

HOUSE BILL No. 2411

By Committee on Appropriations

2-22

1 AN ACT concerning school district boards of education; relating to the
2 professional negotiations act; authorizing boards of education to choose
3 which professional employees' organization to recognize as the
4 exclusive bargaining unit for negotiations; amending K.S.A. 72-2219,
5 72-2220, 72-2221, 72-2226 and 72-2235 and repealing the existing
6 sections; also repealing K.S.A. 72-2222, 72-2223, 72-2224 and 72-
7 2225.
8

9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 72-2219 is hereby amended to read as follows: 72-
11 2219. (a) Professional employees shall have the right to form, join or assist
12 professional employees' organizations, to participate in professional
13 negotiation with boards of education ~~through representatives of their own~~
14 ~~choosing~~ for the purpose of establishing, maintaining, protecting or
15 improving terms and conditions of professional service. Professional
16 employees shall also have the right to refrain from any or all of the
17 foregoing activities. In professional negotiations under this act the board of
18 education may be represented by an agent or committee designated by it.

19 (b) *The board of education of a school district shall have the the right*
20 *to recognize and designate the professional employees' organization with*
21 *which the board conducts negotiations pursuant to this act.*

22 Sec. 2. K.S.A. 72-2220 is hereby amended to read as follows: 72-
23 2220. (a) *The board of education of a school district may recognize any*
24 *professional employees' organization that has requested recognition*
25 *pursuant to K.S.A. 72-2221, and amendments thereto, as the exclusive*
26 *representative of all the professional employees in the unit for the purpose*
27 *of professional negotiations. When a representative is ~~designated or~~*
28 *selected for the purposes of professional negotiation by the majority of the*
29 *professional employees in an appropriate negotiating unit of the*
30 *professional employees' organization recognized by the board pursuant to*
31 *this section, such representative shall be the exclusive representative of all*
32 *the professional employees in the unit for such purpose.*

33 (b) ~~Nothing in this act or in acts amendatory thereof or supplemental~~
34 ~~thereto~~ shall be construed to prevent professional employees, individually
35 or collectively, from presenting or making known their positions or
36 proposals or both to a board of education, a superintendent of schools or

1 other chief executive officer employed by a board of education.

2 Sec. 3. K.S.A. 72-2221 is hereby amended to read as follows: 72-
3 2221. (a) ~~If professional employees of a board of education are not~~
4 ~~represented by a professional employees' organization for the purpose of~~
5 ~~professional negotiation,~~ Any professional employees' organization may
6 file a request with the board of education alleging that a majority of the
7 professional employees in an appropriate negotiating unit wish to be
8 represented for such purpose by such organization and asking the board of
9 education to recognize it as the exclusive representative under K.S.A. 72-
10 2220, *and amendments thereto*. Such request shall describe the grouping of
11 jobs or positions which constitute the unit claimed to be appropriate and
12 shall include a demonstration of ~~majority~~ support through verified
13 membership lists. Notice of such request shall immediately be posted by
14 the board of education on a bulletin board at each school or other facility
15 in which members of the unit claimed to be appropriate are employed.

16 (b) *Subject to the provisions of subsection (c)*, a request for
17 recognition under subsection (a) shall be granted by the board of education
18 unless:

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

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

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

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

41 (c) *If the board of education receives a competing request for*
42 *recognition pursuant to the provisions of subsection (b)(2) or (b)(3), the*
43 *board of education shall recognize one of the professional employees'*

1 *organizations that has requested recognition pursuant to this section as*
2 *the exclusive representative of all the professional employees in the*
3 *appropriate negotiating unit for the purpose of professional negotiations.*

4 Sec. 4. K.S.A. 72-2226 is hereby amended to read as follows: 72-
5 2226. (a) A board of education and an exclusive representative ~~selected or~~
6 ~~designated~~ *recognized by the board* under the provisions of this act, ~~or the~~
7 ~~act of which this section is amendatory,~~ may enter into an agreement
8 covering terms and conditions of professional service. The agreement
9 becomes binding when ratified by a majority of the members of the board
10 of education and a majority of the professional employees in the applicable
11 negotiating unit who vote on the question of ratification of the agreement
12 at an election conducted by the exclusive representative if at least a
13 majority of the professional employees in the negotiating unit vote. If less
14 than a majority of the professional employees vote on the question of
15 ratification, the election is void.

