

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 591

By: Long

COMMITTEE SUBSTITUTE

An Act relating to schools; amending 70 O.S. 1991, Section 509.7, as last amended by Section 2, Chapter 190, O.S.L. 1994 (70 O.S. Supp. 1996, Section 509.7), which relates to impasse procedures; renaming certain terms; deleting language relating to certain procedure and time limits; requiring appointment of chair in event parties are unable to agree upon a chair; requiring impasse resolution committee to call a hearing and providing for notice of hearing to certain persons; requiring submission of written impasse statement and requiring certain contents; stating procedure for hearing; requiring selection of one of two last best offers or variation; requiring impasse resolution committee to consider certain factors in selecting best offer or variation; requiring parties to implement certain decision; authorizing the court to vacate committee's decision under certain circumstances; allowing the court to modify or correct committee's decision under certain circumstances; allowing application to modify or correct a decision to be joined with application to vacate award; requiring judgment or decree be

entered and enforced as any other judgment or decree; allowing court to order a stay of implementation of committee's decision; allowing review of final district court judgment by appeal to the Oklahoma Supreme Court and stating procedure for appeal; 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 509.7, as last amended by Section 2, Chapter 190, O.S.L. 1994 (70 O.S. Supp. 1996, Section 509.7), is amended to read as follows:

Section 509.7 A procedure for resolving ~~impasse~~ negotiation disputes will be developed by the board of education and the representatives of the organization. ~~Said procedure shall include the actions set forth in this section and may include such other actions as are agreed to by both parties.~~ Unless otherwise provided for by law, "days" means calendar days. ~~Time limits set forth herein may be extended by mutual agreement of the parties.~~

A. If negotiations are not successfully concluded by the first day of school, impasse shall exist. At any earlier time, either party may declare impasse. Upon reaching of impasse, the items causing the impasse shall be referred to a three-member ~~fact-finding~~ impasse resolution committee. This committee shall consist of:

1. One member who shall be selected by the representatives of the organization within five (5) days after the reaching of impasse;
2. One member who shall be selected by the local board of education within five (5) days after the reaching of impasse; and
3. One member who shall serve as chair of the committee and shall be selected as follows:

- a. The State Board of Education shall appoint ~~as fact-finders~~ not less than twenty nor more than thirty persons to be placed on the State Superintendent's list of ~~fact-finders~~ impasse resolution committee chairs. The appointees must reside in Oklahoma, must be neutral and unbiased and must be knowledgeable in the fields of school operations, school finance, personnel management, dispute resolution and hearing procedures. The appointees shall not currently be elected public officers or employees of a board of education or officers or employees of an organization of education employees. No person who is related within the second degree by consanguinity or affinity to an elected public officer, to an employee of the local board of education that is involved in the impasse, or to an employee of an organization of education employees shall be eligible to serve as a ~~fact-finder~~ committee chair.
- b. An appointee shall serve until such appointee resigns or is removed by the State Board of Education from the State Superintendent's list ~~of fact-finders~~. An appointee must be removed immediately if he or she becomes an elected public officer or employee of a board of education or an officer or employee of an organization of education employees.
- c. Within ten (10) days of being notified that a ~~fact-finder~~ committee chair is needed, the State Superintendent of Public Instruction or designee shall provide the names of five potential ~~fact-finders~~ appointees selected at random from the list of appointees who are available to serve as a member and the chair of the committee. The parties shall select

the ~~fact-finder~~ chair from the five names within ~~fifteen (15)~~ ten (10) days after receiving the list of ~~fact-finders.~~

~~d. It shall be the responsibility of the State Board of Education to establish rules, regulations, training, hearing procedures, and payment schedules to implement the provisions of this paragraph.~~

~~B. Within five (5) days after the selection of the chair, the representatives who have been negotiating for the board and for the organization shall meet to exchange written language on each item at impasse. The exchanged documents shall also be furnished by each party to the chair and other members of the committee.~~

~~C. The chair shall convene the committee for fact finding. This committee shall meet with the representatives of both parties. Within twenty (20) days after the chair is selected, the committee shall present written recommendations to the local board and to the organization.~~

~~D. If either party decides it must reject one or more of the committee's recommendations, said party must, within seven (7) days after the committee has presented its recommendations, request a meeting of the representatives who have been negotiating for the board and for the organization. The parties shall meet within seven (7) days of the request, unless both parties deem it unnecessary. At such meeting, the representatives shall exchange written statements expressing each party's rationale for rejecting each recommendation found unacceptable and shall attempt to clarify any remaining differences. The representatives shall then resume good faith effort to resolve the remaining differences; provided, after fourteen (14) days after the exchange of the written statements, either party may discontinue such effort.~~

