



2020 South Dakota Legislature
Senate Bill 147
ENROLLED

AN ACT

ENTITLED An Act to prohibit collective bargaining by certain employees of the Board of Regents.

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

Section 1. That a NEW SECTION be added:

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

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

Section 2. That § 3-18-1 be AMENDED:

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

The term, public employee, as used in this chapter means any person holding a position by appointment or employment in the government of the State of South Dakota or in the government of any one or more of the political subdivisions thereof, or in the service of the public schools, or in the service of any authority, commission, or board, or any other branch of the public service. The term does not include:

- (1) Elected officials and persons appointed to fill vacancies in elective offices and members of any board or commission;
- (2) Administrators except elementary and secondary school administrators, administrative officers, directors, or chief executive officers of a public employer or major divisions thereof as well as chief deputies, first assistants, and any other public employees having authority in the interest of the public employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline

other public employees, or the responsibility to direct them, or to adjust their grievances, or to effectively recommend any action, if in connection with the foregoing, and the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment;

- (3) Students working as part-time employees twenty hours per week or less;
- (4) Temporary public employees employed for a period of four months or less;
- (5) Commissioned and enlisted personnel of the South Dakota National Guard;
- (6) Judges and employees of the unified court system;
- (7) Legislators and the full-time and part-time employees of the legislature or any state agency that statutorily is directed by the legislative branch; or
- (8) Any person employed by the Board of Regents or employed by an institution under the authority of the Board of Regents, except a person employed at the South Dakota School for the Deaf or the South Dakota School for the Blind and the Visually Impaired who is not otherwise excluded by subdivision (2), (3), or (4).

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

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

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

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

- (1) If the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and a party is entitled to a judgment as a matter of law; or
- (2) At the close of the evidence offered by the proponent of the grievance, defense, or claim if the department determines that the evidence offered by the proponent of

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

Nothing in this section gives the department power to grant any contract of employment to a public employee employed by the Board of Regents.

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

I certify that the attached Act originated in the:

Received at this Executive Office this ____ day of _____,

Senate as Bill No. 147

2020 at _____ M.

Secretary of the Senate

By _____
for the Governor

President of the Senate

The attached Act is hereby approved this _____ day of _____, A.D., 2020

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2020
at _____ o'clock __ M.

Chief Clerk

Secretary of State

Senate Bill No. 147
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State