STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1288 BY: HUDSON of the HOUSE

and

BROWN of the SENATE

COMMITTEE SUBSTITUTE

(SCHOOLS - ADULT EDUCATION TEACHERS - AMENDING VARIOUS SECTIONS IN TITLE 70 - EFFECTIVE DATE - EMERGENCY)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 1981, Section 6-101, as amended by Section 67, Chapter 2, O.S.L. Supp. 1989 (70 O.S. Supp. 1990, Section 6-101), is amended to read as follows:

Section 6-101. A. Except as provided in subsection E of this section, no person shall be permitted to teach in any school district of the state without a written contract, except as provided herein for substitute teachers and except teachers of classes in adult education who are employed to teach less than one thousand eighty (1,080) hours per year. The board of education of each school district, wherein school is expected to be conducted for the ensuing year, shall employ and contract in writing with qualified teachers for and in the name of the district. One copy of the contract shall be filed with the clerk of the board of education and one copy shall be retained by the teacher, and if the contract is with ~~a dependent~~ an elementary school district one copy shall be filed with the county superintendent of schools.

B. Except as otherwise provided by law, no board of education shall have authority to enter into any written contract with a teacher who does not hold a valid certificate issued or recognized by the State Board of Education authorizing said teacher to teach the grades or subject matter for which the teacher is employed. Any board of education paying or authorizing the payment of the salary of any teacher not holding a certificate, as required herein, shall be adjudged to be guilty of a fraudulent expenditure of public funds and members voting for such payment shall be held jointly responsible for the return of the amount of any public monies thus expended, upon suit brought by the district attorney or by any interested citizen in the district where such funds have been expended.

C. It shall be the duty of the county superintendent of schools and the district superintendent of schools under whose supervision teachers have been contracted to teach to certify to the treasurer of the contracting district the names of the teachers holding valid certificates with whom contracts have been made and the names of substitute teachers employed in accordance with law. Said treasurer shall not register any warrant issued in payment of salary to any teacher whose name is not included in such list and shall be liable on his official bond for the amount of any warrant registered in violation of the provisions of this section.

D. Whenever any person shall enter into a contract with any school district in Oklahoma to teach in such school district the contract shall be binding on the teacher and on the board of education until the teacher legally has been discharged from his teaching position or released by the board of education from his contract. Until such teacher has been thus discharged or released, the teacher shall not have authority to enter into a contract with any other board of education in Oklahoma for the same time covered by his original contract. If upon written complaint by the board of

education in a district any teacher is reported to have failed to obey the terms of the contract previously made and to have entered into a contract with another board of education without having been released from the former contract, the teacher, upon being found guilty of said charge at a hearing held before the State Board of Education, shall have such teacher's certificate suspended for the remainder of the term for which said contract was made.

E. A board of education shall have authority to enter into written contracts with teachers for the ensuing fiscal year prior to the beginning of such year. If, prior to April 10, a board of education has not entered into a written contract with a regularly employed teacher or notified the teacher in writing by registered or certified mail that a recommendation has been made not to reemploy the teacher for the ensuing fiscal year, and if, by April 25, such teacher has not notified the board of education in writing by registered or certified mail that such teacher does not desire to be reemployed in such school district for the ensuing year, such teacher shall be considered as employed on a continuing contract basis and on the same salary schedule used for other teachers in the school district for the ensuing fiscal year, and such employment and continuing contract shall be binding on the teacher and on the school district.

F. No school district or any member of the board of education of a district shall be liable for the payment of compensation to a teacher or administrator under the provisions of any contract for the ensuing year, if it becomes necessary to close the school because of insufficient attendance, disorganization, annexation, consolidation, or by dispensing with the school according to law, provided, such cause is known or action is taken prior to July 1 of such ensuing year.

G. No school district or any member of a board of education shall be liable for the payment of compensation to any teacher or

administrator for the unexpired term of any contract if the school building to which the teacher or administrator has been assigned is destroyed by accident, storm, fire, or otherwise and it becomes necessary to close the school because of inability to secure a suitable building or buildings for continuation of school. Teachers and administrators shall be entitled to pay for any time lost when school is closed on account of epidemics or otherwise when an order for such closing has been issued by a health officer authorized by law to issue the order.

