

HOUSE BILL No. 2354

By Committee on K-12 Education Budget

2-10

1 AN ACT concerning public employee and professional employees'
2 organizations; relating to dues; commencement and cessation of
3 withholding of dues; procedure; providing certain rights to employees;
4 amending K.S.A. 72-2219, 72-2241, 75-4324, 75-4327 and 75-5501
5 and K.S.A. 2020 Supp. 44-319 and repealing the existing sections.

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

8 Section 1. K.S.A. 2020 Supp. 44-319 is hereby amended to read as
9 follows: 44-319. (a) Except as provided in subsections (b) and (c), no
10 employer may withhold, deduct or divert any portion of an employee's
11 wages unless:

12 (1) The employer is required or empowered to do so by state or
13 federal law;

14 (2) the deductions are for medical, surgical or hospital care or service,
15 without financial benefit to the employer, and are openly, clearly and in
16 due course recorded in the employer's books;

17 (3) the employer has a signed authorization by the employee for
18 deductions for a lawful purpose accruing to the benefit of the employee; or

19 (4) the deductions are for contributions attributable to automatic
20 enrollment, as defined in K.S.A. 2020 Supp. 44-319a, and amendments
21 thereto, in a retirement plan established by the employer described in
22 sections 401(k), 403(b), 408, 408A or 457 of the internal revenue code.

23 (b) Subject to the provisions of subsection (e), pursuant to a signed
24 written agreement between the employer and employee, an employer may
25 withhold, deduct or divert any portion of an employee's wages for the
26 following purposes:

27 (1) To allow the employee to repay a loan or advance ~~which~~ *that* the
28 employer made to the employee during the course of and within the scope
29 of employment;

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

31 (3) to compensate the employer for the replacement cost or unpaid
32 balance of the cost of the employer's merchandise or uniforms purchased
33 by the employee.

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

1 (1) To recover the employer's property provided to the employee in
2 the course of the employer's business including, but not limited to, tools of
3 the trade or profession, personal safety equipment, computers, electronic
4 devices, mobile phones, proprietary information such as client or customer
5 lists and intellectual property, security information, keys or access cards or
6 materials until such time as such property is returned by the employee to
7 the employer. Upon return of the employer's property, the employer shall
8 relinquish the wages withheld to the employee;

9 (2) to allow an employee to repay a loan or advance which the
10 employer made to the employee during the course of and within the scope
11 of employment;

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

13 (4) to compensate the employer for the replacement cost or unpaid
14 balance of the cost of the employer's merchandise, uniforms, company
15 property, equipment, tools of the trade or other materials intentionally
16 purchased by the employee.

17 (d) Nothing in this section shall be construed as prohibiting the
18 withholding of amounts authorized in writing by the employee to be
19 contributed by the employee to charitable organizations; nor shall this
20 section prohibit deductions by check-off of dues to labor organizations or
21 service fees, where such is not otherwise prohibited by law. *Deductions of*
22 *dues to professional employees' organizations and to public employee*
23 *organizations shall be subject to the provisions of K.S.A. 72-2219 and 75-*
24 *4324, and amendments thereto.*

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

29 Sec. 2. K.S.A. 72-2219 is hereby amended to read as follows: 72-
30 2219. (a) Professional employees shall have the right to form, join or assist
31 professional employees' organizations, to participate in professional
32 negotiation with boards of education through representatives of their own
33 choosing for the purpose of establishing, maintaining, protecting or
34 improving terms and conditions of professional service. Professional
35 employees shall also have the right to refrain from any or all of the
36 foregoing activities. In professional negotiations under this act the board of
37 education may be represented by an agent or committee designated by it.

38 (b) *Professional employees shall have the right to immediately cease*
39 *the withholding of professional employees' organization dues from their*
40 *wages at any time upon the submission of a written or emailed request to*
41 *their board of education. Upon receipt of a written or emailed request, the*
42 *board of education shall immediately provide written or emailed*
43 *notification of the employee's decision to the professional employees'*

1 organization and shall cease any withholding of dues for the professional
2 employees' organization from the employee's wages, and no further debt to
3 the professional employees' organization shall accrue. The right to
4 immediately resign from and immediately end any financial obligation to a
5 professional employees' organization shall not be waived. Boards of
6 education shall notify their professional employees of their right to cease
7 payment of professional employees' organization dues and to withdraw
8 from a professional employees' organization by providing, at least
9 annually, written notification in the authorization for withholding form as
10 provided in subsection (d).

11 (c) Authorization by a professional employee for the withholding of
12 professional employees' organization dues shall not exceed one year in
13 duration and shall be subject to annual renewal.

