

SENATE BILL No. 179

By Committee on Ways and Means

2-10

1 AN ACT concerning public employees; relating to the public employer-
2 employee relations act; amending K.S.A. 75-4321, 75-4322, 75-4324,
3 75-4326, 75-4328, 75-4329, 75-4335 and 75-4337 and K.S.A. 2014
4 Supp. 75-4327, 75-4330, 75-4332, 75-4333 and 75-4334 and repealing
5 the existing sections; also repealing K.S.A. 2014 Supp. 75-4323 and
6 75-5713.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. (a) The secretary shall adopted such rules and
10 regulations necessary to implement and enforce the provisions of K.S.A.
11 75-4321 et seq., and amendments thereto.

12 (b) This section shall be a part of and supplemental to the public
13 employer-employee relations act, K.S.A. 75-4321 et seq., and amendments
14 thereto.

15 New Sec. 2. (a) The public employee relations board is hereby
16 abolished. Whenever the public employee relations board is referred to or
17 designated by a statute, contract or other document, such reference or
18 designation shall be deemed to apply to the secretary of labor. All powers,
19 duties, functions, records and property of the public employee relations
20 board, as provided by law, are hereby transferred to and conferred and
21 imposed upon the secretary of labor. The secretary of labor shall be the
22 successor in every way to the powers, duties and functions of the public
23 employee relations board, as provided by law.

24 (b) All rules and regulations of the public employee relations board
25 shall continue to be effective and shall be deemed to be duly adopted rules
26 and regulations of the secretary of labor until revised, amended, revoked or
27 nullified pursuant to law.

28 (c) All policies, orders and directives of the public employee relations
29 board shall continue to be effective and shall be deemed to be policies,
30 orders and directives of the secretary of labor until revised, amended,
31 revoked or nullified pursuant to law.

32 (d) All officers and employees who were engaged in the exercise of
33 powers or the performance of duties and functions of or on behalf of the
34 public employee relations board and who, in the opinion of the secretary of
35 labor, are necessary to the exercise of powers or the performance of duties
36 and functions of the department of labor shall remain or become officers

1 and employees of the department of labor. Any such officer or employee
2 shall retain all retirement benefits and rights of civil service which had
3 accrued to or vested in such officer or employee, and the service of each
4 such officer and employee shall be deemed to have been continuous. All
5 transfers and any abolishment of positions of personnel in the classified
6 civil service under the Kansas civil service act shall be in accordance with
7 civil service laws and any rules and regulations adopted thereunder.

8 (e) No vested right of any person shall be affected and no lawful
9 claim of any person against the state shall abate by reason of the abolition
10 of the public employee relations board, nor shall any lawful claim or right
11 of the state abate by reason of abolition of the public employee relations
12 board. Responsibility for litigation or other reconciliation of such rights
13 and claims is hereby transferred to and imposed upon the secretary of
14 labor.

15 (f) No suit, action or other proceeding, judicial or administrative,
16 lawfully commenced, or which could have been commenced, by or against
17 the public employee relations board, or by or against any officer or
18 employee of the public employee relations board in relation to the
19 discharge of duties imposed on such officer or employee by law, shall
20 abate by reason of the abolition of the public employee relations board.
21 The court may allow any such suit, action or other proceeding to be
22 maintained by or against the secretary of labor.

23 (g) When any conflict arises as to the disposition of any power, duty
24 or function or the unexpended balance of any appropriation or any
25 unexpended moneys received from private persons or organizations as a
26 result of the abolition of the public employee relations board, such conflict
27 shall be resolved by the governor, and the decision of the governor shall be
28 final.

29 (h) When any conflict arises as to the proper disposition of any
30 property or records as a result of the abolition of the public employee
31 relations board, such conflict shall be resolved by the governor, and the
32 decision of the governor shall be final.

33 (i) This section shall be part of and supplemental to the public
34 employer-employee relations act.

35 Sec. 3. K.S.A. 75-4321 is hereby amended to read as follows: 75-
36 4321. (a) The legislature hereby finds and declares that:

37 (1) The people of this state have a fundamental interest in the
38 development of harmonious and cooperative relationships between
39 government and its employees;

40 (2) the denial by some public employers of the right of public
41 employees to organize and the refusal by some to accept the principle and
42 procedure of full communication between public employers and public
43 employee organizations can lead to various forms of strife and unrest;

1 (3) the state has a basic obligation to protect the public by assuring, at
2 all times, the orderly and uninterrupted operations and functions of
3 government;

4 (4) there neither is, nor can be, an analogy of statuses between public
5 employees and private employees, in fact or law, because of inherent
6 differences in the employment relationship arising out of the unique fact
7 that the public employer was established by and is run for the benefit of all
8 the people and its authority derives not from contract nor the profit motive
9 inherent in the principle of free private enterprise, but from the
10 constitution, statutes, civil service rules, regulations and resolutions; and

11 (5) the difference between public and private employment is further
12 reflected in the constraints that bar any abdication or bargaining away by
13 public employers of their continuing legislative discretion and in the fact
14 that constitutional provisions as to contract, property, and due process do
15 not apply to the public employer and employee relationship.

