

Senate Substitute for HOUSE BILL No. 2022

By Committee on Commerce

3-12

1 AN ACT concerning employees; relating to certain employee
2 organizations; political activities; certain deductions from wages;
3 amending K.S.A. 75-4333 and K.S.A. 2012 Supp. 44-319 and repealing
4 the existing sections.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) It shall be a prohibited practice for any
8 professional employees' organization, as defined in K.S.A. 72-5413, and
9 amendments thereto, or public employee organization, as defined in
10 K.S.A. 75-4322, and amendments thereto, to use any dues, fees, money or
11 other assessments deducted from a member's paycheck for the purpose of
12 engaging in partisan or political purposes as defined in subsection (c). A
13 professional employees' organization or public employee organization may
14 not require any contribution to a candidate, personal campaign committee,
15 political action committee, registered political party, or political fund as a
16 condition of membership or participation in the professional employees'
17 organization or public employee organization.

18 (b) (1) A professional employees' organization or a public employee
19 organization wishing to make expenditures for partisan or political
20 purposes shall establish a political fund.

21 (2) Each professional employee's organization or public employee
22 organization that establishes a political fund shall:

23 (A) Maintain the political fund as a separate, segregated account apart
24 from any account containing money received by a professional employee's
25 organization or a public employee organization as union dues;

26 (B) ensure that each contribution to the political fund is voluntary;
27 and

28 (C) establish the political fund as a political action committee.

29 (3) (A) A professional employee's organization or a public employee
30 organization may only make expenditures for partisan or political purposes
31 from a political fund established in accordance with this section.

32 (B) A professional employee's organization or a public employee
33 organization may not

34 expend union dues for partisan or political purposes or transfer union
35 dues to a political fund.

36 (c) (1) "Partisan or political purposes" means an act done with the

1 intent or in a way to influence or tend to influence, directly or indirectly,
2 any person to refrain from voting or to vote for or against any candidate
3 for public office at any caucus, political convention, primary, or election.

4 (2) "Political fund" means a separate segregated fund established by a
5 professional employees' organization or a public employee organization
6 for partisan and political purposes that meets the requirements of this
7 section.

8 (3) "Union dues" means dues, fees, money, or other assessments
9 required as a condition of membership or participation in a professional
10 employees' organization or a public employee organization.

11 (d) This section as it relates to public employee organizations shall be
12 supplemental to the provisions of K.S.A. 75-4333, and amendments
13 thereto, and shall be enforced pursuant to the provisions of K.S.A. 75-
14 4334, and amendments thereto.

15 (e) This section as it relates to professional employees' organizations
16 shall be supplemental to the provisions of K.S.A. 72-5430, and
17 amendments thereto, and shall be enforced pursuant to the provisions of
18 K.S.A. 72-5430a, and amendments thereto.

19 Sec. 2. K.S.A. 75-4333 is hereby amended to read as follows: 75-
20 4333. (a) The commission of any prohibited practice, as defined in this
21 section, among other actions, shall constitute evidence of bad faith in meet
22 and confer proceedings.

23 (b) It shall be a prohibited practice for a public employer or its
24 designated representative willfully to:

25 (1) Interfere, restrain or coerce public employees in the exercise of
26 rights granted in K.S.A. 75-4324, *and amendments thereto*;

27 (2) dominate, interfere or assist in the formation, existence, or
28 administration of any employee organization;

29 (3) encourage or discourage membership in any employee
30 organization, committee, association or representation plan by
31 discrimination in hiring, tenure or other conditions of employment, or by
32 blacklisting;

33 (4) discharge or discriminate against an employee because ~~he or she~~
34 *such employee* has filed any affidavit, petition or complaint or given any
35 information or testimony under this act, or because ~~he or she~~ *such*
36 *employee* has formed, joined or chosen to be represented by any employee
37 organization;

38 (5) refuse to meet and confer in good faith with representatives of
39 recognized employee organizations as required in K.S.A. 75-4327, *and*
40 *amendments thereto*;

41 (6) deny the rights accompanying certification or formal recognition
42 granted in K.S.A. 75-4328, *and amendments thereto*;

43 (7) deliberately and intentionally avoid mediation, fact-finding, and

1 arbitration endeavors as provided in K.S.A. 75-4332, *and amendments*
2 *thereto*; or

3 (8) institute or attempt to institute a lockout.

4 (c) It shall be a prohibited practice for public employees or employee
5 organizations willfully to:

6 (1) Interfere with, restrain or coerce public employees in the exercise
7 of rights granted in K.S.A. 75-4324, *and amendments thereto*;

8 (2) interfere with, restrain or coerce a public employer with respect to
9 management rights granted in K.S.A. 75-4326, *and amendments thereto*,
10 or with respect to selecting a representative for the purposes of meeting
11 and conferring or the adjustment of grievances;

12 (3) refuse to meet and confer in good faith with a public employer as
13 required in K.S.A. 75-4327, *and amendments thereto*;

14 (4) deliberately and intentionally avoid mediation, fact-finding and
15 arbitration efforts as provided in K.S.A. 75-4332, *and amendments thereto*;
16 or

17 (5) engage in a strike.

