

SESSION OF 2010

**SUPPLEMENTAL NOTE ON
SUBSTITUTE FOR HOUSE BILL NO. 2249**

As Recommended by House Committee on
Government Efficiency and Fiscal Oversight

Brief*

Sub. for HB 2249 would reestablish the State Employee Award and Recognition Program that expired on June 30, 2006, would establish a new State Employee Suggestion Program, and also would amend the Kansas Whistleblower Act.

The bill would re-authorize all state agencies to implement an award and recognition program that could give both monetary and non-monetary awards to state employees for various recognition, including distinguished accomplishment, meritorious service, innovations, Kansas Quality Management, volunteerism, and length of service. Procedures to be followed and limits on monetary awards also would be established for a state employee suggestion program to increase efficiencies or other savings in the operations of a state agency.

The bill also would modify the Kansas Whistleblower Act. Supervisors or appointing authorities of any state agency would be prohibited from imposing disciplinary action on employees for the purpose of retaliating against employees who discuss agency operations or other matters of public concern with the Legislature, Attorney General, or an auditing agency.

The current Whistleblower law would be expanded to include public contractors, a contractor's officers and a contractor's employees. The bill would provide that public contractors shall not prohibit another officer or employee of the contractor from discussing the operations of a state agency or

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

other matters of public concern with the Legislature, Attorney General, or an auditing agency. Any officer or employee of a public contractor who alleges that disciplinary action has been taken in violation of this act could file a civil action within 90 days after the alleged occurrence. A court could order reinstatement of the officer or employee, payment of back wages, reinstatement of benefits, and seniority rights. The court also could award the prevailing party all or a portion of the costs of the action, including reasonable attorney and witness fees. Nothing would create a cause of action against the state or any state agency.

The bill also would expand the definition of disciplinary action to add withholding of work, demotions, transfers, reassignments, suspensions, reprimands, or other punishment to current law. In the event the State Civil Service Board finds that disciplinary action taken against a classified employee with permanent status is unreasonable, the Board would be authorized to reinstate the employee to the former position, provide back pay, and reestablish the employee's benefits.

Background

The bill as introduced and the bill as amended by the House Committee concerned the Kansas Whistleblower Act. HB 2249 as originally amended by the House Committee last Session was re-referred to the House Committee in 2009. Additional committee hearings were held in 2010.

Amendments to incorporate SB 294 as amended into HB 2249 were considered during 2010 hearings. SB 294, as amended, was substituted for the previous content of the bill and included provisions related to the Kansas Whistleblower Act and two state employee award and suggestion programs. Proponents for SB 294 as amended included representatives of the Kansas Organization of State Employees.

According to the Director of the Budget, expanding the Kansas Whistleblower Act could increase claims that the

Department of Administration would manage and that could have negligible fiscal effect on the agency's expenditures. However, the Department would implement the provisions of the bill within its current budget. According to the Office of Judicial Administration and the Office of Attorney General, the bill would have no fiscal effect on their agency operations. The effects of reinstating the Employee Award Program could have a fiscal effect on any state agency that adopts a new program; however, there are no data on which to base an estimate, according to the Budget Director.