

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SENATE BILL 638

By: Ford

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6 AS INTRODUCED

7 An Act relating to school employment negotiations;
8 amending 70 O.S. 2001, Section 509.2a, which relates
9 to dispute resolution in school contract
10 negotiations; removing bargaining unit determination
11 disputes; amending 70 O.S. 2001, Section 509.6, which
relates to good faith negotiations in school
employment contracts; removing dispute resolution;
providing an effective date; and declaring an
emergency.

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

15 SECTION 1. AMENDATORY 70 O.S. 2001, Section 509.2a, is
16 amended to read as follows:

17 Section 509.2a A. In the event of a ~~bargaining unit~~
18 ~~determination or a~~ bargaining election dispute, the following
19 procedure shall apply:

20 1. ~~In the event of a bargaining election dispute, within~~ Within
21 seven (7) calendar days of receipt of verification of number of
22 signatures on the petition from the county election board or the
23 receipt of election results from the county election board or other
24 organization agreed upon by the parties to conduct the election,

1 either party shall give notice in writing of a dispute and the facts
2 on which the dispute is based to the other parties involved, and the
3 State Superintendent of Public Instruction requesting appointment of
4 a dispute resolution committee. ~~In the event of a bargaining unit
5 determination dispute either party shall give notice in writing of a
6 dispute and the facts on which the dispute is based to the other
7 parties involved, and the State Superintendent of Public Instruction
8 requesting appointment of a dispute resolution committee. The
9 status quo that existed between the parties prior to the incident
10 giving rise to the dispute shall be maintained through the
11 resolution of the dispute including district court proceedings
12 unless the court orders otherwise upon proper application by a
13 party; any Any election scheduled pursuant to a disputed petition
14 shall be stayed pending resolution of the dispute including district
15 court proceedings;~~

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

1 the committee. The committee shall elect a chair at its first
2 meeting;

3 3. Within five (5) calendar days after the selection of the
4 chair, the representatives of the parties involved in the dispute
5 shall present to the members of the committee written comments on
6 the issues related to the dispute. Each party shall furnish the
7 other parties copies of documents presented to the committee.
8 Within fifteen (15) calendar days of selection of the chair, the
9 chair shall convene the committee for a meeting with the
10 representatives of the parties. Within twenty (20) calendar days of
11 selection of the chair, the committee shall present its findings and
12 recommendations in writing to the board of education and other
13 parties involved in the dispute;

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

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

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

12 7. Within fifteen (15) calendar days of the date of
13 notification of the parties' inability to agree, any party may
14 appeal for judicial review of the committee's findings and
15 recommendations in the district court of the county in which the
16 administrative office of the school district is located. The review
17 shall be conducted by the court without a jury and shall be confined
18 to the written record consisting of the dispute resolution
19 committee's findings and recommendations, written statements
20 furnished to the dispute resolution committee by the parties, and
21 written statements exchanged among the parties as required in this
22 section. In cases of alleged irregularities in procedures required
23 in this section, the court may take testimony. The court, upon
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1 request or upon its own motion, shall hear oral argument and receive
2 written briefs; and

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

- 12 a. in violation of constitutional provisions,
- 13 b. in excess of the authority of the committee,
- 14 c. made upon unlawful procedure,
- 15 d. affected by other error of law,
- 16 e. clearly erroneous in view of the reliable, material,
17 probative, and competent evidence, including matters
18 properly noticed by the committee, upon examination
19 and consideration of the entire record as submitted
20 but without otherwise substituting its judgment as to
21 the weight of the evidence for that of the committee
22 on question of fact,
- 23 f. arbitrary or capricious, or

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

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

5 B. An aggrieved party without a motion for a new trial may
6 secure a review of any final judgment of a district court under this
7 section by appeal to the Oklahoma Supreme Court. The appeal shall
8 be taken in the manner and time provided by law for appeal to the
9 Supreme Court from the district court in civil actions.

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

12 Section 509.6 Once an organization has been recognized, the
13 board of education or its duly designated representative must meet
14 with the duly designated representative of the organization and
15 within sixty (60) days shall complete an agreement outlining
16 negotiation procedures. The board of education and the
17 representatives of the organization must negotiate in good faith on
18 wages, hours, fringe benefits and other terms and conditions of
19 employment. To negotiate in good faith shall mean both parties must
20 be willing to consider proposals in an effort to find a mutually
21 satisfactory basis for agreement and must be willing to discuss
22 their respective contract proposals. If either party objects to the
23 other's contract proposals, the objecting party must support its
24 objections with rationale. ~~Any allegation by either party that~~

1 ~~there has been a failure to comply with the provisions of this~~
2 ~~section shall be resolved through the dispute resolution procedure~~
3 ~~for resolving a unit determination dispute as set forth in~~
4 ~~subsection A of Section 509.2 of this title.~~

5 SECTION 3. This act shall become effective July 1, 2011.

6 SECTION 4. It being immediately necessary for the preservation
7 of the public peace, health and safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

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