18 (d) (1) It shall be a prohibited practice for a public employee
19 organization to endorse candidates, spend any of its income, directly or
20 indirectly, for partisan or political purposes or engage in any kind of
21 activity advocating or opposing the election of candidates for any public
22 office.

23 (2) *For the purposes of this section, "partisan or political purposes"*
24 *means an act done with the intent or in a way to influence or tend to*
25 *influence, directly or indirectly, any person to refrain from voting or to*
26 *vote for or against any candidate for public office at any caucus, political*
27 *conventions, primary or election.*

28 (e) In the application and construction of this section, fundamental
29 distinctions between private and public employment shall be recognized,
30 and no body of federal or state law applicable wholly or in part to private
31 employment shall be regarded as binding or controlling precedent.

32 New Sec. 3. If any provision of this act, including any amendment
33 made by this act, or

34 the application of any such provision to any person or circumstance, is
35 held invalid, the validity of any other provision of this act, or the
36 application of such provision to other persons and circumstances, shall not
37 be affected thereby.

38 Sec. 4. K.S.A. 2012 Supp. 44-319 is hereby amended to read as
39 follows: 44-319. (a) No employer may withhold, deduct or divert any
40 portion of an employee's wages unless: (1) The employer is required or
41 empowered to do so by state or federal law; (2) the deductions are for
42 medical, surgical or hospital care or service, without financial benefit to
43 the employer, and are openly, clearly and in due course recorded in the

1 employer's books; (3) the employer has a signed authorization by the
2 employee for deductions for a lawful purpose accruing to the benefit of the
3 employee; or (4) the deductions are for contributions attributable to
4 automatic enrollment, as defined in K.S.A. 2012 Supp. 44-319a, and
5 amendments thereto, in a retirement plan established by the employer
6 described in sections 401(k), 403(b), 408, 408A or 457 of the internal
7 revenue code.

8 (b) *Subject to the provisions of subsection (e), pursuant to a signed*
9 *written agreement between the employer and employee, an employer may*
10 *withhold, deduct or divert any portion of an employee's wages for the*
11 *following purposes:*

12 (1) *To allow the employee to repay a loan or advance which the*
13 *employer made to the employee during the course of and within the scope*
14 *of employment;*

15 (2) *to allow for recovery of payroll overpayment; and*

16 (3) *to compensate the employer for the replacement cost or unpaid*
17 *balance of the cost of the employer's merchandise or uniforms purchased*
18 *by the employee.*

19 (c) *Subject to the provisions of subsection (e), upon providing a*
20 *written notice and explanation, an employer may withhold, deduct or*
21 *divert any portion of an employee's final wages for the following*
22 *purposes:*

23 (1) *To recover the employer's property provided to the employee in*
24 *the course of the employer's business including, but not limited to, tools of*
25 *the trade or profession, personal safety equipment, computers, electronic*
26 *devices, mobile phones, proprietary information such as client or*
27 *customer lists and intellectual property, security information, keys or*
28 *access cards or materials until such time as such property is returned by*
29 *the employee to the employer. Upon return of the employer's property, the*
30 *employer shall relinquish the wages withheld to the employee;*

31 (2) *to allow an employee to repay a loan or advance which the*
32 *employer made to the employee during the course of and within the scope*
33 *of employment;*

34 (3) *to allow for the recovery of payroll overpayment; or*

35 (4) *to compensate the employer for the replacement cost or unpaid*
36 *balance of the cost of the employer's merchandise, uniforms, company*
37 *property, equipment, tools of the trade or other materials intentionally*
38 *purchased by the employee.*

39 (d) *Nothing in this section shall be construed as prohibiting the*
40 *withholding of amounts authorized in writing by the employee to be*
41 *contributed by the employee to charitable organizations; nor shall this*
42 *section prohibit deductions by check-off of dues to labor organizations or*
43 *service fees, where such is not otherwise prohibited by law.*

1 (e) *Amounts withheld under this section shall not reduce wages paid*
2 *to below the minimum wage required under the federal fair labor*
3 *standards act, 29 U.S.C.A. § 201 et seq., or the minimum wage required*
4 *under K.S.A. 44-1203, and amendments thereto, whichever is applicable.*

5 Sec. 5. K.S.A. 75-4333 and K.S.A. 2012 Supp. 44-319 are hereby
6 repealed.

7 Sec. 6. This act shall take effect and be in force from and after its
8 publication in the statute book.