



Making public schools great for every child

KANSAS NATIONAL EDUCATION ASSOCIATION / 715 SW 10TH AVENUE / TOPEKA, KANSAS 66612-1686

David M. Schauner, KNEA General Counsel testimony
House Committee on Commerce, Labor and Economic Development
January 29, 2013
House Bill 2085

Dear Mr. Chairman and members of the Committee. My name is David Schauner and I am the General Counsel for Kansas NEA.

I stand before you today in opposition to **House Bill 2085**.

Kansas adopted the Professional Negotiations Act (PNA) in 1970. The PNA is a collection of rights and privileges that afford educators the ability to work collectively to improve their economic well-being. It also creates specific steps in the process that work to the advantage of the boards. The past forty-three years since the passage of the PNA has produced a substantial body of common understanding about how the PNA operates and how its various components work as a unified whole.

The workplace harmony present in most school districts is the direct result of forty-three years of trial and error in harmonizing the various components of the PNA. Bargaining over a wide range of topics has produced a well understood balance between the power of the employer and rights of the educator.

Kansas courts have issued well over seventy five decisions in the past forty- three years interpreting the PNA. There is now a well understood and carefully developed body of law that is understood by boards and educators throughout the state of Kansas. There is little mystery in the respective rights on both sides of the bargaining table.

It is not to say that each time the employer and employees sit down to negotiate terms and conditions of employment that all is perfect. But in fact, collective negotiations between school boards and their employees have produced respectful conversations and solutions about issues that affect the well-being of the students, the success of the school district and the workplace well-being of educators.

House Bill 2085 on its face appears to attempt the following:

- Create multiple bargaining units within each school district. Some bargaining units could be as small as one educator (see page 4, line 18-20). Multiple bargaining units and multiple representatives would create havoc in the operation of the school environment.

- Produce a circumstance in which the board is required to deal individually with each and every one of its professional employees as an individual bargaining unit (see page 5, line 21-23). A school employing 2,000 educators would be paralyzed if this bill is approved and each and every employee or subgroup of employees chose to become their own bargaining unit and demanded to negotiate their terms and conditions of employment with them.
- Create 20 years of litigation about the interaction of the amended portions of the PNA and those provisions of the Act that were not changed. An example is the process of defining the size and content of a bargaining unit **House Bill 2085** gives precious little direction about how the process would work or what the cost of the process might be.
- Divert the education community's attention from better test scores and reading proficiency and toward figuring out how to interpret their respective rights and obligations under the amended PNA. All in all the proposal would produce a very poor use of tax dollars when the current system is working.

Candidate Ronald Reagan on September 1st, 1980, gave a Labor Day speech at Liberty State Park in Jersey City, New Jersey and he said among other things "**When free unions and collective bargaining are forbidden, freedom is lost.**" They remind us that freedom is never more than one generation away from extinction. You and I must protect and preserve freedom here or it will not be passed onto our children.

Ronald Reagan was known as a great communicator and I believe based on this sentence alone, he deserves that status. Collective bargaining is democracy's way of honoring the majorities' wishes. Collective bargaining honors the democratic process of permitting one to represent the interests of many. Every legislator sitting here today represents many constituents, some of whom voted for you, some not but in the final analysis each of you took your seat and swore to represent your constituency. The same is true of school district bargaining unit representatives. They are bound to represent the interests of the entire collective body in the bargaining unit, not just a favored few. This has produced an environment in which school districts only need to negotiate with the majority representative of their educators rather than multiple subsets of their employees who may have individual interest that vary from those interests which serve the greatest number in the bargaining unit.

School districts are not operating with unlimited resources and school districts are not operating with unlimited time and energy. Being required to negotiate with a single entity improves both the efficiency of the school district and maximizes its limited resources in assisting school employees.

House Bill 2085 is a disservice to boards and educators alike. It undermines the well established practices that have made Kansas a model for sane and workable relationships between boards and educators. There is no evidence that the PNA is broken. There is no reason to fix what is not broken. The truth of the matter is that when negotiations break down the board has the statutory authority to issue unilateral contracts.

"Only a handful of reactionaries harbor the ugly thought of breaking unions and depriving working men and women of the right to join the union of their choice. I have no

use for those--regardless of their political party--who hold some vain and foolish dream of spinning the clock back to days when organized labor was huddled, almost as a hapless mass. Only a fool would try deprive working men and women of the right to join the union of their choice". – Dwight D. Eisenhower