

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2160**

As Agreed to March 25, 2025

Brief*

HB 2160 would establish the Kansas Municipal Employee Whistleblower Act (Act) to provide legal protections for municipal employees who report conduct that is dangerous or unlawful and would define terms for purposes of that act.

Kansas Municipal Employee Whistleblower Act

The bill would prohibit any supervisor or appointing authority of a municipality from prohibiting any of the following or taking disciplinary action against an employee for:

- Discussing municipality operations or other matters of public concern, including public health, safety, or welfare, with any member of the governing body of such municipality or an auditing agency;
- Reporting a violation of state or federal law, municipal resolution, or adopted rules and regulations, resolution, or ordinance;
- Failing to give notice of a report filed to the supervisor or appointing authority prior to the report being filed; or
- Disclosing malfeasance or other misappropriation of moneys held by a municipality.

The bill would not be construed to:

- Prohibit a supervisor or appointing authority from requiring an employee to inform such authorities about governing body or auditing requests for information submitted to the municipality or made, or to be made, by an employee to the members of the governing body or an auditing agency on behalf of the agency;
- Allow an employee to leave assigned work areas during normal work hours without following applicable rules and regulations and policies pertaining to employee leave unless requested by a member of the governing body of such municipality or an auditing agency;

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- Authorize an employee to represent an employee's personal opinions as those of the municipality; or
- Prohibit disciplinary action of an employee who discloses information that:
 - The employee knows to be false or is disclosed with reckless regard for the truth or falsity of such information;
 - The employee knows to be exempt from required disclosure under the open records act;
 - Is confidential or privileged under state law, federal law, or court rule; or
 - Is disclosed due to a corrupt motive rather than a good faith concern for a wrongful activity.

The bill would state that any disciplinary action that is alleged to have taken place may be brought to a court of competent jurisdiction within 90 days after the occurrence of the alleged violation, except by officers or employees eligible to administratively appeal disciplinary actions pursuant to the Act. The bill would state an officer or employee may bring action seeking damages and any other relief the court deems necessary. The court may award the prevailing party all or a portion of the costs of the action, including reasonable attorney fees and witness fees.

In any municipality that creates an administrative process to adjudicate disciplinary actions against employees of the municipality, the bill would authorize any officer or employee of the municipality who is eligible to appeal disciplinary actions to do so, within 90 days after the alleged disciplinary action, whenever the officer or employee alleges that disciplinary action was taken in violation of the Act. If the adjudicatory body finds the disciplinary action taken to be unreasonable, the bill would direct that adjudicative body to modify or reverse the municipality's action and order such relief the body considers to be appropriate. The bill would authorize any party to appeal a decision of the adjudicative body under the Kansas Judicial Review Act.

Each municipality would be required to post a copy of the Act in locations where it may come to the attention of all employees.

Definitions Used in the Act

The bill would define the following terms:

- "Auditing agency" would mean:
 - The Legislative Post Auditor;
 - Any employee of the Division of Post Audit;
 - Any firm performing audit services pursuant to a contract with the Post Auditor;
 - Any state or federal agency or authority performing auditing or other oversight activities under authority of any provision of law authorizing such activities; or
 - The Inspector General per KSA 75-7427;
- "Disciplinary action" would mean any dismissal, demotion, transfer, reassignment, suspension, reprimand, warning of possible dismissal, or withholding of work;

- “Malfeasance” would mean unlawful conduct committed by any member of the governing body of a municipality or any officer or other employee thereof;
- “Misappropriation” would mean unauthorized or unlawful expenditure or transfer of moneys held by a municipality; and
- “Municipality” would mean any county, city, or unified school district, or any office, department, division, board, commission, bureau, agency, or unit thereof.

Conference Committee Action

The Conference Committee agreed to the bill as amended by the Senate Committee of the Whole, with the following amendments:

- Replacing language referencing legislators or the Legislature with references to members of the governing body of a municipality;
- Removing additional provisions regarding legislative liability; and
- Clarifying that the bill shall not be construed to prohibit disciplinary action of an employee who discloses information due to a corrupt motive rather than a good faith concern for wrongful activity.

