



2020 South Dakota Legislature

Senate Bill 147

Introduced by: **Senator Langer**

1 **An Act to prohibit collective bargaining by certain employees of the Board of**
 2 **Regents.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That a NEW SECTION be added:

5 **13-49-39. Collective bargaining--Prohibition.**

6 The collective bargaining provisions set forth in chapters 3-18 and 60-9A do not
 7 apply to any person employed by the Board of Regents or employed by an institution
 8 under the authority of the Board of Regents, except for public employees at the South
 9 Dakota School for the Deaf or the South Dakota School for the Blind and Visually Impaired
 10 as provided in § 3-18-1.

11 **Section 2.** That § 3-18-1 be AMENDED:

12 **3-18-1. Employees subject to chapter--Excluded officers and employees--**
 13 **Rights preserved to excluded persons.**

14 The words "public employees" ~~term, public employee,~~ as used in this chapter ~~shall~~
 15 ~~mean~~ means any person holding a position by appointment or employment in the
 16 government of the State of South Dakota or in the government of any one or more of the
 17 political subdivisions thereof, or in the service of the public schools, or in the service of
 18 any authority, commission, or board, or any other branch of the public service. The term
 19 does not include:

- 20 (1) Elected officials and persons appointed to fill vacancies in elective offices and
 21 members of any board or commission;
- 22 (2) Administrators except elementary and secondary school administrators,
 23 administrative officers, directors, or chief executive officers of a public employer or
 24 major divisions thereof as well as chief deputies, first assistants, and any other
 25 public employees having authority in the interest of the public employer to hire,

1 transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline
 2 other public employees, or the responsibility to direct them, or to adjust their
 3 grievances, or to effectively recommend—~~such any~~ action, if in connection with the
 4 foregoing, and the exercise of ~~such the~~ authority is not of a merely routine or clerical
 5 nature, but requires the use of independent judgment;

6 (3) Students working as part-time employees twenty hours per week or less;

7 (4) Temporary public employees employed for a period of four months or less;

8 (5) Commissioned and enlisted personnel of the South Dakota National Guard;

9 (6) Judges and employees of the unified court system;

10 (7) Legislators and the full-time and part-time employees of the legislature or any state
 11 agency that statutorily is directed by the legislative branch; or

12 (8) Any person employed by the Board of Regents or employed by an institution under
 13 the authority of the Board of Regents, except a person employed at the South
 14 Dakota School for the Deaf or the South Dakota School for the Blind and the Visually
 15 Impaired who is not otherwise excluded by subdivision (2), (3), or (4).

16 This section does not preclude employees described in subdivisions (1) to ~~(7)~~ (8),
 17 inclusive, from joining professional, noncollective bargaining organizations.

18 **Section 3.** That § 3-18-15.2 be AMENDED:

19 **3-18-15.2. Appeal to department--Investigation, hearing, and order by**
 20 **department--Summary disposition of certain claims--Public employees of Board**
 21 **of Regents.**

22 If, after following the grievance procedure enacted by the governing body, the
 23 grievance remains unresolved, except in cases provided in § 3-6D-15, the grievance may
 24 be appealed to the Department of Labor and Regulation by filing an appeal with the
 25 department within thirty days after the final decision by the governing body is mailed or
 26 delivered to the employee. The department shall conduct an investigation and hearing and
 27 shall issue an order covering the points raised, which order is binding on the employee
 28 and the governmental agency. However, the department, upon the motion of any party,
 29 may dispose of any grievance, defense, or claim:

30 (1) If the pleadings, depositions, answers to interrogatories, and admissions on file,
 31 together with the affidavits, if any, show that there is no genuine issue as to any
 32 material fact and a party is entitled to a judgment as a matter of law; or

33 (2) At the close of the evidence offered by the proponent of the grievance, defense, or
 34 claim if the department determines that the evidence offered by the proponent of

1 the grievance, defense, or claim is legally insufficient to sustain the grievance,
2 defense, or claim.

3 Nothing in this section gives the department power to grant ~~tenure or promotion to a~~
4 ~~faculty member~~ any contract of employment to a public employee employed by the Board
5 of Regents.