~~E. The local board shall file a copy of the fact-finding report with the office of the State Superintendent of Public Instruction.~~

~~If the effort to resolve differences is successful, the parties shall draft a written agreement and present the agreement to both parties for ratification, and such agreement shall also be forwarded to the State Superintendent of Public Instruction. If the effort to resolve differences is unsuccessful, the local board of education shall forward to the State Superintendent of Public Instruction in writing its final disposition of the negotiations impasse process within thirty (30) days of the effective date of implementation potential appointees and notify the State Superintendent of Public Instruction of the selection. The Superintendent of Public Instruction shall notify the selected appointee within five (5) days of receiving notification from the parties. In the event the parties are unable to agree on a chair within ten (10) days, upon notification by one or both parties the State Superintendent of Public Instruction shall appoint a chair from a second list of five potential chairs selected at random from the list of potential members and chairs.~~

B. 1. The impasse resolution committee, acting through its chair, shall call a hearing to be held within ten (10) days after the date of the appointment of the chair and shall, acting through its chair, give at least seven (7) days' notice in writing to each of the other two members of the committee, the bargaining agent and the school district of the time and place of such hearing.

2. At least seven (7) days before the date of the hearing the school district and the bargaining agent shall submit to each other and to the committee members a written impasse statement listing all contract terms which the parties have resolved and all contract issues which are unresolved. Each impasse statement shall also include a final offer on each unresolved issue with supporting documentation. The terms and offers contained in the impasse statements shall be known collectively as each party's last best offer.

3. The hearing shall be informal and the rules of evidence prevailing in judicial proceedings shall not apply. Any and all documentary evidence and other data deemed relevant by the committee may be received as evidence. The committee shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production of books, records, and other evidence relative or pertinent to the issues presented to them for determination. A hearing shall be concluded within twenty (20) days from the time of commencement.

4. Within seven (7) days after the conclusion of the hearing, a majority of the committee members shall select one of the two last best offers or a variation as the contract of the parties. The committee shall consider, in addition to any other relevant factors, the following:

- a. past collective bargaining contracts between the parties including the bargaining that led up to such contracts,
- b. comparison of wages, hours, and conditions of employment of the involved school employees with those of other districts of comparable size and economic status, giving consideration to factors peculiar to the area and the classifications involved, and
- c. the interest and welfare of the public, the ability of the school district to finance economic adjustments and the effect of such adjustment on the normal standard of services.

C. The committee shall provide to the local school board and to the bargaining organization a written decision which each party must implement within twenty (20) days.

D. Either party may petition the district court in the county where the administration of the school district is located for vacation, modification, or correction of the committee's decision

within ten (10) days after delivery of the committee's decision to the party.

1. The court shall not vacate the committee's decision unless it finds by clear and convincing evidence that:

- a. the decision was procured by corruption, fraud or other illegal means,
- b. there was evident partiality by the committee chair appointed as a neutral or corruption in any of the committee members or misconduct prejudicing the rights of either party,
- c. the committee exceeded its powers, or
- d. the committee refused to hear evidence material to the controversy or otherwise so conducted the hearing as to prejudice substantially the rights of a party.

2. The court may modify or correct the decision if:

- a. there was an evident miscalculation of figures or evident mistake in the description of any person or thing referred to in the decision,
- b. the decision is imperfect in a matter of form, not affecting the merits of the decision, or
- c. the committee members have made an award upon a matter not submitted to them and the decision may be corrected without affecting the merits of the decision upon the issues submitted.

3. An application to modify or correct a decision may be joined in the alternative with an application to vacate the award.

4. Upon granting an order confirming, modifying, or correcting a decision, a judgment or decree shall be entered and be enforced as any other judgment or decree.

5. The court may order a stay of implementation of the committee's decision pending review by the court.

E. Either the bargaining agent or the school district, without motion for a new trial, may secure a review of any final judgment of a district court by appeal to the Oklahoma Supreme Court. The appeals shall be taken in the manner and time provided for appeal to the Supreme Court in civil actions. Neither party shall be required to give bond.

SECTION 2. This act shall become effective July 1, 1997.

SECTION 3. 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.

46-1-1108

PHB