

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1443

By: Ford

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5
6 AS INTRODUCED

7 An Act relating to schools; amending 70 O.S. 2001,
8 Section 509.2, which relates to recognition of
9 employee organization; deleting redundant language;
10 excluding certain employees and positions from
11 bargaining unit; and providing an effective date.

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

13 SECTION 1. AMENDATORY 70 O.S. 2001, Section 509.2, is
14 amended to read as follows:

15 Section 509.2 A. The ~~local~~ board of education shall recognize
16 an employee organization designated by an election of the employees
17 in an appropriate bargaining unit as the exclusive representative of
18 all the employees in such unit. The members of an employee
19 organization shall be employees as defined in paragraphs 1, 2 and 3
20 of this subsection and Section 1-116 of this title. The recognition
21 of such employee organization shall be made by the ~~local~~ board no
22 later than fourteen (14) days after ~~said~~ the election. Any person
23 who desires not to be represented by any organization may so state
24 in writing to his or her board of education. Appropriate bargaining

1 units are defined as follows; however, such definition shall not be
2 construed, of itself, as requiring that bargaining units engage in
3 bargaining or act to disengage from bargaining:

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

8 2. All other employees who are required by the position in
9 which employed to be licensed or certified as teachers or entry year
10 teachers as those terms are defined in Section 1-116 of this title
11 and who do not hold supervisory authority with respect to other
12 teachers in the district shall constitute an appropriate unit; and

13 3. All employees who are not required by their job description
14 to be a principal, licensed or certified teacher, superintendent or
15 other certified or noncertified administrator shall constitute a
16 separate bargaining unit. Provided that, employees with access to
17 confidential, labor relations information of the school district, or
18 employees who have supervisory duties and for which their position
19 does not require a certificate, shall be excluded from this or other
20 bargaining units. Also excluded is any employee position agreed to
21 be excluded from the bargaining unit by the employee organization
22 and the school district.

23 Provided, if employees categorized according to paragraphs 2 and
24 3 of this subsection were organized for bargaining as a single unit

1 as of April 14, 1986, or are at any time employed in a district
2 having fewer than seventy-five employees in the two categories taken
3 together, ~~said~~ the employees may, for such time as a majority of the
4 employees in each category indicate by secret ballot vote they share
5 a single community of interest, constitute a single appropriate
6 unit. Further provided, any final judgment of the Supreme Court
7 denying such community of interest in any school district shall have
8 the effect of rendering inappropriate all units, in whatever school
9 districts they exist, which include employees of both categories.

10 B. 1. Within seven (7) business days of receiving a sealed
11 packet containing an employee petition filed by or on behalf of
12 thirty-five percent (35%) or more of the employees in a unit, such
13 petition calling for an election to determine which, if any,
14 employee organization represents the employees in a bargaining unit,
15 the board shall arrange for verification that there are a sufficient
16 number of correct names to constitute at least thirty-five percent
17 (35%) of the employees in the unit. Such arrangements shall include
18 the transmitting of the sealed packet and a list of employees
19 eligible to be included in the bargaining unit to the individual
20 designated pursuant to the provisions of paragraph 2 of this
21 subsection.

22 2. The petition calling for the secret ballot election shall
23 contain only the names of employees of the bargaining unit who have
24 signed and dated ~~said~~ the petition. Within thirty (30) days of

1 receipt of the sealed packet by the district court judge in and for
2 the county in which the school district has its main office, the
3 sealed packet shall be opened and the petition shall be verified by
4 an individual designated by the district judge of such court for the
5 county in which the school district has its main office. Upon
6 verification of the number of signatures on the petition, the
7 district court judge shall notify in writing the district board of
8 education and any employee organization that has requested notice of
9 the verification. Under no circumstances shall the individual so
10 designated reveal the names of employees who signed or did not sign
11 the petition. If an employee has signed more than one petition, the
12 name of the employee shall be removed from each petition.

13 3. The period of time for signing of a recognition petition
14 shall commence upon receipt of written notification by the ~~local~~
15 school board from an organization indicating that it intends to
16 circulate a petition and shall cease thirty (30) days thereafter.
17 Provided, if an organization recognized as representative of a unit
18 for bargaining is being challenged for discontinuation of
19 representation as provided in paragraph 7 of subsection C of this
20 section or is being challenged by another organization seeking
21 recognition, the period for signing shall commence on the first day
22 of February and end on the last day of that same February.

