

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 2723

By: Russ

AS INTRODUCED

An Act relating to school employee organizations; prohibiting specified existing organizations from continuing to represent employees; requiring a board of education to hold secret ballot election; directing the board of education to determine how the election shall be conducted; authorizing the board of education to establish a fee schedule to fund the election; eliminating recognition of organization if it fails to receive a majority of votes; providing for continuation of contract terms if an organization is eliminated; providing exception; allowing board of education to recognize a new employee organization under certain circumstances; providing requirements for elections to certify majority support; amending 70 O.S. 2011, Section 509.2, as amended by Section 24, Chapter 124, O.S.L. 2014 (70 O.S. Supp. 2017, Section 509.2), which relates to school employee organizations; providing an exception; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 509.12 of Title 70, unless there is created a duplication in numbering, reads as follows:

1 A. No existing employee organization established pursuant to
2 the provisions of Section 509.2 of Title 70 of the Oklahoma Statutes
3 shall continue to represent employees as defined in subsection A of
4 Section 509.2 or 1-116 of Title 70 of the Oklahoma Statutes after
5 December 31, 2019, except as provided for in this section.

6 B. 1. A board of education shall hold a secret ballot election
7 for all employees in any bargaining unit represented by an existing
8 employee organization to determine whether the organization retains
9 support of a majority of all employees in the bargaining unit.

10 2. The board of education shall determine whether elections
11 shall be conducted in person, by mail, by telephone, by Internet-
12 based systems or by any other means determined by the board of
13 education to be fair, confidential and reliable. The board of
14 education shall allow employees in the bargaining unit to cast
15 ballots for a period of five (5) business days.

16 3. The board of education may establish a fee schedule,
17 consistent with subsection C of Section 509.2 of Title 70 of the
18 Oklahoma Statutes, for employee organizations subject to elections
19 conducted pursuant to the provisions of this section for the purpose
20 of funding the election.

21 C. If a majority of all employees in the bargaining unit vote
22 in favor of retaining the existing employee organization, the
23 organization shall remain the representative of employees in the
24 bargaining unit pursuant to the provisions of Section 509.2 of Title

1 70 of the Oklahoma Statutes. If a majority of all employees in the
2 bargaining unit do not vote in favor of retaining the existing
3 employee organization, the board of education shall no longer
4 recognize the organization as the representative of employees in the
5 unit and the employees shall be unrepresented.

6 D. When an existing employee organization is no longer
7 recognized, the terms of any preexisting contract between the
8 employee organization and the school district employees represented
9 by the organization shall continue and remain in effect for the
10 remaining contract term, except for any provisions involving in any
11 manner the employee organization including, but not limited to,
12 organization security, dues and fees, grievances and arbitration.

13 E. A board of education may recognize a new employee
14 organization in accordance with the provisions of Section 509.2 of
15 Title 70 of the Oklahoma Statutes, but the new employee organization
16 shall not be substantially similar to or affiliated with an employee
17 organization that has lost recognition pursuant to the provisions of
18 subsection C of this section for twelve (12) months from the date of
19 the loss of recognition.

20 F. The board of education shall hold an election to certify
21 majority support of existing employee organizations no earlier than
22 August 1, 2019, and no later than December 1, 2019, and at least
23 once every five (5) years thereafter. Elections shall occur no
24 earlier than August 1 and no later than December 1.

1 SECTION 2. AMENDATORY 70 O.S. 2011, Section 509.2, as
2 amended by Section 24, Chapter 124, O.S.L. 2014 (70 O.S. Supp. 2017,
3 Section 509.2), is amended to read as follows:

4 Section 509.2 A. The Except as provided in Section 1 of this
5 act, the board of education shall recognize an employee organization
6 designated by an election of the employees in an appropriate
7 bargaining unit as the exclusive representative of all the employees
8 in such unit. The members of an employee organization shall be
9 employees as defined in paragraphs 1, 2 and 3 of this subsection and
10 Section 1-116 of this title. The recognition of such employee
11 organization shall be made by the board no later than fourteen (14)
12 days after the election. Any person who desires not to be
13 represented by any organization may so state in writing to his or
14 her board of education. Appropriate bargaining units are defined as
15 follows; however, such definition shall not be construed, of itself,
16 as requiring that bargaining units engage in bargaining or act to
17 disengage from bargaining:

