

HOUSE BILL No. 2023

By Committee on Commerce, Labor and Economic Development

1-17

Proposed Amendment to
HB 2023
Prepared by
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Office of Revisor of Statutes

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

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

4 New Section 1. (a) It shall be unlawful for any professional
5 employees' organization, as defined in K.S.A. 72-5413, and amendments
6 thereto, to use any dues, fees, assessments or any periodic payments
7 deducted from a member's paycheck for the purpose of engaging in
8 political activities as defined in subsection (c).

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

17 (c) For the purposes of this section, "political activities" means any
18 activity carried out for the purpose of influencing, in whole or part, any
19 election for a state, local government or board of education officer,
20 including activities or causes of a partisan political or ideological nature
21 engaged in by a public employee organization for such purpose, and
22 including contributions to a political committee, continuing political
23 employee committee, or both, for the purpose of aiding or promoting the
24 endorsement, nomination, election or defeat of a candidate for public
25 office of the state or of a county, municipality or school district, or the
26 passage or defeat of any public question.

27 (d) This section shall be part of and supplemental to chapter 72 of the
28 Kansas Statutes Annotated, and amendments thereto.

29 New Sec. 2. (a) For a period of two years, no public employer shall
30 collect, deduct, or assist in the collection or deduction of funds for any
31 purpose for a person or organization if, in violation of subsection (d) of
32 K.S.A. 75-4333, and amendments thereto, the person or organization has
33 (1) Used as political funds any of the funds collected or deducted for
34 it by any public employer; or

35 (2) committed funds collected or deducted by any public employer
36

a prohibited practice

or any public employee organization, as defined in K.S.A. 75-4322,
and amendments thereto,

money or other

partisan or

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.

see attachment (b)

see attachment (c)

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.

1 with political funds.

2 (b) Any employee whose wages have been deducted or used in
3 violation of section 1 or subsection (d) of K.S.A. 75-4323, and
4 amendments thereto, may bring suit in a court of competent jurisdiction to
5 obtain injunctive relief against the violator or person or public employer
6 threatening violation. Nothing in this section shall be considered not
7 otherwise construed to waive or in any way abrogate state immunity. An
8 employee whose wages have been deducted in violation of this article may
9 bring suit in a court of competent jurisdiction to recover damages equal to:
10 (1) From a public employer violating the provisions of this article, or
11 failing to take appropriate action when informed of the violation, any
12 amounts actually deducted from the public employee's wages; and
13 (2) From any individual or organization acting separately or in league
14 with a public employer to violate the provisions of this article, twice any
15 amounts actually received by such individual or organization from the
16 injured public employee.

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

20 (e) In any judgment for the plaintiff intended to enforce section 1 or
21 subsection (d) of K.S.A. 75-4323, and amendments thereto, the court may
22 award reasonable attorney's fees as part of the court costs.

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 meet
26 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 the or she
38 such employee has filed any affidavit, petition or complaint or given any
39 information or testimony under this act, or because the or she such
40 employee has formed, joined or chosen to be represented by any employee
41 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 employee
9 organizations willfully to:

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

12 (2) Interfere with, restrain or coerce a public employer with respect to
13 management rights granted in K.S.A. 75-4326, *and amendments thereto,*
14 or with respect to selecting a representative for the purposes of meeting
15 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 thereto;*
20 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, ~~or~~ spend any of its income, ~~directly or~~
24 ~~indirectly,~~ for partisan or political purposes or engage in any kind of
25 activity advocating or opposing the election of candidates for any public
26 ~~office including any income in the form of or derived from any dues fees,~~
27 ~~assessments or any other periodic payments, directly or indirectly, to~~
28 ~~engage in political activities as defined in paragraph (2).~~

29 (2) For the purposes of this section, "political activities" means any
30 activity 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 such purpose, and
34 including contributions to a political committee, continuing political
35 employee committee or both, for the purpose of aiding or promoting the
36 endorsement nomination, election or defeat of any candidate for public
37 office of the state or of a county, municipality or school district, or the
38 passage or defeat of any public question.

39 (e) In the application and construction of this section, fundamental
40 distinctions between private and public employment shall be recognized,
41 and no body of federal or state law applicable wholly or in part to private
42 employment shall be regarded as binding or controlling precedent.
43 New Sec. 4. If any provision of this act, including any amendment

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

partisan or political purposes

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

1 made by this act, or the application of any such provision to any person or
2 circumstance, is held invalid, the validity of any other provision of this act,
3 or the application of such provision to other persons and circumstances,
4 shall not be affected thereby.

4

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

5

6 Sec. 6. This act shall take effect and be in force from and after its
7 publication in the ~~Kansas register~~

statute book

Attachment to HB 2023

attachment (b):

(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.

attachment (c):

(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.