14 (d) (1) Authorization for withholding shall be on a form approved by
15 the secretary of labor and shall contain a statement in 14-point boldface
16 font reading:

17 "I am aware that I have a First Amendment right, as recognized by the
18 United States Supreme Court, to refrain from joining and paying dues to a
19 labor union (professional employees' organization). I further realize that
20 membership and payment of dues are voluntary and that I may not be
21 discriminated against for my refusal to join or financially support a union.
22 I hereby waive my First Amendment right to refrain from union
23 membership and dues payments and authorize my employer to deduct
24 union dues from my salary in the amounts specified in accordance with my
25 professional employees' organization's bylaws. I understand that I may
26 revoke this authorization at any time."

27 (2) The authorization for withholding form shall include the
28 professional employee's full name, position, professional employees'
29 organization and signature and shall be submitted to the board of
30 education employing such professional employee. After receiving the
31 authorization for withholding form, the employer shall confirm the
32 authorization by emailing the professional employee at the employee's
33 employer-provided work email address and shall wait for confirmation of
34 the authorization before starting any deduction. If the employee does not
35 possess an employer-provided work email address, the employer may use
36 other means it deems appropriate to confirm the authorization.

37 Sec. 3. K.S.A. 72-2241 is hereby amended to read as follows: 72-
38 2241. (a) The board of education of any school district or the board of
39 trustees of any community college may provide by resolution for
40 deductions for specified purposes from the compensation paid to its
41 employees. Any such resolution shall provide for written authorization
42 from each employee, in specific terms as to the amount, subject to the
43 provisions of subsection (b), purpose and disposition of any amounts so

1 deducted. Deductions for taxes and other amounts required by law to be
2 deducted from employees' compensation shall not require written
3 authorization of the employee.

4 (b) *Subject to the provisions of K.S.A. 72-2219, and amendments*
5 *thereto*, written authorizations from employees for deductions from
6 compensation for payments of professional association dues shall remain
7 in effect until modified or revoked in writing by the professional
8 association or the employee; or until the employee's contract of
9 employment is terminated. So long as the written authorization from an
10 employee for deductions for professional association dues remains in
11 effect and upon written notice of an increase in the amount of such dues
12 being given to the board of education or the board of trustees and to all
13 affected employees, the amount specified to be deducted in such written
14 authorization may be increased by an amount deemed necessary by a
15 professional association for a school year. In no event shall the amount of
16 deductions from compensation for payments of professional association
17 dues be increased more than one time in each school year without specific
18 written authorization from the employee for such increase.

19 Sec. 4. K.S.A. 75-4324 is hereby amended to read as follows: 75-
20 4324. (a) Public employees shall have the right to form, join and
21 participate in the activities of employee organizations of their own
22 choosing; for the purpose of meeting and conferring with public employers
23 or their designated representatives with respect to grievances and
24 conditions of employment. Public employees also shall have the right to
25 refuse to join or participate in the activities of employee organizations.

26 (b) *Public employees shall have the right to immediately cease the*
27 *withholding of employee organization dues from their wages at any time*
28 *upon the submission of a written or emailed request to their public*
29 *employer. Upon receipt of a written or emailed request, the public*
30 *employer shall immediately provide written or emailed notification of the*
31 *employee's decision to the employee organization and shall cease any*
32 *withholding of dues for the employee organization from the employee's*
33 *wages, and no further debt to the employee organization shall accrue. The*
34 *right to immediately resign and immediately end any financial obligation*
35 *to an employee organization shall not be waived. Public employers shall*
36 *notify their employees of their right to cease payment of employee*
37 *organization dues and to withdraw from an employee organization by*
38 *providing, at least annually, written notification and a request form to*
39 *their employees.*

40 (c) *Authorization by a public employee for the withholding of public*
41 *employee organization dues shall not exceed one year in duration and*
42 *shall be subject to annual renewal.*

43 (d) (1) *Authorization for withholding shall be on a form approved by*

1 *the public employee relations board, established by K.S.A. 75-4323, and*
2 *amendments thereto, and shall contain a statement in 14-point boldface*
3 *font reading:*

4 *"I am aware that I have a First Amendment right, as recognized by the*
5 *United States Supreme Court, to refrain from joining and paying dues to a*
6 *labor union (employee organization). I further realize that membership*
7 *and payment of dues are voluntary and that I may not be discriminated*
8 *against for my refusal to join or financially support a union. I hereby*
9 *waive my First Amendment right to refrain from union membership and*
10 *dues payments and authorize my employer to deduct union dues from my*
11 *salary in the amounts specified in accordance with my employee*
12 *organization's bylaws. I understand that I may revoke this authorization at*
13 *any time."*