Background

The bill was introduced by the House Committee on Local Government at the request of Representative Barth. A companion bill, SB 120, was introduced by Senator Shallenburger and heard by the Senate Committee on Local Government, Transparency and Ethics. The background for both bills is provided below.

HB 2160

House Committee on Local Government

In the House Committee hearing, **proponent** testimony was provided by Representative Barth and a private citizen. The proponents stated there is a need to protect people at all levels of government, and the bill would put a process in place for people to utilize when they want to help but have concerns about being protected. The proponents also stated the bill is modeled after the Kansas Whistleblower Act, which protects state employees.

Written-only proponent testimony was provided by three Bourbon County officials and eight private citizens.

Neutral testimony was provided by representatives of the League of Kansas Municipalities and the Kansas Association of Counties, who noted that some definitions could be added to the bill to clarify language. Additionally, they asked that subsection (c)(5) be stricken due to repetition.

Written-only **opponent** testimony was provided by a representative of the City of Overland Park, stating that the bill would increase costs for taxpayers due to litigation brought as a result of the bill. The testimony also expressed concerns regarding the scope of protections and the differences between whistleblower statutes (KSA 75-2973) and the bill.

The House Committee amended the bill to:

- Define “malfeasance” and “misappropriation”; [*Note:* The Conference Committee retained this amendment.] and
- Remove redundant language regarding disclosure of a substantial and specific danger to public health or safety to any person, agency, or organization from the list of employee actions a supervisor or appointing authority cannot prohibit or take disciplinary action against the employee for doing. [*Note:* The Conference Committee retained this amendment.]

Senate Committee on Local Government, Transparency and Ethics

In the Senate Committee hearing, **proponent** testimony was provided by representatives of the Kansas Association of Counties and League of Kansas Municipalities, who stated concerns had been addressed by House amendments to the bill as introduced to add definitions, and suggested use of an administrative option in municipalities that have such processes. Written-only proponent testimony was received from three private citizens.

The City of Overland Park provided written-only **opponent** testimony and suggested amendments to address concerns regarding corrupt motives and review by an adjudicatory body.

No other testimony was provided.

The Senate Committee amended the bill to not prohibit disciplinary action of an employee when the employee discloses information due to a corrupt motive, authorize use of a municipal adjudicatory body and subsequent appeal under the Kansas Judicial Review Act, and to state the Act would not impose any liability against a legislator for any act or failure to act based on information shared with a legislator.

[*Note:* The Conference Committee retained the amendments regarding disciplinary action of an employee with a corrupt motive and use of a municipal adjudicatory body. The Conference Committee did not retain the amendment regarding the Act not imposing liability against a legislator.]

[*Note:* In the Senate Committee hearing on SB 120, a companion bill, Representative Barth and a private citizen provided proponent testimony substantially similar to testimony provided to the House Committee on HB 2160. Written-only proponent testimony was provided by three county officers of Bourbon County and eight private citizens. Neutral testimony was provided by representatives of the Kansas Association of Counties and the League of Kansas Municipalities. A representative of the City of Overland Park provided written-only opponent testimony expressing concerns with possible frivolous litigation and citing differences with whistleblower protections for state employees. No other testimony was provided.]

Senate Committee of the Whole

The Senate Committee of the Whole amended the bill to require officers and employees of a municipality with an administrative appeal process to utilize the appeal process before filing action with the courts and to make a technical change.

[*Note:* The Conference Committee retained this amendment.]

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration indicates enactment of the bill could increase the number of cases filed in district courts because it allows a party to file a civil action. This would increase time spent by district court judicial and non-judicial personnel in processing, researching, and hearing cases. The bill could also result in the collection of docket fees in cases filed under the provisions of the bill, which would be deposited into the State General Fund. However, a fiscal effect cannot be estimated.

The Division of Post Audit indicates enactment of either bill would not have a fiscal effect on the agency. Any fiscal effect associated with enactment of the bill is not reflected in The FY 2026 Governor's Budget Report.

The League of Kansas Municipalities and the Kansas Association of Counties indicate enactment of the bill could increase expenditures related to costs of defending claims. However, a precise fiscal effect cannot be estimated.

Municipalities; whistleblower; legal protections; dangerous or unlawful conduct

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