

**SENATE BILL No. 136**

By Committee on Education

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1 AN ACT concerning school districts; relating to the professional  
2 negotiations act; amending K.S.A. 72-5423 and K.S.A. 2014 Supp. 72-  
3 5413 and repealing the existing sections.

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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2014 Supp. 72-5413 is hereby amended to read as  
7 follows: 72-5413. As used in this act, and ~~in acts amendatory thereof or~~  
8 ~~supplemental amendments~~ thereto:

9 (a) The term "persons" includes one or more individuals,  
10 organizations, associations, corporations, boards, committees,  
11 commissions, agencies, or their representatives.

12 (b) "Board of education" means the state board of education pursuant  
13 to its authority under K.S.A. 76-1001a and 76-1101a, and amendments  
14 thereto, the board of education of any school district, the board of control  
15 of any area vocational-technical school and the board of trustees of any  
16 community college.

17 (c) "Professional employee" means any person employed by a board  
18 of education in a position which requires a certificate issued by the state  
19 board of education or employed by a board of education in a professional,  
20 educational or instructional capacity, but shall not mean any such person  
21 who is an administrative employee and, commencing in the 2006-2007  
22 school year, shall not mean any person who is a retirant from school  
23 employment of the Kansas public employees retirement system, regardless  
24 of whether an agreement between a board of education and an exclusive  
25 representative of professional employees that covers terms and conditions  
26 of professional service provides to the contrary.

27 (d) "Administrative employee" means, in the case of a school district,  
28 any person who is employed by a board of education in an administrative  
29 capacity and who is fulfilling duties for which an administrator's certificate  
30 is required under K.S.A. 72-7513, and amendments thereto; and, in the  
31 case of an area vocational-technical school or community college, any  
32 person who is employed by the board of control or the board of trustees in  
33 an administrative capacity and who is acting in that capacity and who has  
34 authority, in the interest of the board of control or the board of trustees, to

1 hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or  
2 discipline other employees, or responsibly to direct them or to adjust their  
3 grievances, or effectively to recommend a preponderance of such actions,  
4 if in connection with the foregoing, the exercise of such authority is not of  
5 a merely routine or clerical nature, but requires the use of independent  
6 judgment.

7 (e) "Professional employees' organizations" means any one or more  
8 organizations, agencies, committees, councils or groups of any kind in  
9 which professional employees participate, and which exist for the purpose,  
10 in whole or part, of engaging in professional negotiation with boards of  
11 education with respect to the terms and conditions of professional service  
12 or for the purpose of professional development or liability protection.

13 (f) "Representative" means any professional employees' organization  
14 or any person it authorizes or designates to act in its behalf or any person a  
15 board of education authorizes or designates to act in its behalf.

16 (g) "Professional negotiation" means meeting, conferring, consulting  
17 and discussing in a good faith effort by both parties to reach agreement  
18 with respect to the terms and conditions of professional service.

19 (h) "Mediation" means the effort through interpretation and advice by  
20 an impartial third party to assist in reconciling a dispute concerning terms  
21 and conditions of professional service which arose in the course of  
22 professional negotiation between a board of education or its  
23 representatives and representatives of the recognized professional  
24 employees' organization.

25 (i) "Fact-finding" means the investigation by an individual or board  
26 of a dispute concerning terms and conditions of professional service which  
27 arose in the course of professional negotiation, and the submission of a  
28 report by such individual or board to the parties to such dispute which  
29 includes a determination of the issues involved, findings of fact regarding  
30 such issues, and the recommendation of the fact-finding individual or  
31 board for resolution of the dispute.

32 (j) "Strike" means an action taken for the purpose of coercing a  
33 change in the terms and conditions of professional service or the rights,  
34 privileges or obligations thereof, through any failure by concerted action  
35 with others to report for duty including, but not limited to, any work  
36 stoppage, slowdown, or refusal to work.

37 (k) "Lockout" means action taken by a board of education to provoke  
38 interruptions of or prevent the continuity of work normally and usually  
39 performed by the professional employees for the purpose of coercing  
40 professional employees into relinquishing rights guaranteed by this act and  
41 the act of which this section is amendatory.

