

As Amended by House Committee

As Amended by Senate Committee

Session of 2015

SENATE BILL No. 243

By Committee on Ways and Means

2-17

1 AN ACT concerning the state civil service board; transferred from the  
2 department of administration to the office of administrative hearings;  
3 amending K.S.A. 75-2929b, 75-2929g and 75-3746 and K.S.A. ~~2014~~  
4 **2015** Supp. 75-2929d **and 75-2949** and repealing the existing sections.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 75-2929b is hereby amended to read as follows: 75-  
8 2929b. (a) The board shall be attached to the ~~department of administration~~  
9 *office of administrative hearings* and shall be within the ~~department~~ *office*  
10 *of administrative hearings* as a part thereof. All budgeting, purchasing and  
11 related management functions of the board shall be administered under the  
12 direction and supervision of the ~~secretary of administration~~ *director of*  
13 *administrative hearings*. All vouchers for expenditures and all payrolls of  
14 the board shall be approved by the chairperson of the board or a person or  
15 persons designated by such chairperson and the ~~secretary of administration~~  
16 *director of administrative hearings* or a person or persons designated by  
17 such ~~secretary~~ *director*.

18 (b) The board shall organize annually by electing one of its members  
19 as chairperson and one as vice-chairperson. The board shall meet regularly  
20 at least once each calendar quarter and special meetings may be called by  
21 the chairperson or by a majority of the board. A quorum of the board shall  
22 consist of three members. **Except for actions pursuant to the Kansas**  
23 **administrative procedure act, K.S.A. 77-501 et seq., and amendments**  
24 **thereto**, no action may be taken by the board without the affirmative vote  
25 of at least three members. ~~In the holding of hearings of appeals by~~  
26 ~~employees or appointing authorities pursuant to the Kansas civil service~~  
27 ~~act, the board may delegate to one or more of its members the authority to~~  
28 ~~serve as a hearing examiner for such a hearing, but action upon any such~~  
29 ~~appeal shall require the concurrence of at least three members of the board.~~

30 (c) Meetings of the board shall be open to the public and no meeting  
31 ~~or hearing~~ of the board shall be held unless at least three members of the  
32 board are present. The director of ~~personnel services~~ *administrative*  
33 *hearings* shall act as secretary of the board or may designate a person to  
34 serve as the secretary of the board. The board shall keep records and

1 minutes of its business and official actions, and such records and minutes  
2 shall be public records open to public inspection, subject to rules and  
3 regulations specifying the hours and conditions of inspection. *The director*  
4 *of administrative hearings shall be the legal custodian of such records and*  
5 *shall have the duty to store and maintain such records in order to carry*  
6 *out the official business of the board and respond to inquiries regarding*  
7 *the business and official actions of the board.*

8 (d) Each member of the state civil service board attending meetings  
9 of such board, attending a subcommittee meeting—~~thereof~~ authorized by  
10 such board, or serving as hearing examiner at a hearing under the Kansas  
11 civil service act shall be paid per diem compensation of \$70 and shall be  
12 paid subsistence allowances, mileage and other expenses as provided in  
13 K.S.A. 75-3223, and amendments thereto. In addition, each member, who  
14 resides more than 100 miles from the location of an authorized meeting or  
15 hearing, shall receive per diem compensation of \$35 for each day in travel  
16 to or from such meeting or hearing if such travel is on a day other than the  
17 day or days of such meeting or hearing.

18 Sec. 2. K.S.A. ~~2014~~ 2015 Supp. 75-2929d is hereby amended to read  
19 as follows: 75-2929d. (a) The state civil service board shall hear appeals  
20 taken to it pursuant to: (1) K.S.A. 75-2940, 75-2949 and 75-3747, and  
21 amendments thereto, concerning demotion, dismissal or suspension of a  
22 permanent employee in the classified service, or concerning refusal to  
23 examine an applicant or to certify a person as eligible for a job class;; and  
24 (2) K.S.A. 75-2973, and amendments thereto, concerning disciplinary  
25 action in violation of that statute.

