

SESSION OF 2013

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR HOUSE
BILL NO. 2027**

As Recommended by House Committee on
Commerce, Labor and Economic Development

Brief*

Sub. for HB 2027 would revise the terms, conditions, and process of professional negotiations between professional employees, professional employee organizations (PEOs), and local boards of education (boards).

The bill would revise the definition for "professional employee" by deleting reference to a person employed by a board of education in a professional, educational, or instructional capacity. The definition of "professional employee" would continue to include teachers and other employees, such as counselors or librarians, who are required to be licensed by the State Board of Education.

The bill also would delete the current definition for "terms and conditions of professional service" and insert a definition for "mandatorily negotiable terms and conditions of professional service" to mean:

- Salaries and wages, including pay for duties under supplemental contracts;
- Hours and amounts of work outside teaching periods, but within a standard eight-hour work day as established by the board;
- Sick leave;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Personal leave; and
- Designation of holidays.

The term “permissibly negotiable terms and conditions of professional service” would mean those topics not specified above but pertain to the performance of job duties that could be discussed through the negotiation process. Boards of education, PEOs, or individual professional employees would not be required to negotiate a permissible item if one of the parties chose not to negotiate. Determination of the length and number of teaching periods, along with professional appraisal criteria and procedures, would not be negotiable.

Except for those topics in the mandatorily negotiable terms and conditions stated above, the bill would make all negotiated agreements between boards of education and teachers’ associations void and unenforceable, as of the effective date of the bill.

With or without the assistance of a negotiation representative, professional employees would be allowed to enter into employment agreements with boards.

If professional employees are not represented by an organization, any professional employee organization could file a request with the board of education to represent the professional employees. Current law requires a single PEO to represent professional employees exclusively.

If there is a question as to the recognition of a PEO, the bill would specify that the Secretary of Labor could make a determination at the time of initial recognition of a bargaining unit or the re-certification of the unit.

Professional employees would be allowed to request boards to recognize an identified group. A board then would post notice of the request. The board would grant recognition unless:

- There is a good faith doubt as to the majority support for the group;
- Another group of professional employees files, within ten days after the notice is posted, a request for the board to recognize it as the exclusive representative of the professional employees of the entity;
- Professional employees, within ten days of the original notice, ask the board to deny the request; or
- The board denied recognition of the requested group within the previous 12 months.

In even-numbered years, boards would be required to direct PEOs to re-validate that a majority of professional employees support representation in negotiations.

Boards and PEOs would have the discretion to negotiate at any time at the request of one of the parties. Under current law, either party can require the other to negotiate. The bill would repeal the prohibition placed on boards to not issue unilateral contracts until the negotiations process is completed.

Agreements covering terms and conditions of professional service would not be allowed to include provisions for binding arbitration. Under current law, binding arbitration may be included. A board could establish alternative compensation plans for high performing professional employees or professional employees in hard-to-fill positions; alternative compensation plans would not be subject to the professional negotiations requirements of KSA 72-5413 *et seq.*

The bill would be in effect upon publication in the *Kansas Register*.

Background

The bill, as introduced, would have required second hand stores to maintain a registry of information about the sellers and a description of the items purchased. The contents of the substitute bill are based upon HB 2085. Proponents for that bill included two members of the State Board of Education, representing themselves, and representatives of the Kansas Association of School Boards and the Kansas Policy Institute. Proponents noted the bill contains several recommendations proposed by the Governor's School Efficiency Task Force. Proponents also noted the bill would provide local school boards with greater flexibility when managing personnel decisions.

Opponents included representatives of Kansas National Education Association and the Kansas AFL-CIO, and individual school board members. Opponents expressed concern the bill would diminish collective bargaining rights and cause unnecessary tension between school management and teachers.

The House Committee on Commerce, Labor, and Economic Development recommended a substitute bill that included the provision of HB 2085. In addition to technical amendments, the Committee further recommended the substitute bill include changes to certain provisions of HB 2085:

- Delete the current definition for "terms and conditions of professional service" and insert definitions for "mandatorily negotiable terms and conditions of professional service" and "permissibly negotiable terms and conditions of professional service";
- Void existing contracts between school boards and teachers associations;

- Specify when the Secretary of Labor could determine the PEO that would be recognized;
- Authorize a means for boards of education to recognize PEOs;
- Prohibit binding arbitration provisions in agreements between boards and PEOs; and
- Permit alternative compensation plans to be established for certain positions.

The Division of the Budget fiscal note on the original bill indicated there would be no fiscal effect on the state. The fiscal note on HB 2085, as introduced, also states there would be no fiscal effect. A revised fiscal note on the substitute bill is not immediately available.