42 (l) (1) "Terms and conditions of professional service" means: ~~(A)~~  
43 ~~{(A)}~~ salaries and wages, including pay for duties under supplemental

1 contracts; hours and amounts of work; vacation allowance, holiday, sick,  
2 extended, sabbatical, and other leave, and number of holidays; retirement;  
3 insurance benefits; wearing apparel; pay for overtime; jury duty; grievance  
4 procedure; including binding arbitration of grievances; disciplinary  
5 procedure; resignations; termination and nonrenewal of contracts;  
6 reemployment of professional employees; terms and form of the individual  
7 professional employee contract; probationary period; professional  
8 employee appraisal procedures; each of the foregoing being a term and  
9 condition of professional service, regardless of its impact on the employee  
10 or on the operation of the educational system; (B) matters which relate to  
11 privileges to be granted the recognized professional employees'  
12 organization including, but not limited to, voluntary payroll deductions;  
13 dissemination of information regarding the professional negotiation  
14 process and related matters to members of the bargaining unit on school or  
15 college premises through direct contact with members of the bargaining  
16 unit; reasonable leaves of absence for members of the bargaining unit for  
17 organizational purposes such as engaging in professional negotiation and  
18 partaking of instructional programs properly related to the representation  
19 of the bargaining unit; any of the foregoing privileges which are granted  
20 the recognized professional employees' organization through the  
21 professional negotiation process shall not be granted to any other  
22 professional employees' organization; *{vacation allowance, holiday, sick,  
23 extended, sabbatical and other leave, and number of holidays;  
24 retirement; insurance benefits; wearing apparel; pay for overtime; jury  
25 duty; grievance procedure, including binding arbitration of grievances;  
26 disciplinary procedure; resignations; termination and nonrenewal of  
27 contracts; reemployment of professional employees; terms and form of  
28 the individual professional employee contract; probationary period;  
29 professional employee appraisal procedures; each of the foregoing being  
30 a term and condition of professional service, regardless of its impact on  
31 the employee or on the operation of the educational system; (B) matters  
32 which relate to privileges to be granted the recognized professional  
33 employees' organization, including, but not limited to, voluntary payroll  
34 deductions; dissemination of information regarding the professional  
35 negotiation process and related matters to members of the bargaining  
36 unit on school or college premises through direct contact with members  
37 of the bargaining unit; reasonable leaves of absence for members of the  
38 bargaining unit for organizational purposes, such as engaging in  
39 professional negotiation and partaking of instructional programs  
40 properly related to the representation of the bargaining unit; any of the  
41 foregoing privileges which are granted the recognized professional  
42 employees' organization through the professional negotiation process  
43 shall not be granted to any other professional employees' organization;}*

1 and ~~(C)~~ *{(C)}* such other matters as the parties mutually agree upon as  
2 properly related to professional service including, but not limited to,  
3 employment incentive or retention bonuses authorized under K.S.A. 72-  
4 8246, and amendments thereto.

5 (2) Nothing in this act, and amendments thereto, shall authorize any  
6 professional employees' organization to be granted the exclusive privilege  
7 of access to the use of school or college facilities for meetings, the use of  
8 bulletin boards on or about the facility or the use of school or college mail  
9 systems.

10 (3) Nothing in this act, and amendments thereto, shall authorize the  
11 diminution of any right, duty or obligation of either the professional  
12 employee or the board of education which have been fixed by statute or by  
13 the constitution of this state. Except as otherwise expressly provided in  
14 this subsection (1), the fact that any matter may be the subject of a statute  
15 or the constitution of this state does not preclude negotiation thereon so  
16 long as the negotiation proposal would not prevent the fulfillment of the  
17 statutory or constitutional objective.

18 (4) Matters which relate to the duration of the school term, and  
19 specifically to consideration and determination by a board of education of  
20 the question of the development and adoption of a policy to provide for a  
21 school term consisting of school hours, are not included within the  
22 meaning of terms and conditions of professional service and are not  
23 subject to professional negotiation.

24 (m) "Secretary" means the secretary of labor or a designee thereof.

25 (n) "Statutory declaration of impasse date" means ~~June 1~~ *July 31* in  
26 the current school year.

27 (o) "Supplemental contracts" means contracts for employment duties  
28 other than those services covered in the principal or primary contract of  
29 employment of the professional employee and shall include, but not be  
30 limited to, such services as coaching, supervising, directing and assisting  
31 extracurricular activities, chaperoning, ticket-taking, lunchroom  
32 supervision, and other similar and related activities.

