STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

SENATE BILL 1425 By: Dahm

AS INTRODUCED

An Act relating to schools; amending 70 O.S. 2011, Section 509.2, as amended by Section 24, Chapter 124, O.S.L. 2014 (70 O.S. Supp. 2015, Section 509.2), which relates to employee organizations; modifying process for recognizing certain employee organizations; requiring vote; providing time period for certain activities; and providing an effective date.

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

SECTION 1. AMENDATORY 70 O.S. 2011, Section 509.2, as amended by Section 24, Chapter 124, O.S.L. 2014 (70 O.S. Supp. 2015, Section 509.2), is amended to read as follows:

Section 509.2. A. The 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 board no later than fourteen (14) days after the 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 certified as teachers as that term is 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; and

3. All employees who are not required by their job description to be a principal, certified teacher, superintendent or other certified or noncertified administrator shall constitute a separate bargaining unit. Provided that, employees with access to confidential, labor relations information of the school district, or managerial employees whose responsibilities include making employment recommendations to the superintendent and for which their position does not require a certificate, shall be excluded from this or other bargaining units. Also excluded is any employee position

agreed to be excluded from the bargaining unit by the employee organization and the school district.

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, the 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 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 the petition. Within thirty (30) days of receipt of the sealed packet by the district court judge in and for the county in which the school district has its main office, the sealed packet shall be opened and the petition shall be verified by an individual designated by the district judge of such court for the county in which the school district has its main office. Upon verification of the number of signatures on the petition, the district court judge shall notify in writing the district board of education and any employee organization that has requested notice of the verification. 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 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 7 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 forty-five (45) days nor more than sixty (60) 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.

On or after March 2, 1995, the board shall recognize within ten (10) days an organization which 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 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 board. The 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 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 by thirty (30) days prior to the election, the 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 the 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 which shall not be a special election date specified by subsection B of Section 3-101 of Title 26 of the Oklahoma Statutes.

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 board.

c. The secretary of the county election board shall appoint an inspector, judge and clerk for each polling place. The 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 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 the 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 the election. If same occurs, the judge shall write the words "Challenged by _____" beside the voter's signature.

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

h. Costs of the election shall be paid to the county election board by the board of education. The costs shall include the regular salaries of the inspector, judge, and 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 the 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. Any 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.

7. ~~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 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~~ No existing employee organization as defined in this section shall continue to be recognized as the exclusive representative of employees in a unit without the concurrence of a majority of all employees in the unit.

a. the board shall direct a secret ballot election to certify the existing employee organization retains support of a majority of all employees in the unit,

b. the board shall promulgate rules to preserve the purity of elections and to preserve the secrecy of the ballot.

(1) the board shall determine whether elections shall be conducted in-person, by mail, by telephone, by internet-based systems or by any other means determined by the board to be fair, confidential and reliable. The board shall allow represented employees to cast ballots for a period of seven days,

(2) the board may establish a fee schedule from employee organizations participating in elections conducted under this subsection for the purpose of funding of the elections.

c. should the existing employee organization receive votes from a majority of all employees in the unit the pre-existing certification shall continue. If the existing employee organization fails to receive votes from a majority of all employees in the unit, the board shall discontinue representation of the employee organization and the employees shall be unrepresented,

d. in the event of a termination of certification, the terms of any pre-existing contract between the employee organization and the board of education shall continue and remain in effect for the remaining contract term except for any provisions involving, in any manner, the employee organization including but not limited to union security, dues and fees and grievance and arbitration,

e. public employees may certify a new employee organization in accordance with this section so long as the public employees are not included with a substantially similar or affiliated employee organization to the employee organization with discontinued representation for two (2) years from the date of discontinued representation, and

f. the board shall start directing elections to certify majority support of existing employee organization not less than two (2) and not more than three (3) years after the effective date of this act and every even numbered year thereafter; elections shall occur no earlier than August 1st and no later than December 1st.

SECTION 2. This act shall become effective November 1, 2016.

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