

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1946

By: Lepak

4  
5  
6 AS INTRODUCED

7 An Act relating to school employees; prohibiting  
8 specified existing organizations from continuing to  
9 represent employees; requiring a school district  
10 board of education to hold secret ballot election  
11 after certain date; directing the board of education  
12 to determine how the election shall be conducted;  
13 authorizing the board of education to establish a fee  
14 schedule to fund the election; eliminating  
15 recognition of organization if it fails to receive a  
16 majority of votes; providing for continuation of  
17 contract terms if an organization is eliminated;  
18 providing exception; allowing board of education to  
19 recognize a new employee organization under certain  
20 circumstances; providing requirements for elections  
21 to certify majority support; amending 70 O.S. 2011,  
22 Section 5-139, as amended by Section 1, Chapter 193,  
23 O.S.L. 2018 (70 O.S. Supp. 2018, Section 5-139),  
24 which relates to payroll deductions; prohibiting  
certain payroll deductions; amending Section 1,  
Chapter 5, O.S.L. 2015 (62 O.S. Supp. 2018, Section  
34.70.1), which relates to state agency payroll  
deductions; modifying prohibition against payroll  
deductions on behalf of certain employees for certain  
membership dues; modifying date of application;  
providing for codification; providing an effective  
date; and declaring an emergency.

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

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

4           A. No existing employee organization established pursuant to  
5 the provisions of Section 509.2 of Title 70 of the Oklahoma Statutes  
6 shall continue to represent employees as defined in Section 509.2 or  
7 1-116 of Title 70 of the Oklahoma Statutes after December 31, 2019,  
8 except as provided for in this section.

9           B. 1. A school district board of education shall hold a secret  
10 ballot election for all employees in any bargaining unit represented  
11 by an existing employee organization to determine whether the  
12 organization retains support of a majority of all employees in the  
13 bargaining unit.

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

21           3. The school district board of education may establish a fee  
22 schedule, consistent with the provisions of Section 509.2 of Title  
23 70 of the Oklahoma Statutes, for employee organizations subject to  
24

1 elections conducted pursuant to the provisions of this section for  
2 the purpose of funding the election.

3 C. If a majority of all employees in the bargaining unit votes  
4 in favor of retaining the existing employee organization, the  
5 organization shall remain the representative of employees in the  
6 bargaining unit pursuant to the provisions of Section 509.2 of Title  
7 70 of the Oklahoma Statutes. If a majority of all employees in the  
8 bargaining unit do not vote in favor of retaining the existing  
9 employee organization, the school district board of education shall  
10 no longer recognize the organization as the representative of  
11 employees in the unit and the employees shall be unrepresented.

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

19 E. A school district board of education may recognize a new  
20 employee organization in accordance with the provisions of Section  
21 509.2 of Title 70 of the Oklahoma Statutes, but the new employee  
22 organization may not be substantially similar to or affiliated with  
23 an employee organization that has lost recognition pursuant to the  
24

1 provisions of subsection C of this section for twelve (12) months  
2 from the date of the loss of recognition.

3 F. The school district board of education shall hold an  
4 election to certify majority support of existing employee  
5 organizations no earlier than August 1, 2019, and no later than  
6 December 1, 2019, and at least once every year thereafter.  
7 Elections shall occur no earlier than August 1 and no later than  
8 December 1.

9 SECTION 2. AMENDATORY 70 O.S. 2011, Section 5-139, as  
10 amended by Section 1, Chapter 193, O.S.L. 2018 (70 O.S. Supp. 2018,  
11 Section 5-139), is amended to read as follows:

12 Section 5-139. A. ~~School~~ Except as provided by subsection B of  
13 this section, school districts shall make payroll deductions for  
14 either or both professional organization dues and political  
15 contributions at the written request of any school employee and  
16 shall transmit deducted funds to the organization designated by the  
17 school district employee. Such deductions shall be on a ten-month  
18 basis unless otherwise designated by the employee organization.  
19 However, a school employee may request at any time in writing,  
20 including by email or fax, for the school district to immediately  
21 terminate or initiate payroll deductions to a professional  
22 organization. Upon receipt of any written request, the school  
23 district shall within five (5) business days or by the next pay  
24 period, whichever is earlier, terminate or initiate any future

1 payroll deductions of the requesting school employee to a  
2 professional organization. Upon receipt of a written request, the  
3 school district shall notify the professional organization of the  
4 initiation or termination of payroll deductions within fifteen (15)  
5 business days. If the request is to terminate a deduction, the  
6 school district shall not make any advance payments to any  
7 professional organization of any future dues on behalf of the school  
8 employee. No school district policy or negotiated agreement shall  
9 place any other conditions or requirements, including but not  
10 limited to personal hand delivery, upon any employee to initiate or  
11 terminate any payroll deduction to a professional organization  
12 except for a written request as outlined in this section. Any  
13 school district policy or provision in a negotiated agreement that  
14 places additional conditions or requirements on initiation or  
15 termination beyond those outlined in this section shall be null and  
16 void. A school district which fails to terminate payroll deductions  
17 for an employee in accordance with this section shall immediately  
18 reimburse the employee the amount of all payroll deductions made by  
19 the school district after the employee's request, and the amount due  
20 the employee shall double every thirty (30) days until paid in full.

21 B. School districts shall not make payroll deductions for any  
22 public employee association or organization or professional  
23 organization that collectively bargains on behalf of its membership.  
24

1 SECTION 3. AMENDATORY Section 1, Chapter 5, O.S.L. 2015  
2 (62 O.S. Supp. 2018, Section 34.70.1), is amended to read as  
3 follows:

4 Section 34.70.1 A. It shall be unlawful for any state agency  
5 or school district to make payroll deductions on behalf of ~~a state~~  
6 an employee for membership dues in any public employee association  
7 or organization or professional organization that on or after  
8 ~~November 1, 2015~~ December 31, 2019, collectively bargains on behalf  
9 of its membership pursuant to any provision of ~~federal law~~ state  
10 law.

11 B. For purposes of this section:

12 1. "State agency" means any office, officer, bureau, board,  
13 counsel, court, commission, institution, unit, division, body or  
14 house of the executive or judicial branches of the state government,  
15 whether elected or appointed, excluding political subdivisions of  
16 the state. State agency shall include public school districts, the  
17 Oklahoma State Regents for Higher Education, the institutions,  
18 centers, or other constituent agencies of The Oklahoma State System  
19 of Higher Education, the State Board of Career and Technology  
20 Education, technology center school districts, the State  
21 Legislature, and the Office of the Governor; and

22 2. "Public employee" means an elected or appointed officer or  
23 employee or contract employee of a state agency as defined in this  
24 section, unless otherwise indicated.

1 SECTION 4. This act shall become effective July 1, 2019.

2 SECTION 5. It being immediately necessary for the preservation  
3 of the public peace, health or safety, an emergency is hereby  
4 declared to exist, by reason whereof this act shall take effect and  
5 be in full force from and after its passage and approval.

6

7 57-1-7449 LRB 01/16/19

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24