14 *(2) The authorization for withholding form shall contain the*
15 *employee's full name, position, employee organization and signature and*
16 *shall be submitted to the employee's public employer. The employer shall*
17 *confirm the authorization by emailing the employee's employer-provided*
18 *work email address and shall wait for confirmation of the authorization*
19 *before starting any deduction. If the employee does not possess an*
20 *employer-provided work email address, the employer may use other means*
21 *it deems appropriate to confirm the authorization.*

22 Sec. 5. K.S.A. 75-4327 is hereby amended to read as follows: 75-
23 4327. (a) Public employers shall recognize employee organizations for the
24 purpose of representing their members in relations with public agencies as
25 to grievances and conditions of employment. Employee organizations may
26 establish reasonable provisions for an individual's admission to or
27 dismissal from membership, *subject to the provisions of K.S.A. 75-4324,*
28 *and amendments thereto.*

29 (b) Where an employee organization has been certified by the board
30 as representing a majority of the employees in an appropriate unit, or
31 recognized formally by the public employer pursuant to the provisions of
32 this act, the appropriate employer shall meet and confer in good faith with
33 such employee organization in the determination of conditions of
34 employment of the public employees as provided in this act, and may enter
35 into a memorandum of agreement with such recognized employee
36 organization.

37 (c) A recognized employee organization shall represent not less than a
38 majority of the employees of an appropriate unit. When a question
39 concerning the designation of an appropriate unit is raised by a public
40 agency, employee organization or by five or more employees, the public
41 employee relations board, at the request of any of the parties, shall
42 investigate such question and, after a hearing in accordance with the
43 provisions of the Kansas administrative procedure act, rule on the

1 definition of the appropriate unit in accordance with subsection (e).

2 (d) Following determination of the appropriate unit of employees, the
3 public employee relations board, at the request of the public employer or
4 on petition of employees, shall investigate questions and certify to the
5 parties in writing, the names of the representatives that have been
6 designated for an appropriate unit. The filing of a petition for the
7 investigation or certification of a representative of employees shall show
8 the names of not less than 30% of the employees within an appropriate
9 unit. In any such investigation, the board may provide for an appropriate
10 hearing, shall determine voting eligibility and shall take a secret ballot of
11 employees in the appropriate unit involved to ascertain such
12 representatives for the purpose of formal recognition. Recognition shall be
13 granted only to an employee organization that has been selected as a
14 representative of an appropriate unit, in a secret ballot election, by a
15 majority of the employees in an appropriate unit who voted at such
16 election. Each employee eligible to vote shall be provided the opportunity
17 to choose the employee organization such employee wishes to represent
18 such employee, from among those on the ballot, or to choose "no
19 representation." When an election in which the ballot provided for three or
20 more choices between representatives and no representation resulted in no
21 choice receiving a majority of the valid votes cast, the board shall conduct
22 a run-off election by secret ballot. The ballot in a run-off election shall
23 only provide for a selection between the two choices receiving the largest
24 and second largest number of votes in the original election. The board is
25 authorized to hold elections to determine whether: (1) An employee
26 organization should be recognized as the formal representative of
27 employees in a unit; (2) an employee organization should replace another
28 employee organization as the formal representative of employees in a unit;
29 *and* (3) a recognized employee organization should be decertified.

30 Any petition calling for an election in accordance with this section shall
31 be dismissed by the board without determining the questions raised therein
32 if such petition is filed more than 150 days or less than 90 days prior to the
33 expiration date of an existing memorandum of agreement which governs
34 the terms and conditions of employment of the employees within the
35 appropriate unit.

36 If the board has certified a formally recognized representative in an
37 appropriate unit, it shall not be required to consider the matter again for a
38 period of one year, unless the board determines that sufficient reason
39 exists. The board may promulgate such rules and regulations as may be
40 appropriate to carry out the provisions of subsections (c) and (d).

41 (e) Any group of public employees considering the formation of an
42 employee organization for formal recognition, any public employer
43 considering the recognition of an employee organization on its own

1 volition and the board, in investigating questions at the request of the
2 parties as specified in this section, shall take into consideration, along with
3 other relevant factors: (1) The principle of efficient administration of
4 government; (2) the existence of a community of interest among
5 employees; (3) the history and extent of employee organization; (4)
6 geographical location; (5) the effects of overfragmentation and the
7 splintering of a work organization; (6) the provisions of K.S.A. 75-4325,
8 and amendments thereto; and (7) the recommendations of the parties
9 involved.

