



KANSAS STATE COUNCIL
SOCIETY FOR HUMAN RESOURCE MANAGEMENT

Testimony in Support of HB 2326

Mindy McPheeters

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Chairman Mason and members of the Committee:

Thank you for the opportunity to appear before you on behalf of the members of the Kansas Society for Human Resource Management (KSSHRM). My name is Mindy McPheeters and I am here to testify in support of HB 2326, which addresses needed changes to the Kansas Wage Payment Act.

As some of you may be aware, the KWPA was amended in 2013 at the request of KSSHRM and I was the legislative director who supported that legislation. The purpose of the change was to add the provisions within subparagraph (c) related to allowing employers to make certain withholdings from an employee's final paycheck if they failed, for example, to return their company issued cell phone. An issue that many employers were confronting and, at that point, the only solution was to pursue the employee in collections. We also expanded subparagraph (a) to mirror the language with the regulations issued by the KS Department of Labor (KS DOL) to address permissible withholdings for current employees. Unfortunately, there were changes made to subparagraph (a) that added an additional requirement that an employee provide a signed agreement first, which seemed to be a reasonable request, but one that has resulted in a quagmire for employers.

An example of the dilemma that exists is the following, if a payroll error inadvertently occurs and each employee is paid an additional \$100, the employer has the following options:

- (1) Ask the employee to sign an agreement to repay the amount. If the employee refuses, the employer may be at risk if they take action against the employee. The employer's option then is to pursue the employee for collections or wait until the employee is terminated and then recoup the \$100 from their final paycheck; or
- (2) Move forward with the withholding and see if the employee complains to the KDOL (which may be occurring simply because employers are not aware of the change in the law); or
- (3) Forego the error.

While the first or last options may not seem that harmful, if you work for a large employer like I do, Spirit AeroSystems, this payroll error may have impacted 5,000 employees, or even if it is an employer with 100 employees, the concept of obtaining all of these agreements makes this administratively burdensome and foregoing the error a true impact to the company. Additional issues with the changes to the 2013 KWPA were identified in detail in the KBA article written by Boyd Byers, an attorney with Foulston Siefkin, in October of 2014 and are equally addressed in the proposed Bill.

We are here today to ask you to fix this law. The changes that are being sought are consistent with those in place by the KDOL since at least 1983. The changes will create alignment between the KDOL Regulations,

which have not been revised, and the Kansas statute and clarify multiple issues that currently exist for Kansas employer. Furthermore, there are still safeguards in place to protect an employee from having withholdings below minimum wage or when otherwise not permissible by the FLSA. I appreciate your consideration of this testimony.