26 (b) When an appeal is taken to the board, the board shall establish a  
27 time and a place for the hearing which shall be held within 45 days after  
28 receipt of request for the appeal. The board shall notify the person bringing  
29 the appeal and the appointing authority or other person whose action is  
30 being reviewed of the time and the place of the hearing at least 14 days  
31 prior to such hearing. Each party at the hearing shall have the right to be  
32 represented by a person of the party's own choice. Hearings shall be  
33 conducted in accordance with the provisions of the Kansas administrative  
34 procedure act. For purposes of the administrative procedure act, the state  
35 civil service board shall be deemed the agency head. The board may  
36 affirm, modify or reverse an agency action and order any other action it  
37 deems appropriate.

38 (c) The board, or the director of ~~personnel services~~ *administrative*  
39 *hearings* when authorized by majority vote of the board, may depose  
40 witnesses. Either party to a hearing may depose witnesses in accordance  
41 with the Kansas administrative procedure act. If books and papers are  
42 required to be produced in advance of a hearing date, the person or agency  
43 producing the books and papers shall be entitled to receive reasonable

1 compensation to recover all costs of such production from the person or  
2 agency for which they are produced. The board, any presiding officer or  
3 the director *of administrative hearings* may examine such public records  
4 as may be required in relation to any matter which the board has authority  
5 to investigate.

6 (d) Each person not in the classified or unclassified service who  
7 appears before the board or the director *of administrative hearings* by  
8 order shall receive for such person's attendance the fees and mileage  
9 provided for witnesses in civil actions in the district court. Such fees and  
10 mileage shall be audited and paid by the state upon presentation of proper  
11 vouchers. Each witness subpoenaed at the request of parties other than the  
12 board or the director *of administrative hearings* shall be entitled to  
13 compensation from the state for attendance or travel only if the board  
14 certifies that the testimony of such witness was relevant and material to the  
15 matter investigated or, if such witness is not called to testify, the board  
16 determines and certifies that such compensation should be paid.

17 Sec. 3. K.S.A. 75-2929g is hereby amended to read as follows: 75-  
18 2929g. The secretary of administration, upon recommendation of the  
19 director of ~~personnel services~~ *administrative hearings* and the board, may  
20 adopt rules and regulations as provided in K.S.A. 75-3706, and  
21 amendments thereto, to carry out the provisions of K.S.A. 75-2929d to 75-  
22 2929g, ~~inclusive~~, and 75-2949d to 75-2949f, ~~inclusive~~, and amendments  
23 thereto.

24 **Sec. 4. K.S.A. 2015 Supp. 75-2949 is hereby amended to read as**  
25 **follows: 75-2949. (a) An appointing authority may dismiss or demote**  
26 **any permanent employee in the classified service when the appointing**  
27 **authority considers that the good of the service will be served thereby.**  
28 **For disciplinary purposes, an appointing authority may suspend**  
29 **without pay a permanent classified employee for a period not to**  
30 **exceed 30 calendar days. No permanent employee in the classified**  
31 **service shall be dismissed, demoted or suspended for political,**  
32 **religious, racial or other nonmerit reasons.**

33 (b) Prior to dismissal, demotion or suspension of a permanent  
34 employee in the classified service, the appointing authority shall  
35 furnish the employee by certified mail to the employee's last known  
36 address, return receipt requested, or by personal delivery, a statement  
37 in writing specifically setting forth the reasons and factual basis  
38 therefor. A copy of such statement shall be furnished immediately to  
39 the director. This statement shall contain notice of the proposed  
40 dismissal, demotion or suspension and shall specify the proposed  
41 effective date thereof. Except as otherwise provided in the Kansas civil  
42 service act, a proposed suspension, demotion or dismissal shall become  
43 effective no less than three calendar days nor more than 14 calendar