SECTION 2. AMENDATORY Section 78, Chapter 2, O.S.L. Supp. 1989 (70 O.S. Supp. 1990, Section 6-101.23), is amended to read as follows:

Section 6-101.23 A. The dismissal, suspension and nonreemployment provisions of the Teacher Due Process Act of 1990 shall not apply to:

1. Substitute teachers;

2. Adult education teachers <u>who are employed to teach less than one thousand eighty (1,080) hours per year</u>; and

3. Teachers who are employed on temporary contracts.

B. The dismissal and suspension provisions of the Teacher Due Process Act of 1990<u>, Section 6-101.20 et seq. of this title,</u> shall apply to teachers who are employed in positions fully funded by federal or private categorical grants, except that such teachers shall be employed only for the duration of the grant.

SECTION 3. AMENDATORY 70 O.S. 1981, Section 509.2, as last amended by Section 1, Chapter 260, O.S.L. 1989 (70 O.S. Supp. 1990, Section 509.2), is amended to read as follows:

Section 509.2 A. The local board of education shall recognize an employee organization designated by an election of the employees in an appropriate bargaining unit as the exclusive representative of all the employees in such unit. The members of an employee organization shall be employees as defined in paragraphs 1, 2 and 3

of this subsection. The recognition of such employee organization shall be made by the local board no later than fourteen (14) days after said election. Any person who desires not to be represented by any organization may so state in writing to his board of education. Appropriate bargaining units are defined as follows; however, such definition shall not be construed, of itself, as requiring that bargaining units engage in bargaining or act to disengage from bargaining:

1. Employees who are employed and certified as principals and assistant principals and who have responsibilities for the supervision of classroom teachers shall constitute an appropriate unit;

2. All other employees who are required by the position in which employed to be licensed or certified as teachers or entry year teachers as those terms are defined in Section 1-116 of this title, as well as adult education teachers who are employed to teach at least one thousand eighty (1,080) hours per year, and who do not hold supervisory authority with respect to other teachers in the district shall constitute an appropriate unit;

3. All other employees who do not have formal responsibility for making written recommendations concerning the employment status of other employees of the district shall constitute an appropriate unit. Provided, however, that for the purposes of this section, supervision of employees, in and of itself, shall not constitute formal responsibility.

Provided, if employees categorized according to paragraphs 2 and 3 of this subsection were organized for bargaining as a single unit as of April 14, 1986, or are at any time employed in a district having fewer than seventy-five employees in the two categories taken together, said employees may, for such time as a majority of the employees in each category indicate by secret ballot vote they share a single community of interest, constitute a single appropriate

unit. Further provided, any final judgment of the Oklahoma Supreme Court denying such community of interest in any school district shall have the effect of rendering inappropriate all units, in whatever school districts they exist, which include employees of both categories.

B. 1. Within seven (7) business days of receiving a sealed packet containing an employee petition filed by or on behalf of thirty-five percent (35%) or more of the employees in a unit, such petition calling for an election to determine which, if any, employee organization represents the employees in a bargaining unit, the board shall arrange for verification that there are a sufficient number of correct names to constitute at least thirty-five percent (35%) of the employees in the unit. Such arrangements shall include the transmitting of the sealed packet and a list of employees eligible to be included in the bargaining unit to the individual designated pursuant to the provisions of paragraph 2 of this subsection.

2. The petition calling for the secret ballot election shall contain only the names of employees of the bargaining unit who have signed and dated said petition. The sealed packet shall be opened and the petition shall be verified by an individual designated by the election board of the county in which the school district has its main office. Under no circumstances shall the individual so designated reveal the names of employees who signed or did not sign the petition. If an employee has signed more than one petition, the name of the employee shall be removed from each petition.

3. The period of time for signing of a recognition petition shall commence upon receipt of written notification by the local school board from an organization indicating that it intends to circulate a petition and shall cease thirty (30) days thereafter. Provided, if an organization recognized as representative of a unit for bargaining is being challenged for discontinuation of

representation as provided in paragraph 8 of subsection C of this section or is being challenged by another organization seeking recognition, the period for signing shall commence on the first day of February and end on the last day of that same February.

C. 1. Not less than thirty (30) days nor more than forty-five (45) days after receipt of notification that the petition has been verified as sufficient, a secret ballot election shall be held to determine which, if any, employee organization shall represent the unit. No election shall be held for a unit within which a valid election was held in the preceding two (2) years.

The local board shall recognize within ten (10) days an organization which, on the effective date of this act, has obtained signed authorization from a majority of the employees eligible to be included in the unit but has not been recognized. No election shall be held for such unit within two (2) years of recognition. An appropriate election ballot shall be printed for this election, which contains the names of all employee organizations having presented a petition verified as signed by at least thirty-five percent (35%) of the employees eligible to be in the unit to represent or currently recognized as representing the unit; provided, no such organization shall be shown on the ballot unless the organization pays to the local board a filing fee of Two Hundred Fifty Dollars ($250.00). The ballot shall also provide an option whereby any employee of the unit may indicate a preference that the unit not be represented by any organization. Every organization that receives at least fifteen percent (15%) of the vote in the election shall be reimbursed the Two Hundred Fifty Dollars ($250.00) by the local board. The local board shall use any remaining filing fee money to help offset the cost of the validation process of the petition, if any, as well as any election costs incurred.

