

As Amended by Senate Committee

SENATE BILL No. 243

By Committee on Ways and Means

2-17

1 AN ACT concerning the state civil service board; transferred from the
2 department of administration to the office of administrative hearings;
3 amending K.S.A. 75-2929b, 75-2929g and 75-3746 and K.S.A. 2014
4 2015 Supp. 75-2929d and repealing the existing sections.

and 75-2949

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

6 Section 1. K.S.A. 75-2929b is hereby amended to read as follows: 75-
7 2929b. (a) The board shall be attached to the ~~department of administration~~
8 *office of administrative hearings* and shall be within the ~~department office~~
9 *of administrative hearings* as a part thereof. All budgeting, purchasing and
10 related management functions of the board shall be administered under the
11 direction and supervision of the ~~secretary of administration~~ *director of*
12 *administrative hearings*. All vouchers for expenditures and all payrolls of
13 the board shall be approved by the chairperson of the board or a person or
14 persons designated by such chairperson and the ~~secretary of administration~~
15 *director of administrative hearings* or a person or persons designated by
16 such ~~secretary~~ *director*.

17 (b) The board shall organize annually by electing one of its members
18 as chairperson and one as vice-chairperson. The board shall meet regularly
19 at least once each calendar quarter and special meetings may be called by
20 the chairperson or by a majority of the board. A quorum of the board shall
21 consist of three members. ~~No~~ action may be taken by the board without the
22 affirmative vote of at least three members. ~~In the holding of hearings of~~
23 ~~appeals by employees or appointing authorities pursuant to the Kansas~~
24 ~~civil service act, the board may delegate to one or more of its members the~~
25 ~~authority to serve as a hearing examiner for such a hearing, but action~~
26 ~~upon any such appeal shall require the concurrence of at least three~~
27 ~~members of the board.~~

28 (c) Meetings of the board shall be open to the public and no meeting
29 ~~[or hearing]~~ of the board shall be held unless at least three members of the
30 board are present. The director of ~~personnel services~~ *administrative*
31 *hearings* shall act as secretary of the board or may designate a person to
32 serve as the secretary of the board. The board shall keep records and
33 minutes of its business and official actions, and such records and minutes
34 shall be public records open to public inspection, subject to rules and
35 regulations specifying the hours and conditions of inspection. *The director*
36

Except for actions pursuant to the Kansas
administrative procedure act, K.S.A. 77-501 et
seq., and amendments thereto,

Balloon Amendments for SB 243
House Committee on Federal and State Affairs
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Office of Revisor of Statutes
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1 *of administrative hearings shall be the legal custodian of such records and*
2 *shall have the duty to store and maintain such records in order to carry*
3 *out the official business of the board and respond to inquiries regarding*
4 *the business and official actions of the board.*

5 (d) Each member of the state civil service board attending meetings
6 of such board, attending a subcommittee meeting ~~thereof~~ authorized by
7 such board, or serving as hearing examiner at a hearing under the Kansas
8 civil service act shall be paid per diem compensation of \$70 and shall be
9 paid subsistence allowances, mileage and other expenses as provided in
10 K.S.A. 75-3223, and amendments thereto. In addition, each member, who
11 resides more than 100 miles from the location of an authorized meeting or
12 hearing, shall receive per diem compensation of \$35 for each day in travel
13 to or from such meeting or hearing if such travel is on a day other than the
14 day or days of such meeting or hearing.

15 Sec. 2. ~~K.S.A. 2014~~ 2015 Supp. 75-2929d is hereby amended to read
16 as follows: 75-2929d. (a) The state civil service board shall hear appeals
17 taken to it pursuant to: (1) K.S.A. 75-2940, 75-2949 and 75-3747, and
18 amendments thereto, concerning demotion, dismissal or suspension of a
19 permanent employee in the classified service, or concerning refusal to
20 examine an applicant or to certify a person as eligible for a job class; and
21 (2) K.S.A. 75-2973, and amendments thereto, concerning disciplinary
22 action in violation of that statute.

23 (b) When an appeal is taken to the board, the board shall establish a
24 time and a place for the hearing which shall be held within 45 days after
25 receipt of request for the appeal. The board shall notify the person bringing
26 the appeal and the appointing authority or other person whose action is
27 being reviewed of the time and the place of the hearing at least 14 days
28 prior to such hearing. Each party at the hearing shall have the right to be
29 represented by a person of the party's own choice. Hearings shall be
30 conducted in accordance with the provisions of the Kansas administrative
31 procedure act. For purposes of the administrative procedure act, the state
32 civil service board shall be deemed the agency head. The board may
33 affirm, modify or reverse an agency action and order any other action it
34 deems appropriate.