16 (b) Every professional employee in the applicable negotiating unit
17 who is to be absent from the place and at the time of the election may vote
18 an absentee ballot on the question of ratification of the agreement. Upon
19 written application by a professional employee for an absentee ballot, the
20 exclusive representative shall transmit to the professional employee, in
21 person or by mail to the address provided by the professional employee in
22 the application, a ballot, an unmarked envelope, a larger envelope
23 containing a space for the professional employee's signature and addressed
24 to the exclusive representative, and instructions to the professional
25 employee for casting the ballot. On receipt of an application under this
26 subsection, the exclusive representative shall prepare and maintain a list of
27 the names of professional employees who have applied for absentee
28 ballots. The returned envelopes shall be checked against the list of names
29 of applicants and the unmarked envelopes containing the ballots shall be
30 extracted. The unmarked ballot envelopes shall be opened and the absentee
31 ballots shall be counted in the same manner as ballots cast at the election.

32 Sec. 5. K.S.A. 72-2235 is hereby amended to read as follows: 72-
33 2235. (a) The commission of any prohibited practice, as defined in this
34 section, among other actions, shall constitute evidence of bad faith in
35 professional negotiation.

36 (b) It shall be a prohibited practice for a board of education or its
37 designated representative willfully to:

38 (1) Interfere with, restrain or coerce professional employees in the
39 exercise of rights granted in K.S.A. 72-2219, *and amendments thereto*;

40 (2) dominate, interfere or assist in the formation, existence, or
41 administration of any professional employees' organization;

42 (3) discriminate in regard to hiring or any term or condition of
43 employment to encourage or discourage membership in any professional

1 employees' organization;

2 (4) discharge or discriminate against any professional employee
3 because such professional employee has filed any affidavit, petition or
4 complaint or given any information or testimony under this act, or because
5 such professional employee has formed, joined or chosen to be represented
6 by any professional employees' organization;

7 (5) refuse to negotiate in good faith *as required in K.S.A. 72-2228,*
8 *and amendments thereto,* with representatives of ~~recognized~~ professional
9 employees' organizations ~~as required in K.S.A. 72-2228, and amendments~~
10 ~~thereto~~ *recognized pursuant to K.S.A. 72-2219 and 72-2220, and*
11 *amendments thereto;*

12 (6) deny the rights accompanying recognition of a professional
13 employees' organization which are granted in K.S.A. 72-2220, *and*
14 *amendments thereto;*

15 (7) refuse to participate in good faith in the mediation as provided in
16 K.S.A. 72-2232, *and amendments thereto,* or fact-finding efforts as
17 provided in K.S.A. 72-2233, *and amendments thereto,* or arbitration
18 pursuant to an agreement entered into pursuant to K.S.A. 72-2229, *and*
19 *amendments thereto;* or

20 (8) institute or attempt to institute a lockout.

21 (c) It shall be a prohibited practice for professional employees or
22 professional employees' organizations or their designated representatives
23 willfully to:

24 (1) Interfere with, restrain or coerce professional employees in the
25 exercise of rights granted in K.S.A. 72-2219, *and amendments thereto;*

26 (2) interfere with, restrain or coerce a board of education with respect
27 to rights or duties ~~which~~ *that* are reserved thereto under K.S.A. 72-2219,
28 72-2220 *and* 72-2228, and amendments thereto, or with respect to
29 selecting a representative for the purpose of professional negotiation or the
30 adjustment of grievances;

31 (3) refuse to negotiate in good faith with the board of education or its
32 designated representatives as required in K.S.A. 72-2228, and amendments
33 thereto;

34 (4) refuse to participate in good faith in the mediation as provided in
35 K.S.A. 72-2232, *and amendments thereto,* or fact-finding efforts as
36 provided in K.S.A. 72-2233, *and amendments thereto,* or arbitration
37 pursuant to an agreement entered into pursuant to K.S.A. 72-2229, *and*
38 *amendments thereto;* or

39 (5) authorize, instigate, aid or engage in a strike or in picketing of any
40 facility under the jurisdiction and control of the board of education.

41 Sec. 6. K.S.A. 72-2219, 72-2220, 72-2221, 72-2222, 72-2223, 72-
42 2224, 72-2225, 72-2226 and 72-2235 are hereby repealed.

43 Sec. 7. This act shall take effect and be in force from and after its

- 1 publication in the statute book.