2. When none of the choices on the ballot receives a majority of the votes, a runoff election shall be conducted on the fourteenth

day following the first election between the two choices which received the largest number of votes in the preceding election.

3. The employee organization or organizations and the local school board shall, by agreement, determine the method by which each election shall be conducted. All costs incurred in an election shall be shared equally by all parties involved.

If no agreement can be reached within fourteen (14) days prior to the election, the local board of education shall notify the county election board of the county in which the board is located of such fact, and the following method for conducting the secret ballot election shall be followed and conducted by the county election board:

a. At the time of such notice, the board of education shall provide to the county election board:

(1) a list of all the polling places for the election, such list to include every middle school or junior high school and the central administration office in the district;

(2) a list of names of all the persons eligible to vote in said election, such list to be in alphabetical order and duplicated in such number that there shall be one for each polling place, plus an additional five copies;

(3) the names of each organization entitled to have its name appear on the ballot; and

(4) the date of the election.

b. Ballots for the election shall be printed by the county election board in the same manner as for other elections conducted by the county election board, insofar as is possible. The names of organizations shall be listed on the ballot in the order in which said names are furnished to the county election board

by the board of education. The option specifying that no organization shall represent the employee bargaining unit shall be listed last on the ballot, in such language as may be specified by the local board.

c. The secretary of the county election board shall appoint an inspector, judge and clerk for each polling place. Said inspector, judge and clerk shall be selected from among the regular precinct officials in the county.

d. Polling places shall be open from 7:00 a.m. to 7:00 p.m. on the day of the election. Any eligible person who presents himself to vote no later than 7:00 p.m. shall be entitled to vote.

e. Eligible voters may vote after signing their signatures beside their names on the list of names of all the persons eligible to vote in said election. The voter shall place his ballot in the ballot box in the presence of the inspector.

f. Each organization entitled to have its name appear on the ballot shall be permitted to appoint one challenger at each polling place. Each such challenger shall be properly identified as such, and shall be limited to inquiring of a prospective voter, said prospective voter's name, address, job classification and work site. The challenger may challenge the right of any prospective voter to vote by so informing the judge. Upon being so challenged, the prospective voter may vote if, after being informed by the judge of such a challenge, the voter signs his signature beside his name on the list of names of all the persons eligible to vote in said election. If same occurs, the judge shall write the

words "Challenged by _____" beside the voter's signature.

g. The county election board shall certify the results of the election to the board of education on the day following the election.

h. Costs of the election shall be paid to the county election board by the board of education. Said costs shall include the regular salaries of the inspector, judge, clerk, in addition to all other necessary and reasonable costs. Such costs shall include compensation for members of the county election board, including the secretary.

i. Anyone guilty of voting more than one time in said election will be guilty of a misdemeanor and subject to a fine of Two Hundred Dollars ($200.00) or thirty (30) days in the county jail.

4. No employee shall use regularly scheduled duty time for campaign purposes.

5. A list of the employees eligible to vote in the election including their names, addresses, phone numbers, job classification and work site shall be provided not less than fourteen (14) days before the election to each organization listed on the official ballot.

6. No organization which at the time this act takes effect is representing a bargaining unit as a result of having gained recognition on the basis of signed authorization or secret ballot election and is in the process of collective bargaining for the 1986-87 school year shall be subject to the election provisions of this section until collective bargaining for the 1986-87 school year has ended.

7. Any local board or organization challenging the results of any election held pursuant to the provisions of this section shall

post with the district court a bond of One Thousand Dollars ($1,000.00) which shall be forfeited if the court finds that the challenge is in bad faith.

8. In any February more than two (2) years after recognition of an organization pursuant to the provisions of this section and upon the receipt of a petition calling for discontinuation of representation signed by thirty-five percent (35%) of the employees eligible to be included in the unit, a local board shall call an election to determine whether the members of a unit wish to discontinue being represented for bargaining. If a majority of the votes cast are votes to discontinue representation, efforts to gain recognition by any organization shall be prohibited for a period of two (2) years commencing with the expiration of the contract then in force. The ballots used in such election shall, without reference to any organization by name, offer the single choice of continued representation or discontinuation of representation.

SECTION 4. This act shall become effective July 1, 1991.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-1-1027 WHT