

HOUSE BILL No. 2130

By Committee on Commerce and Economic Development

1-31

1 AN ACT concerning labor organizations; relating to political activities;
2 amending K.S.A. 75-4333 and repealing the existing section.

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

5 New Section 1. (a) It shall be unlawful for any labor organization, as
6 defined in K.S.A. 44-802, and amendments thereto, to use any dues, fees,
7 assessments or any other periodic payments required of a member or to
8 deduct from a member's paycheck any moneys for the purpose of
9 engaging in political activities as defined in subsection (c).

10 (b) Should a member of a labor organization want to donate money
11 to the labor organization for the purpose of the labor organization
12 engaging in political activities, such member shall do so by a personal
13 payment which notes that it is donated for the labor organization's
14 political activities. Moneys received by the labor organization for
15 political activities shall be deposited by such organization in a separate
16 fund for political activities.

17 (c) For the purposes of this section, "political activities" means any
18 activities carried out for the purpose of influencing, in whole or part, any
19 election for a state, local government or board of education office,
20 including activities or causes of a partisan political or ideological nature
21 engaged in by a public employee organization for those purposes, and
22 including contributions to a political committee, continuing political
23 employee committee, or both, established by the labor organization for
24 the purpose of making contributions to aid or promote the endorsement,
25 nomination, election or defeat of a candidate for public office of the state
26 or of a county, municipality or school district or the passage or defeat of
27 any public question whose activities are not pertinent to the labor
28 organization's duties as a bargaining representative for its members.

29 (d) This section shall be part of and supplemental to article 8 of
30 chapter 44 of the Kansas Statutes Annotated, and amendments thereto.

31 New Sec. 2. (a) It shall be unlawful for any professional employees'
32 organization, as defined in K.S.A. 72-5413, and amendments thereto, to
33 use any dues, fees, assessments or any other periodic payments required
34 of a member or to deduct from a member's paycheck any moneys for the
35 purpose of engaging in political activities as defined in subsection (c).

36 (b) Should a member of a professional employees' organization want

1 to donate money to such organization for the purpose of the professional
2 employees' organization engaging in political activities, such member
3 shall do so by a personal payment which notes that it is donated for the
4 professional employees' organization's political activities. Moneys
5 received by the professional employees' organization for political
6 activities shall be deposited by such organization in a separate fund for
7 political activities.

8 (c) For the purposes of this section, "political activities" means any
9 activities carried out for the purpose of influencing, in whole or part, any
10 election for a state, local government or board of education office,
11 including activities or causes of a partisan political or ideological nature
12 engaged in by a public employee organization for those purposes, and
13 including contributions to a political committee, continuing political
14 employee committee, or both, established by the professional employees'
15 organization for the purpose of making contributions to aid or promote
16 the endorsement, nomination, election or defeat of a candidate for public
17 office of the state or of a county, municipality or school district or the
18 passage or defeat of any public question whose activities are not pertinent
19 to the professional employees' organizations' duties as a bargaining
20 representative for its members.

21 (d) This section shall be part of and supplemental to article 54 of
22 chapter 72 of the Kansas Statutes Annotated, and amendments thereto.

23 Sec. 3. K.S.A. 75-4333 is hereby amended to read as follows: 75-
24 4333. (a) The commission of any prohibited practice, as defined in this
25 section, among other actions, shall constitute evidence of bad faith in
26 meet and confer proceedings.

27 (b) It shall be a prohibited practice for a public employer or its
28 designated representative willfully to:

29 (1) Interfere, restrain or coerce public employees in the exercise of
30 rights granted in K.S.A. 75-4324, *and amendments thereto*;

31 (2) dominate, interfere or assist in the formation, existence, or
32 administration of any employee organization;

33 (3) encourage or discourage membership in any employee
34 organization, committee, association or representation plan by
35 discrimination in hiring, tenure or other conditions of employment, or by
36 blacklisting;

37 (4) discharge or discriminate against an employee because ~~he or she~~
38 *such employee* has filed any affidavit, petition or complaint or given any
39 information or testimony under this act, or because ~~he or she~~ *such*
40 *employee* has formed, joined or chosen to be represented by any
41 employee organization;

42 (5) refuse to meet and confer in good faith with representatives of
43 recognized employee organizations as required in K.S.A. 75-4327, *and*

1 *amendments thereto;*

2 (6) deny the rights accompanying certification or formal recognition
3 granted in K.S.A. 75-4328, *and amendments thereto;*

4 (7) deliberately and intentionally avoid mediation, fact-finding, and
5 arbitration endeavors as provided in K.S.A. 75-4332, *and amendments*
6 *thereto;* or

7 (8) institute or attempt to institute a lockout.