18 1. Employees who are employed and certified as principals and
19 assistant principals and who have responsibilities for the
20 supervision of classroom teachers shall constitute an appropriate
21 unit;

22 2. All other employees who are required by the position in
23 which employed to be certified as teachers as that term is defined
24 in Section 1-116 of this title and who do not hold supervisory

1 authority with respect to other teachers in the district shall
2 constitute an appropriate unit; and

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

14 Provided, if employees categorized according to paragraphs 2 and
15 3 of this subsection were organized for bargaining as a single unit
16 as of April 14, 1986, or are at any time employed in a district
17 having fewer than seventy-five employees in the two categories taken
18 together, the employees may, for such time as a majority of the
19 employees in each category indicate by secret ballot vote they share
20 a single community of interest, constitute a single appropriate
21 unit. Further provided, any final judgment of the Supreme Court
22 denying such community of interest in any school district shall have
23 the effect of rendering inappropriate all units, in whatever school
24 districts they exist, which include employees of both categories.

1 B. 1. Within seven (7) business days of receiving a sealed
2 packet containing an employee petition filed by or on behalf of
3 thirty-five percent (35%) or more of the employees in a unit, such
4 petition calling for an election to determine which, if any,
5 employee organization represents the employees in a bargaining unit,
6 the board shall arrange for verification that there are a sufficient
7 number of correct names to constitute at least thirty-five percent
8 (35%) of the employees in the unit. Such arrangements shall include
9 the transmitting of the sealed packet and a list of employees
10 eligible to be included in the bargaining unit to the individual
11 designated pursuant to the provisions of paragraph 2 of this
12 subsection.

13 2. The petition calling for the secret ballot election shall
14 contain only the names of employees of the bargaining unit who have
15 signed and dated the petition. Within thirty (30) days of receipt
16 of the sealed packet by the district court judge in and for the
17 county in which the school district has its main office, the sealed
18 packet shall be opened and the petition shall be verified by an
19 individual designated by the district judge of such court for the
20 county in which the school district has its main office. Upon
21 verification of the number of signatures on the petition, the
22 district court judge shall notify in writing the district board of
23 education and any employee organization that has requested notice of
24 the verification. Under no circumstances shall the individual so

1 designated reveal the names of employees who signed or did not sign
2 the petition. If an employee has signed more than one petition, the
3 name of the employee shall be removed from each petition.

4 3. The period of time for signing of a recognition petition
5 shall commence upon receipt of written notification by the school
6 board from an organization indicating that it intends to circulate a
7 petition and shall cease thirty (30) days thereafter. Provided, if
8 an organization recognized as representative of a unit for
9 bargaining is being challenged for discontinuation of representation
10 as provided in paragraph 7 of subsection C of this section or is
11 being challenged by another organization seeking recognition, the
12 period for signing shall commence on the first day of February and
13 end on the last day of that same February.

14 C. 1. Not less than forty-five (45) days nor more than sixty
15 (60) days after receipt of notification that the petition has been
16 verified as sufficient, a secret ballot election shall be held to
17 determine which, if any, employee organization shall represent the
18 unit. No election shall be held for a unit within which a valid
19 election was held in the preceding two (2) years.

20 On or after March 2, 1995, the board shall recognize within ten
21 (10) days an organization which has obtained signed authorization
22 from a majority of the employees eligible to be included in the unit
23 but has not been recognized. No election shall be held for such
24 unit within two (2) years of recognition. An appropriate election

1 ballot shall be printed for this election, which contains the names
2 of all employee organizations having presented a petition verified
3 as signed by at least thirty-five percent (35%) of the employees
4 eligible to be in the unit to represent or currently recognized as
5 representing the unit; provided, no such organization shall be shown
6 on the ballot unless the organization pays to the board a filing fee
7 of Two Hundred Fifty Dollars (\$250.00). The ballot shall also
8 provide an option whereby any employee of the unit may indicate a
9 preference that the unit not be represented by any organization.
10 Every organization that receives at least fifteen percent (15%) of
11 the vote in the election shall be reimbursed the Two Hundred Fifty
12 Dollars (\$250.00) by the board. The board shall use any remaining
13 filing fee money to help offset the cost of the validation process
14 of the petition, if any, as well as any election costs incurred.