23 C. 1. Not less than forty-five (45) days nor more than sixty
24 (60) days after receipt of notification that the petition has been

1 verified as sufficient, a secret ballot election shall be held to
2 determine which, if any, employee organization shall represent the
3 unit. No election shall be held for a unit within which a valid
4 election was held in the preceding two (2) years.

5 On or after March 2, 1995, the ~~local~~ board shall recognize
6 within ten (10) days an organization which has obtained signed
7 authorization from a majority of the employees eligible to be
8 included in the unit but has not been recognized. No election shall
9 be held for such unit within two (2) years of recognition. An
10 appropriate election ballot shall be printed for this election,
11 which contains the names of all employee organizations having
12 presented a petition verified as signed by at least thirty-five
13 percent (35%) of the employees eligible to be in the unit to
14 represent or currently recognized as representing the unit;
15 provided, no such organization shall be shown on the ballot unless
16 the organization pays to the ~~local~~ board a filing fee of Two Hundred
17 Fifty Dollars (\$250.00). The ballot shall also provide an option
18 whereby any employee of the unit may indicate a preference that the
19 unit not be represented by any organization. Every organization
20 that receives at least fifteen percent (15%) of the vote in the
21 election shall be reimbursed the Two Hundred Fifty Dollars (\$250.00)
22 by the ~~local~~ board. The ~~local~~ board shall use any remaining filing
23 fee money to help offset the cost of the validation process of the
24 petition, if any, as well as any election costs incurred.

1 2. When none of the choices on the ballot receives a majority
2 of the votes, a runoff election shall be conducted on the fourteenth
3 day following the first election between the two choices which
4 received the largest number of votes in the preceding election.

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

9 If no agreement can be reached by thirty (30) days prior to the
10 election, the ~~local~~ board of education shall notify the county
11 election board of the county in which the board is located of such
12 fact, and the following method for conducting the secret ballot
13 election shall be followed and conducted by the county election
14 board:

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

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

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

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

5 (4) the date of the election which shall not be a
6 special election date specified by subsection B
7 of Section 3-101 of Title 26 of the Oklahoma
8 Statutes.

9 b. Ballots for the election shall be printed by the
10 county election board in the same manner as for other
11 elections conducted by the county election board,
12 insofar as is possible. The names of organizations
13 shall be listed on the ballot in the order in which
14 said names are furnished to the county election board
15 by the board of education. The option specifying that
16 no organization shall represent the employee
17 bargaining unit shall be listed last on the ballot, in
18 such language as may be specified by the ~~local~~ board.

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

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

5 e. Eligible voters may vote after signing their
6 signatures beside their names on the list of names of
7 all the persons eligible to vote in the election. The
8 voter shall place his or her ballot in the ballot box
9 in the presence of the inspector.

10 f. Each organization entitled to have its name appear on
11 the ballot shall be permitted to appoint one
12 challenger at each polling place. Each such
13 challenger shall be properly identified as such, and
14 shall be limited to inquiring of a prospective voter,
15 said prospective voter's name, address, job
16 classification and work site. The challenger may
17 challenge the right of any prospective voter to vote
18 by so informing the judge. Upon being so challenged,
19 the prospective voter may vote if, after being
20 informed by the judge of such a challenge, the voter
21 signs his or her signature beside his or her name on
22 the list of names of all the persons eligible to vote
23 in ~~said~~ the election. If same occurs, the judge shall
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1 write the words "Challenged by _____" beside the
2 voter's signature.

3 g. The county election board shall certify in writing the
4 results of the election to the board of education on
5 the day following the election and on the same day
6 shall mail a copy of the certification to all employee
7 organizations that have requested copies of the
8 certification.

9 h. Costs of the election shall be paid to the county
10 election board by the board of education. The costs
11 shall include the regular salaries of the inspector,
12 judge, and clerk, in addition to all other necessary
13 and reasonable costs. Such costs shall include
14 compensation for members of the county election board,
15 including the secretary.

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

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

22 5. A list of the employees eligible to vote in the election
23 including their names, addresses, phone numbers, job classification
24 and work site shall be provided not less than fourteen (14) days

1 before the election to each organization listed on the official
2 ballot.

3 6. Any ~~local~~ board or organization challenging the results of
4 any election held pursuant to the provisions of this section shall
5 post with the district court a bond of One Thousand Dollars
6 (\$1,000.00) which shall be forfeited if the court finds that the
7 challenge is in bad faith.

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

21 SECTION 2. This act shall become effective November 1, 2008.

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