8 (c) It shall be a prohibited practice for public employees or
9 employee organizations willfully to:

10 (1) Interfere with, restrain or coerce public employees in the
11 exercise of rights granted in K.S.A. 75-4324, *and amendments thereto;*

12 (2) interfere with, restrain or coerce a public employer with respect
13 to management rights granted in K.S.A. 75-4326, *and amendments*
14 *thereto,* or with respect to selecting a representative for the purposes of
15 meeting and conferring or the adjustment of grievances;

16 (3) refuse to meet and confer in good faith with a public employer as
17 required in K.S.A. 75-4327, *and amendments thereto;*

18 (4) deliberately and intentionally avoid mediation, fact-finding and
19 arbitration efforts as provided in K.S.A. 75-4332, *and amendments*
20 *thereto;* or

21 (5) engage in a strike.

22 (d) (1) It shall be a prohibited practice for a public employee
23 organization to endorse candidates, spend any of its income, *including*
24 *any income derived from any dues, fees, assessments or any other*
25 *periodic payments required of its members,* directly or indirectly, ~~for~~
26 ~~partisan or political purposes or engage in any kind of activity advocating~~
27 ~~or opposing the election of candidates for any public office to engage in~~
28 *political activities as defined in paragraph (2).*

29 (2) *For the purposes of this section, "political activities" means any*
30 *activities carried out for the purpose of influencing, in whole or part, any*
31 *election for a state, local government or board of education office,*
32 *including activities or causes of a partisan political or ideological nature*
33 *engaged in by a public employee organization for those purposes, and*
34 *including contributions to a political committee, continuing political*
35 *employee committee, or both, established by the public employee*
36 *organization for the purpose of making contributions to aid or promote*
37 *the endorsement, nomination, election or defeat of any candidate for*
38 *public office of the state or of a county, municipality or school district or*
39 *the passage or defeat of any public question whose activities are not*
40 *pertinent to the public employee organizations' duties as a bargaining*
41 *representative for its members.*

42 (e) In the application and construction of this section, fundamental
43 distinctions between private and public employment shall be recognized,

1 and no body of federal or state law applicable wholly or in part to private
2 employment shall be regarded as binding or controlling precedent.

3 New Sec. 4. (a) For a period of two years, no public employer shall
4 collect, deduct, or assist in the collection or deduction of funds for any
5 purpose for a person or organization if, in violation of subsection (d) of
6 K.S.A. 75-4333, and amendments thereto, the person or organization has:

7 (1) Used as political funds any of the funds collected or deducted for
8 it by any public employer, or

9 (2) commingled funds collected or deducted by any public employer
10 with political funds.

11 (b) Any employee whose wages have been deducted or used in
12 violation of sections 1 and 2 and subsection (d) of K.S.A. 75-4333, and
13 amendments thereto, may bring suit in a court of competent jurisdiction
14 to obtain injunctive relief against the violator or person or public employer
15 threatening violation. Nothing in this section shall be considered nor
16 otherwise construed to waive, or in any way abrogate state immunity. An
17 employee whose wages have been deducted in violation of this article
18 may bring suit in a court of competent jurisdiction to recover damages
19 equal to:

20 (1) From a public employer violating the provisions of this article, or
21 failing to take appropriate action when informed of the violation, any
22 amounts actually deducted from the public employee's wages; and

23 (2) from any individual or organization acting separately or in
24 league with a public employer to violate the provisions of this article,
25 twice any amounts actually received by said individual or organization
26 from the injured public employee.

27 (3) The remedies in subsections (b)(1) and (b)(2) above shall not
28 preempt any other causes of action and damage awards which may be
29 available to public employees injured as a result of violations of this act.

30 (c) In any judgment for the plaintiff intended to enforce sections 1
31 and 2 and subsection (d) of K.S.A. 75-4333, and amendments thereto, the
32 court may award reasonable attorney's fees as part of the court costs.

33 Sec. 5. K.S.A. 75-4333 is hereby repealed.

34 Sec. 6. This act shall take effect and be in force from and after its
35 publication in the statute book.
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