1 days following the date the notice of such proposed suspension,  
2 demotion or dismissal is personally delivered to the employee or  
3 deposited with the post office as certified mail. If in the opinion of the  
4 appointing authority conditions warrant, the appointing authority  
5 may relieve the employee of duties or change the duties of the  
6 employee during such period. If the employee is relieved from duty  
7 during such period, the employee may be continued in pay status, or  
8 placed on leave of absence without pay by the appointing authority. In  
9 the statement proposing suspension, demotion or dismissal, the  
10 appointing authority shall offer the employee who is proposed to be  
11 suspended, demoted or dismissed an opportunity to reply in writing,  
12 or appear in person, or both, before the appointing authority or a  
13 designated representative of the appointing authority, on the issue of  
14 the proposed suspension, demotion or dismissal prior to the time such  
15 suspension, demotion or dismissal is specified by the notice to become  
16 effective. The statement shall specify the date, time and place by, or at  
17 which, the employee may reply in writing or appear, or both. If the  
18 employee chooses to appear in person on the issue of the proposed  
19 action, the employee may be represented by a person of the employee's  
20 choice.

21 (c) Upon request by the employee, or upon the initiative of the  
22 appointing authority, the appointing authority may extend the time  
23 for reply or appearance, or both, if the circumstances warrant. Notice  
24 of any such extension shall be furnished to the employee and to the  
25 director of personnel services. The proposed suspension, demotion or  
26 dismissal shall not become effective until after the extended period has  
27 expired.

28 (d) Following the employee's response to the opportunity to reply  
29 to the proposed action, or upon expiration of the time for such reply, if  
30 no reply is made, the appointing authority, or the designee of the  
31 appointing authority, shall notify the employee of the final decision on  
32 the proposed action. Such notice shall be in writing and shall be sent  
33 by certified mail to the employee's last known address or personally  
34 delivered to the employee on or before the effective date of the  
35 proposed action. A copy of the notice shall be furnished immediately to  
36 the director of personnel services. This final notice of decision by the  
37 appointing authority or the designee of the appointing authority, to  
38 suspend, demote or dismiss the employee shall inform the employee of  
39 the employee's right to appeal the decision to the state civil service  
40 board within 30 calendar days after the effective date of the action.

41 (e) At any time prior to the effective date of the proposed  
42 suspension, demotion or dismissal or, if an appeal is taken to the state  
43 civil service board, at any time prior to the final decision of the board,

1 the appointing authority, or the designee of the appointing authority,  
2 may withdraw or modify the action proposed to be taken or taken  
3 against the employee. Notice of any such withdrawal or modification  
4 shall be given in writing to the employee by certified mail to the  
5 employee's last known address or by personal delivery. A copy of the  
6 notice shall be furnished immediately to the director of personnel  
7 services.

8 (f) Any permanent employee finally dismissed, demoted or  
9 suspended, may request a hearing from the state civil service board to  
10 determine the reasonableness of such action. Each such request for a  
11 hearing shall be in writing and shall be filed in the office of the  
12 director of ~~personnel services~~ *administrative hearings* within 30 calendar  
13 days after the effective date of the dismissal, demotion or suspension.  
14 Additional days shall not be added to the thirty-day period in which  
15 an appeal may be filed if the notice of the effective date of the  
16 dismissal, demotion or suspension is mailed to the employee. The  
17 board shall grant the employee a hearing in accordance with the  
18 provisions of the Kansas administrative procedure act within 45  
19 calendar days after receipt of such request. At the hearing the burden  
20 of proof shall be upon the employee to establish that the appointing  
21 authority did not act reasonably in taking such action.

22 (g) No employee shall be disciplined or discriminated against in  
23 any way because of the employee's proper use of the appeal procedure.

24 (h) A permanent employee who is demoted pursuant to this  
25 section need not meet the qualifications for the class of positions to  
26 which demoted if the appointing authority determines that the  
27 employee can reasonably be expected to perform satisfactorily the  
28 duties of the position to which the employee is demoted. A permanent  
29 employee who is demoted pursuant to this section shall have  
30 permanent status in the class to which demotion is made, effective on  
31 the date of the demotion.

