

HOUSE BILL No. 2391

By Committee on Appropriations

3-7

1 AN ACT concerning public employees; relating to recertification of
2 professional employees' organizations; creating the professional
3 negotiations act; amending K.S.A. 72-2221, 72-2222, 72-2223 and 72-
4 2237 and repealing the existing sections.

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

7 New Section 1. (a) No professional employees' organization that is
8 designated or selected as the exclusive representative shall continue to
9 represent professional employees without the concurrence of a majority of
10 all professional employees in the represented unit.

11 (b) (1) From and after July 1, 2019, the secretary shall cause triennial
12 elections to be held to certify majority support of professional employees'
13 organizations. Such elections shall be held on or after January 1 and no
14 later than April 1.

15 (2) For purposes of administering such elections on a staggered basis,
16 the secretary shall organize all boards of education into three groups and
17 assign the year 2019, 2020 or 2021 to each group. On or before August 1,
18 2019, the secretary shall advise all boards of education and professional
19 employees' organizations of the group designation and the year of their
20 first triennial elections.

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

32 (d) If a professional employees' organization is no longer recognized
33 after an election held pursuant to this section, the terms of any agreement
34 between the professional employees and the board of education shall
35 continue and remain in effect for the remaining term of such agreement,
36 except for any provisions involving, in any manner, the professional

1 employees' organization, including, but not limited to, organization
2 security, dues and fees and grievance and arbitration.

3 (e) A new professional employees' organization may be recognized in
4 accordance with K.S.A. 72-2221, and amendments thereto, provided the
5 professional employees' organization is not substantially similar to or
6 affiliated with any professional employees' organization that lost its
7 recognition as the exclusive representative within the immediately
8 preceding 36 months.

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

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

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

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

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

30 (D) allow professional employees to cast ballots for a period of 14
31 days from the start of any such election.

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

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

38 New Sec. 2. The provisions of K.S.A. 72-2218 through 72-2239, and
39 amendments thereto, and section 1, and amendments thereto, shall be
40 known and may be cited as the professional negotiations act.

41 Sec. 3. K.S.A. 72-2221 is hereby amended to read as follows: 72-
42 2221. (a) If professional employees of a board of education are not
43 represented by a professional employees' organization for the purpose of

1 professional negotiation, any professional employees' organization may
2 file a request with the board of education alleging that a majority of the
3 professional employees in an appropriate negotiating unit wish to be
4 represented for such purpose by such organization and asking the board of
5 education to recognize it as the exclusive representative under K.S.A. 72-
6 2220, *and amendments thereto*. Such request shall describe the grouping of
7 jobs or positions which constitute the unit claimed to be appropriate and
8 shall include a demonstration of majority support through verified
9 membership lists. Notice of such request shall immediately be posted by
10 the board of education on a bulletin board at each school or other facility
11 in which members of the unit claimed to be appropriate are employed.

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

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

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

21 (3) one or more of the professional employees included in the unit
22 claimed to be appropriate files with the board of education within ~~ten (10)~~
23 10 calendar days after the posting of notice of the original request a
24 competing request alleging majority support and asking the board of
25 education to deny the request for recognition; ~~or~~

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

30 (5) the secretary, within the previous ~~twelve (12)~~ 36 months, has
31 conducted a secret ballot election under the provisions of ~~this act, or the~~
32 ~~act of which this section is amendatory~~ *section 1, and amendments thereto*,
33 and the election resulted in a majority vote *of all professional employees*
34 *in the unit* for no representation.

35 Sec. 4. K.S.A. 72-2222 is hereby amended to read as follows: 72-
36 2222. (a) A petition may be filed with the secretary, ~~asking the secretary to~~
37 ~~investigate and decide the question of whether (1) professional employees~~
38 ~~in an appropriate negotiating unit have designated a professional~~
39 ~~employees' organization for recognition as an exclusive representative for~~
40 ~~purposes of K.S.A. 72-2220; (2) a professional employees' organization~~
41 ~~which is the recognized exclusive representative should be replaced by~~
42 ~~another professional employees' organization; (3) recognition of a~~
43 ~~professional employees' organization as the exclusive representative~~

1 ~~should be withdrawn~~ requesting that the secretary:

2 (1) Determine whether a board of education has a good faith doubt
3 as the accuracy or validity of the claims made in a request for recognition
4 as the exclusive representative; or

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

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

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

13 (2) a professional employees' organization; ~~or~~

14 ~~(3) one or more professional employees seeking withdrawal of~~
15 ~~recognition of a professional employees' organization as the exclusive~~
16 ~~representative.~~

17 Sec. 5. K.S.A. 72-2223 is hereby amended to read as follows: 72-
18 2223. (a) *Except as provided in subsection (b)*, upon receipt of a petition
19 ~~filed under K.S.A. 72-2222 and except as provided in subsection (b)~~, the
20 ~~secretary or a person or persons designated by the secretary may direct and~~
21 ~~conduct a secret ballot election in order to decide the questions raised by~~
22 ~~the petition, and amendments thereto, the secretary shall place the issue~~
23 ~~raised in the petition on the ballot at the immediately next succeeding~~
24 ~~election held pursuant to section 1, and amendments thereto.~~

25 (b) The secretary shall dismiss, without determining the questions
26 raised therein, any petition filed under K.S.A. 72-2222, *and amendments*
27 *thereto*, if:

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

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

37 (3) ~~the board of education, within the previous twelve (12) months,~~
38 ~~has lawfully recognized a professional employees' organization other than~~
39 ~~the petitioner as the exclusive representative of any professional~~
40 ~~employees included in the unit described in the petition; or~~

41 ~~(4) the board of education, within the previous twelve (12) 36~~
42 ~~months, has lawfully denied or withdrawn the recognition of a professional~~
43 ~~employees' organization as the exclusive representative of the professional~~

1 employees included in the unit described in the petition; or

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

5 Sec. 6. K.S.A. 72-2237 is hereby amended to read as follows: 72-
6 2237. (a) The secretary of labor may adopt such rules and regulations as
7 are necessary to implement and administer the provisions of ~~K.S.A. 72-~~
8 ~~2218 through 72-2239, and amendments thereto~~ *the professional*
9 *negotiations act*, which place specific duties and responsibilities upon the
10 secretary.

11 (b) Any rules and regulations adopted by the secretary of labor, prior
12 to the effective date of this act to implement and administer the provisions
13 of ~~K.S.A. 72-2218 through 72-2239, and amendments thereto~~ *the*
14 *professional negotiations act*, shall remain in full force and effect until
15 amended, modified, suspended, revoked or nullified pursuant to law.

16 (c) The secretary of labor has the power to issue subpoenas requiring
17 the attendance of any witnesses and the production of any records, books,
18 papers and documents that the secretary considers necessary to implement
19 and administer the provisions of ~~K.S.A. 72-2218 through 72-2239, and~~
20 ~~amendments thereto~~ *the professional negotiations act*, which place specific
21 duties and responsibilities upon the secretary. In the event of refusal to
22 obey a subpoena on the part of any person or persons, the secretary shall
23 have the authority to bring an action to enforce the subpoena in a court of
24 competent jurisdiction.

25 Sec. 7. K.S.A. 72-2221, 72-2222, 72-2223 and 72-2237 are hereby
26 repealed.

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