33 Sec. 2. K.S.A. 72-5423 is hereby amended to read as follows: 72-  
34 5423. (a) Nothing in this act, or the act of which this section is  
35 amendatory, shall be construed to change or affect any right or duty  
36 conferred or imposed by law upon any board of education, except that  
37 boards of education are required to comply with this act, and the act of  
38 which this section is amendatory, in recognizing professional employees'  
39 organizations, and when such an organization is recognized, the board of  
40 education and the professional employees' organization shall enter into  
41 professional negotiations on request of either party at any time during the  
42 school year prior to issuance or renewal of the annual teachers' contracts.  
43 Notices to negotiate on new items or to amend an existing contract must be

1 filed on or before ~~February 1~~ *March 31* in any school year by either party,  
2 such notices shall be in writing and delivered to the chief administrative  
3 officer of the board of education or to the representative of the bargaining  
4 unit and shall contain in reasonable and understandable detail the purpose  
5 of the new or amended items desired.

6 (b) (1) *Upon entering negotiations pursuant to this section, the*  
7 *parties shall negotiate compensation of professional employees.~~*In*~~  
8 ~~*addition to compensation, each party may select not more than five*~~  
9 ~~*additional terms and conditions of professional service from the list*~~  
10 ~~*described in K.S.A. 72-5413(l)(1), and amendments thereto, for*~~  
11 ~~*negotiation. All other terms and conditions of professional service*~~  
12 ~~*described in K.S.A. 72-5413(l)(1), and amendments thereto, shall be*~~  
13 ~~*deemed permissive topics for negotiation and shall only be negotiated*~~  
14 ~~*upon the mutual agreement of*~~, ~~*hours and amounts of work*~~ ~~*and such*~~  
15 ~~*other terms and conditions of professional service as mutually agreed to*~~  
16 ~~*by the parties*~~ ~~*{and hours and amounts of work. In addition, each party*~~  
17 ~~*may select not more than three additional terms and conditions of*~~  
18 ~~*professional service from the list described in K.S.A. 72-5413(l)(1), and*~~  
19 ~~*amendments thereto, for negotiation. All other terms and conditions of*~~  
20 ~~*professional service described in K.S.A. 72-5413(l)(1), and amendments*~~  
21 ~~*thereto, shall be deemed permissive topics for negotiation and shall only*~~  
22 ~~*be negotiated upon the mutual agreement of the parties*~~ }.*

23 (2) *For purposes of this section, the term "compensation" means*  
24 *salary and wages, supplemental contract salaries and pay for overtime.*

25 (3) *The provisions of this subsection shall not apply to negotiations*  
26 *between a board of education and a professional employees' organization*  
27 *negotiating for the purpose of reaching their first agreement.*

28 (c) Except as otherwise expressly provided in this subsection, every  
29 meeting, conference, consultation and discussion between a professional  
30 employees' organization or its representatives and a board of education or  
31 its representatives during the course of professional negotiation and every  
32 hearing conducted by the secretary under K.S.A. 72-5426, and  
33 amendments thereto, for determination of the question of the existence of  
34 impasse is subject to the provisions of the Kansas open meetings law, and  
35 any amendments or supplements thereto. Meetings, conferences,  
36 consultations and discussions held by the secretary under K.S.A. 72-5426,  
37 and amendments thereto, for investigation of the question of the existence  
38 of impasse, and meetings, conferences, consultations and discussions held  
39 during the course of and in connection with, and the meeting required at  
40 the conclusion of, impasse resolution proceedings, as provided for in  
41 K.S.A. 72-5427 and 72-5428, and amendments to such sections, are  
42 specifically made exempt from the provisions of the Kansas open meetings  
43 law, and any amendments or supplements thereto.

1       ~~(e)~~ (d) Nothing in this act, or the act of which this section is  
2 amendatory, shall be construed to authorize a strike by professional  
3 employees.

4       ~~(d)~~ (e) Any agreement lawfully made under the provisions of this act,  
5 or the act of which this section is amendatory, may be adopted by  
6 reference and made a part of the employment contract between any  
7 professional employee of the applicable negotiating unit and a board of  
8 education for a period of not to exceed three years.

9       (f) *Those individuals selected by the board of education and the*  
10 *professional employees' organization to conduct negotiations pursuant to*  
11 *this act shall complete training on conducting negotiations each year. The*  
12 *content and format of the training for these individuals shall be*  
13 *determined by the respective party each individual represents in*  
14 *negotiations.*

15       Sec. 3. K.S.A. 72-5423 and K.S.A. 2014 Supp. 72-5413 are hereby  
16 repealed.

17       Sec. 4. This act shall take effect and be in force from and after its  
18 publication in the statute book.