10 (f) A recognized employee organization shall not include: (1) Both
11 professional and other employees, unless a majority of the professional
12 employees vote for inclusion in the organization; (2) uniform police
13 employees and public property security guards with any other public
14 employees, but such employees may form their own separate homogenous
15 units; or (3) uniformed firemen with any other public employees, but such
16 employees may form their own separate homogenous units. The
17 employees of a public safety department of cities which has both police
18 and fire protection duties shall be an appropriate unit.

19 (g) It is the intent of this act that employer-employee relations
20 affecting the finances of a public employer shall be conducted at such
21 times as will permit any resultant memorandum of agreement to be duly
22 implemented in the budget preparation and adoption process. A public
23 employer, during the 60 days immediately prior to its budget submission
24 date, shall not be required to recognize an employee organization not
25 previously recognized, nor shall it be obligated to initiate or begin meet
26 and confer proceedings with any recognized employee organization for a
27 period of 30 days before and 30 days after its budget submission date.

28 (h) No employee organization shall be recognized unless it
29 establishes and maintains standards of conduct providing for: (1) The
30 maintenance of democratic procedures and practices, including periodic
31 elections by secret ballot and the fair and equal treatment of all members;
32 and (2) the maintenance of fiscal integrity, including accurate accounting
33 and periodic financial reports open to all members and the prohibition of
34 business or financial interests by officers which conflict with their
35 fiduciary responsibilities.

36 (i) The board shall assess the reasonable costs for conducting a secret
37 ballot of the employees against the party seeking the election. For the
38 purposes of this subsection, the term "costs" shall include amounts
39 expended by the board for printing of ballots and necessary postage.

40 Sec. 6. K.S.A. 75-5501 is hereby amended to read as follows: 75-
41 5501. (a) The director of accounts and reports shall formulate a system of
42 payroll accounting, including timekeeping, payroll calculation and pay
43 distribution-(, or delivery), and labor cost distribution and analysis, and

1 shall install and operate such system of payroll accounting for all state
2 agencies. The system shall include provision for centralized records, which
3 shall include payroll data for all individuals which with the common law
4 employer-employee relationship is created by agencies of the state of
5 Kansas and which shall be coordinated with records maintained by the
6 division of personnel services and other state agencies. If biweekly payroll
7 periods are established under K.S.A. 75-5501a, the system of payroll
8 accounting shall be modified to implement such biweekly payroll periods.
9 State agencies shall utilize the system of payroll accounting to the extent
10 prescribed by the director of accounts and reports, and shall submit such
11 reports and statements as may be required by the director in order to carry
12 out the provisions of this act. The director of accounts and reports shall
13 design, revise and direct the use of records and procedures and prescribe
14 classifications of coding payroll data, methods of funding labor cost
15 through the central payroll account and a system of prepayment and
16 postpayment debit and credit transactions and entries on the records
17 created from payroll data and the necessary forms to be used by all state
18 agencies in connection with such system of payroll accounting. The
19 payroll system so designed shall include generally accepted accounting
20 principles of internal check, and may include timekeeping for attendance
21 and performance, as prescribed in this act.

22 (b) The director of accounts and reports shall provide, as a part of the
23 system of payroll accounting, a plan for the deduction from the salary or
24 wages of an amount equal to regular membership dues for state officers
25 and employees who are members of the Kansas troopers association or
26 who are in any employee organization which has filed an annual report
27 pursuant to K.S.A. 75-4337, *and amendments thereto*, or ~~which that~~ has a
28 business agent registered pursuant to K.S.A. 75-4336, *and amendments*
29 *thereto*. Such plan, in addition to such provisions as are negotiated by the
30 director of accounts and reports and the employee organization, *and*
31 *subject to the provisions of K.S.A. 75-4324, and amendments thereto*, shall
32 provide for:

33 (1) A written authorization-assignment by a state officer or employee
34 prior to any dues deduction from the salary or wages of such officer or
35 employee, ~~which authorization-assignment shall remain effective for not~~
36 ~~less than 180 days and shall be terminated at any time thereafter upon 30~~
37 ~~days' prior notice by the state officer or employee of termination of the~~
38 ~~authorization-assignment;~~

39 (2) change in the amount of regular membership dues to be deducted,
40 but not more often than twice in any fiscal year;

41 (3) renewal of an authorization-assignment by an officer or employee
42 after termination of a prior authorization-assignment upon 90 days' prior
43 notice by the officer or employee who has terminated a membership dues

1 deduction; and

2 (4) payment of all moneys deducted each payroll period pursuant to
3 this section to the employee organization less the amount of actual direct
4 expenses incurred by this state for the membership dues deduction.

5 Sec. 7. K.S.A. 72-2219, 72-2241, 75-4324, 75-4327 and 75-5501 and
6 K.S.A. 2020 Supp. 44-319 are hereby repealed.

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