35 (c) The board, or the director of ~~personnel services~~ *administrative*
36 *hearings* when authorized by majority vote of the board, may depose
37 witnesses. Either party to a hearing may depose witnesses in accordance
38 with the Kansas administrative procedure act. If books and papers are
39 required to be produced in advance of a hearing date, the person or agency
40 producing the books and papers shall be entitled to receive reasonable
41 compensation to recover all costs of such production from the person or
42 agency for which they are produced. The board, any presiding officer or
43 the director of *administrative hearings* may examine such public records

1 as may be required in relation to any matter which the board has authority
2 to investigate.

3 (d) Each person not in the classified or unclassified service who
4 appears before the board or the director *of administrative hearings* by
5 order shall receive for such person's attendance the fees and mileage
6 provided for witnesses in civil actions in the district court. Such fees and
7 mileage shall be audited and paid by the state upon presentation of proper
8 vouchers. Each witness subpoenaed at the request of parties other than the
9 board or the director *of administrative hearings* shall be entitled to
10 compensation from the state for attendance or travel only if the board
11 certifies that the testimony of such witness was relevant and material to the
12 matter investigated or, if such witness is not called to testify, the board
13 determines and certifies that such compensation should be paid.

14 Sec. 3. K.S.A. 75-2929g is hereby amended to read as follows: 75-
15 2929g. The secretary of administration, upon recommendation of the
16 director ~~of personnel services~~ *administrative hearings* and the board, may
17 adopt rules and regulations as provided in K.S.A. 75-3706, and
18 amendments thereto, to carry out the provisions of K.S.A. 75-2929d to 75-
19 2929g, ~~inclusive~~, and 75-2949d to 75-2949f, ~~inclusive~~, and amendments
20 thereto.

21 Sec. 4. K.S.A. 75-3746 is hereby amended to read as follows: 75-
22 3746. The director of personnel services shall:

23 (a) Require the development of effective personnel administration
24 within all agencies in the state and make available the facilities of the
25 division of personnel services to this end.

26 (b) Keep in the office of the division of personnel services an official
27 roster of the state civil service showing the employment history of each
28 and every person who has been appointed to, employed, promoted,
29 reduced or reinstated in any position in such service. The director of
30 personnel services shall have access to all public records and papers, the
31 examination of which will aid in the discharge of the director's duty in
32 connection with this roster.

33 (c) Prepare, in accordance with the provisions of the Kansas civil
34 service act and rules and regulations adopted thereunder as provided in
35 K.S.A. 75-3706, and amendments thereto, examinations, eligible lists and
36 ratings of candidates for appointment.

37 (d) Make certification for appointment within the classified service,
38 in accordance with the provisions of the Kansas civil service act.

39 (e) Make investigations concerning all matters touching the
40 enforcement and effect of the provisions of the Kansas civil service act and
41 rules and regulations adopted thereunder as provided in K.S.A. 75-3706,
42 and amendments thereto.

43 (f) Make an annual report to the secretary of administration, the

See Attached insert

And by renumbering remaining
sections accordingly

1 legislature and the governor regarding the activities of the division.

2 ~~(g) Attend or designate a representative to attend all meetings of the~~
3 ~~state civil service board.~~

4 (4b) Prepare and recommend to the secretary of administration rules
5 and regulations suitable for adoption as provided in K.S.A. 75-3706, and
6 amendments thereto, for the purpose of carrying out the provisions of the
7 Kansas civil service act. Such rules and regulations shall provide, among
8 other things, for current records of efficiency for methods of regular
9 distribution of communication materials; the manner of completing
10 appointments and promotions; the rejection of eligible candidates;
11 competitive examinations; creation of eligible lists with successful
12 candidates ranked according to their rating in the examinations; leave of
13 absence with and without pay; transfers, reinstatements, layoffs, vacations
14 and public notice of examinations; procedure for changes in rates of pay;
15 hours of work and other conditions of employment; the establishment of
16 programs, including trainee programs, designed to attract and utilize
17 persons with limited qualifications, but with potential for development, in
18 order to provide career development opportunities; establishment of a plan
19 for resolving employee grievances and complaints; development and
20 operation of programs to improve work effectiveness, including
21 orientation, on-the-job training, supervisory training, managerial
22 development, safety, fringe benefit counseling and employee relations; and
23 the establishment of policies regarding manpower allocation and control.

24 (4b) Conduct regular planned assistance visits from the division of
25 personnel services to review personnel practices of agencies and identify
26 agency needs.

27 (4)(i) Administer the Kansas civil service act.

28 Sec. 5. K.S.A. 75-2929b, 75-2929g and 75-3746 and K.S.A. ~~2014~~
29 ~~2015~~ Supp. 75-2929d ~~are hereby repealed.~~

30 Sec. 6. This act shall take effect and be in force from and after July 1,
31 ~~2016~~ 2017, its publication in the statute book.

and 75-2949

Sec. 4. K.S.A. 2015 Supp. 75-2949 is hereby amended to read as follows: 75-2949. (a) An appointing authority may dismiss or demote any permanent employee in the classified service when the appointing authority considers that the good of the service will be served thereby. For disciplinary purposes, an appointing authority may suspend without pay a permanent classified employee for a period not to exceed 30 calendar days. No permanent employee in the classified service shall be dismissed, demoted or suspended for political, religious, racial or other nonmerit reasons.

