

ENROLLED SENATE
BILL NO. 1182

By: Cole of the Senate

and

Seikel of the House

An Act relating to schools; amending 70 O.S. 1991, Sections 1-116, as amended by Section 20, Chapter 239, O.S.L. 1993, and 509.2, as amended by Section 1, Chapter 100, O.S.L. 1993 (70 O.S. Supp. 1993, Sections 1-116 and 509.2), which relate to positions in school systems and collective bargaining organizations; adding certain definition; modifying definition of certain bargaining unit; clarifying statutory reference; modifying language; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 70 O.S. 1991, Section 1-116, as amended by Section 20, Chapter 239, O.S.L. 1993 (70 O.S. Supp. 1993, Section 1-116), is amended to read as follows:

Section 1-116. As used in this act:

1. Teacher: Any person who is employed to serve as district superintendent, principal, supervisor, counselor, librarian, school nurse or classroom teacher, or in any other instructional, supervisory, or administrative capacity, is defined as a teacher. Such person shall not be deemed qualified unless he or she holds a valid certificate or license, issued by and in accordance with the rules and regulations of the State Board of Education, to perform the particular services for which he or she is employed.

2. Superintendent: A superintendent of schools shall be the executive officer of the board of education and the administrative head of the school system of a district maintaining an accredited school, provided he or she holds an administrator's certificate recognized by the State Board of Education.

3. Principal: A principal shall be any person other than a district superintendent of schools having supervisory or administrative authority over any school or school building having two or more teachers. A teaching principal shall be a principal who devotes at least one-half the time school is in session to classroom teaching. Until July 1, 1993, teaching principals shall not be required to hold administrative certificates. Beginning July 1, 1993, teaching principals shall be required to hold administrative certificates.

4. For purposes of complying with the State Aid Law and other statutes which apportion money on the basis of teaching units or the number of teachers employed or qualified, all persons holding proper certificates or licenses and connected in any capacity with the instruction of pupils shall be designated as "teachers".

5. Entry-year Teacher: An entry-year teacher is any licensed teacher who is employed in a local school to serve as a classroom

teacher under the guidance and assistance of a teacher consultant and an entry-year assistance committee. Any such person shall have completed the program of the college or school of education of the accredited institution of higher learning from which the person has been graduated.

6. Student Teacher: A student teacher is any student who is enrolled in an institution of higher learning approved by the State Board of Education for teacher training and who is jointly assigned by such institution of higher learning and a school district's board of education to perform practice teaching under the direction of a regularly employed and certified teacher. A student teacher, while serving a nonsalaried internship under the supervision of a certified teacher, shall be accorded the same protection of the laws as that accorded the certified teacher.

7. A school nurse employed full time by a board of education shall be a registered nurse licensed by the Oklahoma State Board of Nurse Registration and Nursing Education, and certified the same as a teacher by the State Department of Education. Provided that any person who is employed as a full-time nurse in any school district in Oklahoma, but who is not registered on the effective date of this act, may continue to serve in the same capacity, however such person shall, under rules and regulations adopted by the State Board of Education, attend classes in nursing and prepare to become registered.

A school nurse employed by a board of education shall be accorded the same protection of laws and all other benefits accorded a certified teacher.

8. Support Employee: A support employee shall be an employee who provides those services which are not performed by certified teachers, principals, superintendents or administrators and which are necessary for the efficient and satisfactory functioning of a school district.

SECTION 2. AMENDATORY 70 O.S. 1991, Section 509.2, as amended by Section 1, Chapter 100, O.S.L. 1993 (70 O.S. Supp. 1993, 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 and Section 1-116 of this title. 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 or her 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 and who do not hold supervisory authority with respect to other teachers in the district shall constitute an appropriate unit;

~~3. All support employees who do not have administrative responsibility for making written recommendations concerning the employment status of other employees in 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 administrative responsibility employees who are not required by their job description to be a principal, licensed or certified teacher, superintendent or other administrator shall constitute a separate bargaining unit.~~

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~~ appears 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 or her 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 or her signature beside his or her 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 3. This act shall become effective July 1, 1994.

SECTION 4. 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.

Passed the Senate the 12th day of May, 1994.

President of the Senate

Passed the House of Representatives the 25th day of May, 1994.

Speaker of the House of Representatives