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SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR HOUSE BILL NO. 2022

As Recommended by Senate Committee on Commerce

Brief*

Senate Sub. for HB 2022 would revise the purposes for certain payroll deductions from the paychecks of private or public employees.

Wage Payment Act

An employer would have the discretion, contingent upon a signed written agreement between the employer and the employee, to withhold a portion of an employee's wages for the following purposes:

- Repayment of a loan or an advance the employer made to the employee during the course and scope of employment;
- Recovery of overpayment; and
- Replacement cost or the unpaid balance of the employer's merchandise or uniforms purchased by the employee.

When a person leaves employment, the employer also would have the discretion, contingent upon written notice and explanation to the employee, to deduct any portion of the employee's final wages for the following purposes:

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*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

- Recovery of the employer's property provided to the employee in the course of the employer's business until the property is returned to the employer. Upon return of the employer's property, the withheld wages would be paid to the employee;

- Repayment of a loan or advance the employer made to the employee during the course of and within the scope of employment;

- Recovery of payroll overpayment; or

- Replacement cost of the employer's merchandise, uniforms, or equipment purchased by the employee.

The employer could not withhold amounts that would cause the wages paid to the employee to be less than the federal or state minimum wage, whichever would be applicable.

Under current law, an employee may authorize wage deductions for charitable donations, dues paid to labor organizations, or for service fees. An employer may withhold or deduct any portion of an employee's wages provided:

- It is allowed by law;

- The deduction is for healthcare;

- The employer has signed authorization by the employee for a lawful purpose accruing to the employee's benefit; or

- The deduction is to be deposited into a retirement plan.

The bill also would revise the Professional Negotiations Act and the Public Employer-Employee Relations Act (PEERA) by defining and restricting the partisan or political purposes of professional employees' organizations (PEOs) and public employee organizations. For both types of organizations, the bill would define "partisan or political purposes" to mean an act done with the intent to influence, directly or indirectly, a person to vote for or against any candidate for public office at any caucus, political convention, primary, or election.

Professional Negotiations Act

The bill would prohibit professional employees' organizations (PEOs), which are defined by KSA 72-5413 to mean groups of certified employees that negotiate with boards of education regarding the terms and conditions of professional services, from using money deducted from members' paychecks for partisan or political activities. PEOs would not be allowed to require political contributions as a condition of membership.

PEOs wanting to spend money for partisan or political purposes would be required to ensure members' contributions were voluntary. Political funds would be separated from the money received as union dues and established as a political action committee. Violation of this prohibition would be enforced pursuant to KSA 72-5430a, requiring the Secretary of the Department of Labor to investigate and grant relief, if necessary.

Public Employer-Employee Relations Act

Currently under PEERA, public employee organizations are prohibited from endorsing candidates or spending any income, directly or indirectly, for partisan or political purposes involving the election of candidates for any public office. Under the bill, violation of this prohibition would be enforced pursuant to KSA 75-4334, requiring the Public Employee Relations Board to investigate and make findings.

The severable provisions of the bill would be in effect upon publication in the statute book.

Background

Representatives of the Kansas Chamber, the Kansas Society for Human Resource Management, and the National Federation of Independent Businesses spoke as proponents to the bill, stating it would provide employers with flexibility and guidance when there is a need to collect money from employees.

A representative of the Kansas AFL-CIO provided opponent testimony, observing that an employer's discretion to unilaterally make deductions to an employee's final paycheck could be abused.

There was no opponent testimony.

The Senate Committee on Commerce recommended a substitute bill that included the provisions of HB 2022, as introduced, and inserted the provisions of HB 2023, as introduced, a bill pertaining to public payroll deductions for political purposes. In addition to technical amendments, the Committee further recommended the substitute bill include the following changes to certain provisions of HB 2023:

- Delete reference to the means by which members of PEOs could make political contributions;
- Delete the definition for “political activities” that meant activity intended to influence state or local elections, including public questions;
- Delete standing for professional employees to sue if money was wrongly deducted from their paychecks;

- Delete the penalty against PEOs, prohibiting them from receiving any paycheck deductions for two years for any purposes if found in violation of the bill; and

- Change the effective date of the bill from publication in the *Kansas Register* to publication in the statute book.

According to the fiscal notes prepared by the Division of the Budget, both bills, as introduced, would have no fiscal effect on state revenues or expenditures. According to the Department of Labor, which is responsible for administering the Wage Payment Act, the bill could generate an increase in wage claims and contested hearings through the Office of Administrative Hearings. Current staffing should be able to absorb increased case loads.