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

19 3. The employee organization or organizations and the school
20 board shall, by agreement, determine the method by which each
21 election shall be conducted. All costs incurred in an election
22 shall be shared equally by all parties involved.

23 If no agreement can be reached by thirty (30) days prior to the
24 election, the board of education shall notify the county election

1 board of the county in which the board is located of such fact, and
2 the following method for conducting the secret ballot election shall
3 be followed and conducted by the county election board:

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

- 6 (1) a list of all the polling places for the
7 election, such list to include every middle
8 school or junior high school and the central
9 administration office in the district;
10 (2) a list of names of all the persons eligible to
11 vote in the election, such list to be in
12 alphabetical order and duplicated in such number
13 that there shall be one for each polling place,
14 plus an additional five copies;
15 (3) the names of each organization entitled to have
16 its name appear on the ballot; and
17 (4) the date of the election which shall not be a
18 special election date specified by subsection B
19 of Section 3-101 of Title 26 of the Oklahoma
20 Statutes.

21 b. Ballots for the election shall be printed by the
22 county election board in the same manner as for other
23 elections conducted by the county election board,
24 insofar as is possible. The names of organizations

1 shall be listed on the ballot in the order in which
2 said names are furnished to the county election board
3 by the board of education. The option specifying that
4 no organization shall represent the employee
5 bargaining unit shall be listed last on the ballot, in
6 such language as may be specified by the board.

7 c. The secretary of the county election board shall
8 appoint an inspector, judge and clerk for each polling
9 place. The inspector, judge and clerk shall be
10 selected from among the regular precinct officials in
11 the county.

12 d. Polling places shall be open from 7:00 a.m. to 7:00
13 p.m. on the day of the election. Any eligible person
14 who appears to vote no later than 7:00 p.m. shall be
15 entitled to vote.

16 e. Eligible voters may vote after signing their
17 signatures beside their names on the list of names of
18 all the persons eligible to vote in the election. The
19 voter shall place his or her ballot in the ballot box
20 in the presence of the inspector.

21 f. Each organization entitled to have its name appear on
22 the ballot shall be permitted to appoint one
23 challenger at each polling place. Each such
24 challenger shall be properly identified as such, and

1 shall be limited to inquiring of a prospective voter,
2 said prospective voter's name, address, job
3 classification and work site. The challenger may
4 challenge the right of any prospective voter to vote
5 by so informing the judge. Upon being so challenged,
6 the prospective voter may vote if, after being
7 informed by the judge of such a challenge, the voter
8 signs his or her signature beside his or her name on
9 the list of names of all the persons eligible to vote
10 in the election. If same occurs, the judge shall
11 write the words "Challenged by ____" beside the
12 voter's signature.

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

19 h. Costs of the election shall be paid to the county
20 election board by the board of education. The costs
21 shall include the regular salaries of the inspector,
22 judge, and clerk, in addition to all other necessary
23 and reasonable costs. Such costs shall include
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1 compensation for members of the county election board,
2 including the secretary.

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

7 4. No employee shall use regularly scheduled duty time for
8 campaign purposes.

9 5. A list of the employees eligible to vote in the election
10 including their names, addresses, phone numbers, job classification
11 and work site shall be provided not less than fourteen (14) days
12 before the election to each organization listed on the official
13 ballot.

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

19 7. In any February more than two (2) years after recognition of
20 an organization pursuant to the provisions of this section and upon
21 the receipt of a petition calling for discontinuation of
22 representation signed by thirty-five percent (35%) of the employees
23 eligible to be included in the unit, a board shall call an election
24 to determine whether the members of a unit wish to discontinue being

1 represented for bargaining. If a majority of the votes cast are
2 votes to discontinue representation, efforts to gain recognition by
3 any organization shall be prohibited for a period of two (2) years
4 commencing with the expiration of the contract then in force. The
5 ballots used in such election shall, without reference to any
6 organization by name, offer the single choice of continued
7 representation or discontinuation of representation.

8 SECTION 3. This act shall become effective July 1, 2018.

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

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