STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE BILL HB2221: Brannon

AS INTRODUCED

An Act relating to schools; amending 70 O.S. 2001, Sections 509.2a and 509.6, which relate to negotiations between school employees and districts; adding certain reason to utilize certain dispute resolution procedure; deleting certain dispute resolution procedure; 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. 2001, Section 509.2a, is amended to read as follows:

Section 509.2a A. In the event of a bargaining unit determination ~~or~~ dispute, a bargaining election dispute, or an allegation that there has been a failure to comply with the duty to negotiate in good faith as defined in Section 509.6 of this title, the following procedure shall apply:

1. In the event of a bargaining election dispute, within seven (7) calendar days of receipt of verification of number of signatures on the petition from the county election board or the receipt of election results from the county election board or other organization agreed upon by the parties to conduct the election, either party shall give notice in writing of a dispute and the facts on which the dispute is based to the other parties involved, and the State Superintendent of Public Instruction requesting appointment of a dispute resolution committee. In the event of a bargaining unit determination dispute or allegation of failure to negotiate in good faith in accordance with the definition set out in Section 509.6 of

this title, either party shall give notice in writing of a dispute and the facts on which the dispute is based to the other parties involved, and the State Superintendent of Public Instruction requesting appointment of a dispute resolution committee. The status quo that existed between the parties prior to the incident giving rise to the dispute shall be maintained through the resolution of the dispute including district court proceedings unless the court orders otherwise upon proper application by a party; any election scheduled pursuant to a disputed petition shall be stayed pending resolution of the dispute including district court proceedings;

2. Within ten (10) days of receipt of notification that a dispute resolution committee is needed, the State Superintendent of Public Instruction shall form a dispute resolution committee consisting of three (3) members selected at random from the list of fact-finders maintained by the State Board of Education pursuant to Section 509.7 of Title 70 of the Oklahoma Statutes. The State Superintendent shall notify the members of the committee of their selection and set a date for the committee's first meeting to be held no later than seven (7) calendar days following selection of the committee. The committee shall elect a chair at its first meeting;

3. Within five (5) calendar days after the selection of the chair, the representatives of the parties involved in the dispute shall present to the members of the committee written comments on the issues related to the dispute. Each party shall furnish the other parties copies of documents presented to the committee. Within fifteen (15) calendar days of selection of the chair, the chair shall convene the committee for a meeting with the representatives of the parties. Within twenty (20) calendar days of selection of the chair, the committee shall present its findings and

recommendations in writing to the board of education and other parties involved in the dispute;

4. If any party decides to reject the committee's recommendations the party must, within seven (7) days after receipt of the committee's written recommendation, request a meeting of the parties involved in the dispute. At the meeting the parties shall exchange written statements expressing their rationale for rejecting any recommendation and shall attempt to clarify differences;

5. At any time following issuance of the dispute resolution committee's findings and recommendations but prior to the initiation of judicial review, the committee shall provide necessary clarification to all parties at the request of any party. The committee shall provide written clarification within ten (10) calendar days of the request;

6. The local board shall file a copy of the written findings and recommendations, including any written clarifications, of the dispute resolution committee with the Office of the State Superintendent of Public Instruction. If the effort to resolve differences is successful, the parties shall forward a copy of their agreement to the State Superintendent of Public Instruction. If the effort to resolve differences is unsuccessful, the local board of education shall notify the State Superintendent of Public Instruction in writing of the parties' inability to agree;

7. Within fifteen (15) calendar days of the date of notification of the parties' inability to agree any party may appeal for judicial review of the committee's findings and recommendations in the district court of the county in which the administrative office of the school district is located. The review shall be conducted by the court without a jury and shall be confined to the written record consisting of the dispute resolution committee's findings and recommendations, written statements furnished to the dispute resolution committee by the parties, and written statements

exchanged among the parties as required in this section. In cases of alleged irregularities in procedures required in this section, the court may take testimony. The court, upon request or upon its own motion, shall hear oral argument and receive written briefs; and

8. The court shall accept the dispute resolution committee's findings and order the parties to comply with the dispute resolution committee's recommendations if the findings and recommendations are found to be valid and the proceedings are found to be free of prejudicial error to any party. Provided the court may enter an order overruling the committee's findings and recommendations, in whole or in part, and order its resolution of the dispute, if the court finds that the committee's findings, inferences, conclusions, or decisions are:

a. in violation of constitutional provisions,

b. in excess of the authority of the committee,

c. made upon unlawful procedure,

d. affected by other error of law,

e. clearly erroneous in view of the reliable, material, probative, and competent evidence, including matters properly noticed by the committee, upon examination and consideration of the entire record as submitted but without otherwise substituting its judgment as to the weight of the evidence for that of the committee on question of fact,

f. arbitrary or capricious, or

g. lacking findings of fact upon issues essential to the decision.

The court's final order shall be issued no later than sixty (60) days following the date the appeal is filed.

B. An aggrieved party without a motion for a new trial may secure a review of any final judgment of a district court under this section by appeal to the Oklahoma Supreme Court. The appeal shall

be taken in the manner and time provided by law for appeal to the Supreme Court from the district court in civil actions.

SECTION 2. AMENDATORY 70 O.S. 2001, Section 509.6, is amended to read as follows:

Section 509.6 Once an organization has been recognized, the board of education or its duly designated representative must meet with the duly designated representative of the organization and within sixty (60) days shall complete an agreement outlining negotiation procedures. The board of education and the representatives of the organization must negotiate in good faith on wages, hours, fringe benefits and other terms and conditions of employment. To negotiate in good faith shall mean both parties must be willing to consider proposals in an effort to find a mutually satisfactory basis for agreement and must be willing to discuss their respective contract proposals. If either party objects to the other's contract proposals, the objecting party must support its objections with rationale. ~~Any allegation by either party that there has been a failure to comply with the provisions of this section shall be resolved through the dispute resolution procedure for resolving a unit determination dispute as set forth in subsection A of Section 509.2 of this title.~~

SECTION 3. This act shall become effective July 1, 2004.

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.

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