation of the question of the existence
6 of impasse, and meetings, conferences, consultations and discussions held
7 during the course of and in connection with, and the meeting required at
8 the conclusion of, impasse resolution proceedings, as provided for in
9 K.S.A. 72-5427 and 72-5428, and amendments ~~to such sections~~ *thereto*,
10 are specifically made exempt from the provisions of the Kansas open
11 meetings law, and ~~any amendments or supplements~~ thereto.

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

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

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

26 Sec. 3. K.S.A. 72-5423 and K.S.A. 2014 Supp. 72-5413 are hereby
27 repealed.

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