

CHAPTER 68
HOUSE BILL No. 2669

AN ACT concerning automatic enrollment retirement plans; relating to the withholding of wages; amending K.S.A. 44-319 and repealing the existing section.

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

New Section 1. (a) Any employer which provides automatic enrollment in an employee retirement plan described in sections 401(k) or 403(b) of the internal revenue code, or a governmental deferred compensation plan described in section 457 of the internal revenue code, or a payroll deduction IRA plan described in section 408 or 408A of the internal revenue code, shall be relieved of liability for the actual decisions made by the employer on behalf of any participating employee as to the default investment of contributions made for that employee to the plan or program provided that:

(1) The plan allows the participating employee at least quarterly opportunities to select investments for the employee's contributions between investment alternatives available under the plan;

(2) the employee is given notice of the investment decisions that will be made in the absence of participant direction, a description of all the investment alternatives available for employee investment direction under the plan and a brief description of procedures available for the employee to change investments; and

(3) the employee is given at least annual notice of the actual default investments made of contributions attributable to the employee.

(b) As used in this section, "automatic enrollment" means a plan provision under which the employee will have a specified contribution made to the plan equal to a compensation reduction that will be made for the employee unless the employee affirmatively elects no compensation reduction contributions or a compensation reduction contribution in another amount. The relief from liability of the employer under this section shall extend to any other plan official which actually makes the default investment decisions on behalf of participating employees.

(c) Nothing in this section shall modify any existing responsibility of employers or other plan officials for the selection of investment funds for participating employees.

Sec. 2. K.S.A. 44-319 is hereby amended to read as follows: 44-319.

(a) No employer may withhold, deduct or divert any portion of an employee's wages unless: (1) The employer is required or empowered to do so by state or federal law; (2) the deductions are for medical, surgical or hospital care or service, without financial benefit to the employer, and are openly, clearly and in due course recorded in the employer's books; ~~or~~ (3) the employer has a signed authorization by the employee for deductions for a lawful purpose accruing to the benefit of the employee; *or* (4) *the deductions are for contributions attributable to automatic enrollment, as defined in section 1, and amendments thereto, in a retirement plan established by the employer described in sections 401(k), 403(b), 408, 408A or 457 of the internal revenue code.*

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

Sec. 3. K.S.A. 44-319 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.