32 (i) In case of a situation in which the possibility of proposing  
33 dismissal, suspension or demotion of a permanent employee is  
34 indicated, but where the appointing authority needs time to conduct  
35 an investigation before proposing such action, or in a situation where  
36 immediate removal of an employee from such employee's job is  
37 needed to avoid disruption of work, or for the protection of persons or  
38 property, or for a similar reason, the appointing authority may relieve  
39 the employee of duties or change the duties of the employee for a  
40 limited period and keep the employee in pay status. The secretary of  
41 administration shall provide by rules and regulations, adopted  
42 pursuant to K.S.A. 75-3706, and amendments thereto, procedures to  
43 be followed in such cases.

1       Sec. ~~4~~ 5. K.S.A. 75-3746 is hereby amended to read as follows: 75-  
2 3746. The director of personnel services shall:

3       (a) Require the development of effective personnel administration  
4 within all agencies in the state and make available the facilities of the  
5 division of personnel services to this end.

6       (b) Keep in the office of the division of personnel services an official  
7 roster of the state civil service showing the employment history of each  
8 and every person who has been appointed to, employed, promoted,  
9 reduced or reinstated in any position in such service. The director of  
10 personnel services shall have access to all public records and papers, the  
11 examination of which will aid in the discharge of the director's duty in  
12 connection with this roster.

13       (c) Prepare, in accordance with the provisions of the Kansas civil  
14 service act and rules and regulations adopted thereunder as provided in  
15 K.S.A. 75-3706, and amendments thereto, examinations, eligible lists and  
16 ratings of candidates for appointment.

17       (d) Make certification for appointment within the classified service,  
18 in accordance with the provisions of the Kansas civil service act.

19       (e) Make investigations concerning all matters touching the  
20 enforcement and effect of the provisions of the Kansas civil service act and  
21 rules and regulations adopted thereunder as provided in K.S.A. 75-3706,  
22 and amendments thereto.

23       (f) Make an annual report to the secretary of administration, the  
24 legislature and the governor regarding the activities of the division.

25       ~~(g) Attend or designate a representative to attend all meetings of the~~  
26 ~~state civil service board.~~

27       (h) Prepare and recommend to the secretary of administration rules  
28 and regulations suitable for adoption as provided in K.S.A. 75-3706, and  
29 amendments thereto, for the purpose of carrying out the provisions of the  
30 Kansas civil service act. Such rules and regulations shall provide, among  
31 other things, for current records of efficiency for methods of regular  
32 distribution of communication materials; the manner of completing  
33 appointments and promotions; the rejection of eligible candidates;  
34 competitive examinations; creation of eligible lists with successful  
35 candidates ranked according to their rating in the examinations; leave of  
36 absence with and without pay; transfers, reinstatements, layoffs, vacations  
37 and public notice of examinations; procedure for changes in rates of pay;  
38 hours of work and other conditions of employment; the establishment of  
39 programs, including trainee programs, designed to attract and utilize  
40 persons with limited qualifications, but with potential for development, in  
41 order to provide career development opportunities; establishment of a plan  
42 for resolving employee grievances and complaints; development and  
43 operation of programs to improve work effectiveness, including

1 orientation, on-the-job training, supervisory training, managerial  
2 development, safety, fringe benefit counseling and employee relations; and  
3 the establishment of policies regarding manpower allocation and control.

4 ~~(j)~~*(h)* Conduct regular planned assistance visits from the division of  
5 personnel services to review personnel practices of agencies and identify  
6 agency needs.

7 ~~(j)~~*(i)* Administer the Kansas civil service act.

8 Sec. ~~5~~ **6**. K.S.A. 75-2929b, 75-2929g and 75-3746 and K.S.A. ~~2014~~  
9 **2015** Supp. 75-2929d **and 75-2949** are hereby repealed.

10 Sec. ~~6~~ **7**. This act shall take effect and be in force from and after July  
11 1, ~~2016~~ **2017**, its publication in the statute book.