(b) Prior to dismissal, demotion or suspension of a permanent employee in the classified service, the appointing authority shall furnish the employee by certified mail to the employee's last known address, return receipt requested, or by personal delivery, a statement in writing specifically setting forth the reasons and factual basis therefor. A copy of such statement shall be furnished immediately to the director. This statement shall contain notice of the proposed dismissal, demotion or suspension and shall specify the proposed effective date thereof. Except as otherwise provided in the Kansas civil service act, a proposed suspension, demotion or dismissal shall become effective no less than three calendar days nor more than 14 calendar days following the date the notice of such proposed suspension, demotion or dismissal is personally delivered to the employee or deposited with the post office as certified mail. If in the opinion of the appointing authority conditions warrant, the appointing authority may relieve the employee of duties or change the duties of the employee during such period. If the employee is relieved from duty during such period, the employee may be continued in pay status, or placed on leave of absence without pay by the appointing authority. In the statement proposing suspension, demotion or dismissal, the appointing authority shall offer the employee who is proposed to be suspended, demoted or dismissed an opportunity to reply in writing, or appear in person, or both, before the appointing authority or a designated representative of the appointing authority, on the issue of the proposed suspension, demotion or dismissal prior to the time such suspension, demotion or dismissal is specified by the notice to become effective. The statement shall specify the date, time and place by, or at which, the employee may reply in writing or appear, or both. If the employee chooses to appear in person on the issue of the proposed action, the employee may be represented by a person of the employee's choice.

(c) Upon request by the employee, or upon the initiative of the appointing authority, the appointing authority may extend the time for reply or appearance, or both, if the circumstances warrant. Notice of any such extension shall be furnished to the employee and to the director of personnel services. The proposed suspension, demotion or dismissal shall not become effective until after the extended period has expired.

(d) Following the employee's response to the opportunity to reply to the proposed action, or upon expiration of the time for such reply, if no reply is made, the appointing authority, or the designee of the appointing authority, shall notify the employee of the final decision on the proposed action. Such notice shall be in writing and shall be sent by certified mail to the employee's last known address or personally delivered to the employee on or before the effective date of the proposed action. A copy of the notice shall be furnished immediately to the director of personnel services. This final notice of decision by the appointing authority or the designee of the appointing authority, to suspend, demote or dismiss the employee shall inform the employee of the employee's right to appeal the decision to the state civil service board within 30 calendar days after the effective date of the action.

(e) At any time prior to the effective date of the proposed suspension, demotion or dismissal or, if an appeal is taken to the state civil service board, at any time prior to the final decision of the board, the appointing authority, or the designee of the appointing authority, may withdraw or modify the action proposed to be taken or taken against the employee. Notice of any such withdrawal or modification shall be given in writing to the employee by certified mail to the employee's last known address or by personal delivery. A copy of the notice shall be furnished immediately to the director of personnel services.

(f) Any permanent employee finally dismissed, demoted or suspended, may request a hearing from the state civil service board to determine the reasonableness of such action. Each such request for a hearing shall be in writing and shall be filed in the office of the director of ~~personnel services~~ administrative hearings within 30 calendar days after the effective date of the dismissal, demotion or suspension. Additional days shall not be added to the thirty-day period in which an appeal may be filed if the notice of the effective date of the dismissal, demotion or suspension is mailed to the employee. The board shall grant the employee a hearing in accordance with the provisions of the Kansas administrative procedure act within 45 calendar days after receipt of such request. At the hearing the burden of proof shall be upon the employee to establish that the appointing authority did not act reasonably in taking such action.

(g) No employee shall be disciplined or discriminated against in any way because of the employee's proper use of the appeal procedure.

(h) A permanent employee who is demoted pursuant to this section need not meet the qualifications for the class of positions to which demoted if the appointing authority determines that the employee can reasonably be expected to perform satisfactorily the duties of the position to which the employee is

denoted. A permanent employee who is demoted pursuant to this section shall have permanent status in the class to which demotion is made, effective on the date of the demotion.

(i) In case of a situation in which the possibility of proposing dismissal, suspension or demotion of a permanent employee is indicated, but where the appointing authority needs time to conduct an investigation before proposing such action, or in a situation where immediate removal of an employee from such employee's job is needed to avoid disruption of work, or for the protection of persons or property, or for a similar reason, the appointing authority may relieve the employee of duties or change the duties of the employee for a limited period and keep the employee in pay status. The secretary of administration shall provide by rules and regulations, adopted pursuant to K.S.A. 75-3706, and amendments thereto, procedures to be followed in such cases.