

HOUSE BILL No. 2022

By Committee on Commerce, Labor and Economic Development

1-17

Proposed Amendment
to HB 2022

Senate Commerce Committee
Date: 3-12-13
Attachment: 2

employees; relating to certain employee organizations; political activities;

75-4333 and K.S.A.

sections

Insert attachment

and by renumbering sections accordingly

1 AN ACT concerning certain deductions from wages; amending K.S.A.
2 2012 Supp. 44-319 and repealing the existing section;
3
4 *Be it enacted by the Legislature of the State of Kansas:*
5 Section 1. K.S.A. 2012 Supp. 44-319 is hereby amended to read as
6 follows: 44-319. (a) Except as provided in subsections (b) and (c), no
7 employer may withhold, deduct or divert any portion of an employee's
8 wages unless:
9 (1) The employer is required or empowered to do so by state or
10 federal law;
11 (2) the deductions are for medical, surgical or hospital care or service,
12 without financial benefit to the employer, and are openly, clearly and in
13 due course recorded in the employer's books;
14 (3) the employer has a signed authorization by the employee for
15 deductions for a lawful purpose accruing to the benefit of the employee; or
16 (4) the deductions are for contributions attributable to automatic
17 enrollment, as defined in K.S.A. 2012 Supp. 44-319a, and amendments
18 thereto, in a retirement plan established by the employer described in
19 sections 401(k), 403(b), 408, 408A or 457 of the internal revenue code.
20 (b) Subject to the provisions of subsection (e), pursuant to a signed
21 written agreement between the employer and employee, an employer may
22 withhold, deduct or divert any portion of an employee's wages for the
23 following purposes:
24 (1) To allow the employee to repay a loan or advance which the
25 employer made to the employee during the course of and within the scope
26 of employment;
27 (2) to allow for recovery of payroll overpayment; and
28 (3) to compensate the employer for the replacement cost or unpaid
29 balance of the cost of the employer's merchandise or uniforms purchased
30 by the employee.
31 (c) Subject to the provisions of subsection (e), upon providing a
32 written notice and explanation, an employer may withhold, deduct or
33 divert any portion of an employee's final wages for the following
34 purposes:
35 (1) To recover the employer's property provided to the employee in
36 the course of the employer's business including, but not limited to, tools of

1 the trade or profession, personal safety equipment, computers, electronic
2 devices, mobile phones, proprietary information such as client or
3 customer lists and intellectual property, security information, keys or
4 access cards or materials until such time as such property is returned by
5 the employee to the employer. Upon return of the employer's property, the
6 employer shall relinquish the wages withheld to the employee.

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

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

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

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

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

24 Sec. 2. K.S.A. 2012 Supp. 44-319 ~~is~~ hereby repealed.

25 Sec. 3. This act shall take effect and be in force from and after its
26 publication in the statute book.

K.S.A. 75-4333 and
are

Attachment to Proposed Amendment to HB 2022

New Section 1. (a) It shall be a prohibited practice for any professional employees' organization, as defined in K.S.A. 72-5413, and amendments thereto, or public employee organization, as defined in K.S.A. 75-4322, and amendments thereto, to use any dues, fees, money or other assessments deducted from a member's paycheck for the purpose of engaging in partisan or political purposes as defined in subsection (c). A professional employees' organization or public employee organization may not require any contribution to a candidate, personal campaign committee, political action committee, registered political party, or political fund as a condition of membership or participation in the professional employees' organization or public employee organization.

(b) (1) A professional employees' organization or a public employee organization wishing to make expenditures for partisan or political purposes shall establish a political fund.

(2) Each professional employee's organization or public employee organization that establishes a political fund shall:

(A) Maintain the political fund as a separate, segregated account apart from any account containing money received by a professional employee's organization or a public employee organization as union dues;

(B) ensure that each contribution to the political fund is voluntary; and

(C) establish the political fund as a political action committee.

(3) (A) A professional employee's organization or a public employee organization may only make expenditures for partisan or political purposes from a political fund established in accordance with this section.

(B) A professional employee's organization or a public employee organization may not expend union dues for partisan or political purposes or transfer union dues to a political fund.

(c) (1) "Partisan or political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate for public office at any caucus, political convention, primary, or election.

(2) "Political fund" means a separate segregated fund established by a professional employees' organization or a public employee organization for partisan and political purposes that meets the requirements of this section.

(3) "Union dues" means dues, fees, money, or other assessments required as a condition of membership or participation in a professional employees' organization or a public employee organization.

(d) This section as it relates to public employee organizations shall be supplemental to the provisions of K.S.A. 75-4333, and amendments thereto, and shall be enforced pursuant to the provisions of K.S.A. 75-4334, and amendments thereto.

(e) This section as it relates to professional employees' organizations shall be supplemental to the provisions of K.S.A. 72-5430, and amendments thereto, and shall be enforced pursuant to the provisions of K.S.A. 72-5430a, and amendments thereto.

Sec. 2. K.S.A. 75-4333 is hereby amended to read as follows: 75-4333. (a) The commission of any prohibited practice, as defined in this section, among other actions, shall constitute evidence of bad faith in meet and confer proceedings.

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

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

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

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

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

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

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

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

(8) institute or attempt to institute a lockout.

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

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

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

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

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

(5) engage in a strike.

(d) (1) It shall be a prohibited practice for a public employee organization to endorse candidates, spend any of its income, directly or indirectly, for partisan or political purposes or engage in any kind of activity advocating or opposing the election of candidates for any public office.

(2) For the purposes of this section, "partisan or political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate for public office at any caucus, political conventions, primary or election.

(e) In the application and construction of this section, fundamental distinctions between private and public employment shall be recognized, and no body of federal or state law applicable wholly or in part to private employment shall be regarded as binding or controlling precedent.

New Sec. 3. If any provision of this act, including any amendment made by this act, or the application of any such provision to any person or circumstance, is held invalid, the validity of any other provision of this act, or the application of such provision to other persons and circumstances, shall not be affected thereby.