

SESSION OF 2011

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2130

As Amended by Senate Committee on
Commerce

Brief*

HB 2130, as amended, would prohibit professional employees' organizations, and public employee organizations from using paycheck deductions for political activities. KSA 72-5413 defines a "professional employees' organization" as a group of certified employees that negotiates with boards of education regarding the terms and conditions of professional services. The bill would define "political activities" in terms of influencing state or local government elections. Members of labor or professional employee organizations would be permitted to donate by a personal payment noted to that effect. Political donations would be held in an account separate from the operational account.

Payroll deductions for the political activities of labor organizations would be permissible if a member annually authorized the deduction in writing.

If the prohibition were to be violated, or if funds were to be co-mingled, a public employer would be prohibited for two years from collecting deductions for any purpose. An employee that had a wrongful deduction would have standing to sue. In addition to other remedies that the law may provide, an employee would be able to recover damages from the employer and the organization. Damages from the employer could be equal to the deducted amount, and the damages from the organization could be twice that amount which the organization received. The bill would authorize the reimbursement of attorneys' fees.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The gill's provisions would be severable.

Background

Before the House Committee on Commerce and Economic Development, proponents of the bill included the Kansas Chamber, Americans for Prosperity, and Representative Gene Suellentrop. Proponents stated the legislation would remove governments from the process of funding political campaigns.

Opponents included the Council of Fire Fighters, the Kansas Organization of State Employees, the Kansas AFL-CIO, and Kansas NEA. Opponents stated that automatic paycheck deductions currently must be authorized separately, and political funds are held separately. The legislation could restrict some persons' participation in the political process and infringe upon constitutional rights.

During the hearing before the Senate Committee on Commerce, proponents included the Kansas Chamber and Americans for Prosperity. In addition to the reasons given during the House Committee's hearing, proponents stated the bill would reduce the expectation that may be placed on union members to contribute to certain political activities which they may not fully support.

Opponents included Representative Ann Mah, Kansas NEA, Kansas Organization of State Employees, Public Service Employees Local Union 1290PE, American Federation of Teachers—Kansas, Teamster Local Union No. 696, the Kansas AFL-CIO, and United Transportation Union. In addition to the reasons given during the House Committee's hearing, opponents noted the bill does not address contributions for corporations' political activities. Opponents also noted that in some instances paycheck deductions may be a benefit negotiated between employers and employees, and the bill could interfere with local agreements.

The bill was referred to the Senate Committee on Commerce and the Committee on Ethics and Elections. The Commerce Committee amended the bill so that members of labor organizations could make payroll deductions for political activities provided the annual authorization is in writing. The Committee further amended the bill to broaden the term "political activities" so as to include any public question, including those pertinent to the labor group's organizational duties. The Committee inserted a severability clause. The Committee's remaining amendments make the bill grammatically consistent and less ambiguous.

According to the fiscal note prepared by the Division of the Budget, in consultation with the Secretary of State's Office and the Governmental Ethics Commission, the bill would have not fiscal effect on state revenues or expenditures.