16 (b) Subject to the provisions of subsection (c), it is the purpose of this
17 act to obligate public agencies, public employees and their representatives
18 to enter into discussions with affirmative willingness to resolve grievances
19 and disputes relating to conditions of employment, acting within the
20 framework of law. It is also the purpose of this act to promote the
21 improvement of employer-employee relations within the various public
22 agencies of the state and its political subdivisions by providing a uniform
23 basis for recognizing the right of public employees to join organizations of
24 their own choice, or to refrain from joining, and be represented by such
25 organizations in their employment relations and dealings with public
26 agencies.

27 (c) The governing body of any public employer, other than the state
28 and its agencies, ~~by a majority vote of all the members~~ may elect to bring
29 such public employer under the provisions of this act, ~~and upon such~~
30 ~~election~~ *by adopting a resolution which shall be approved by a majority of*
31 *the members of such governing body. Any resolution electing to bring such*
32 *public employer under the provisions of this act shall not become effective*
33 *unless such resolution has been submitted to and approved by a majority*
34 *of the qualified electors of the public employer voting at an election called*
35 *and held thereon. The election shall be called and held in the manner*
36 *provided by law for question submitted elections and shall be held on the*
37 *date of the primary election immediately following adoption of the*
38 *resolution as specified in K.S.A. 25-203, and amendments thereto. Upon*
39 *approval of the resolution by a majority of the qualified electors voting in*
40 *such election* the public employer and its employees shall be bound by its
41 provisions from the date of such election. Once an election has been made
42 to bring the public employer under the provisions of this act it continues in
43 effect unless rescinded by a majority vote of all members of the governing

1 body. ~~No vote to rescind shall take effect until the termination of the next~~
2 ~~complete budget year following such vote.~~

3 Sec. 4. K.S.A. 75-4322 is hereby amended to read as follows: 75-
4 4322. As used in this act:

5 (a) "Public employee" means any person employed by any public
6 agency, except those persons classed as supervisory employees,
7 professional employees ~~of school districts~~, as defined by subsection (e) of
8 K.S.A. 72-5413, *and amendments thereto*, elected and management
9 officials, and confidential employees.

10 (b) "Supervisory employee" means any individual who normally
11 performs different work from his subordinates, having authority, in the
12 interest of the employer, to hire, transfer, suspend, lay off, recall, promote,
13 discharge, assign, reward, or discipline other employees, or responsibly to
14 direct them, or to adjust their grievances, or effectively to recommend a
15 preponderance of such actions, if in connection with the foregoing the
16 exercise of such authority is not of a merely routine or clerical nature, but
17 requires the use of independent judgment. A memorandum of agreement
18 may provide for a definition of "supervisory employees" as an alternative
19 to the definition herein.

20 (c) "Confidential employee" means any employee whose unrestricted
21 access to confidential personnel files or other information concerning the
22 administrative operations of a public agency, or whose functional
23 responsibilities or knowledge in connection with the issues involved in the
24 meet and confer process would make his membership in the same
25 employee organization as other employees incompatible with his official
26 duties.

27 (d) "Professional employee" includes any employee: (1) Whose work
28 is predominantly intellectual and varied in character as opposed to routine
29 mental, manual, mechanical, or physical work; involves the consistent
30 exercise of discretion and judgment; requires knowledge of an advanced
31 type in a field of science or learning customarily acquired by prolonged
32 study in an institution of higher learning; or (2) who has completed
33 courses of prolonged study as described in ~~paragraph (1) of this subsection~~
34 *(d)(1)*, and is performing related work under the supervision of a
35 professional person in order to qualify as a professional employee as
36 defined in ~~paragraph (1) of this subsection (d)(1)~~; or (3) attorneys-at-law
37 or any other person who is registered as a qualified professional by a board
38 of registration or other public body established for such purposes under the
39 laws of this state.

40 (e) "Elected and management officials" means any elective official
41 and any appointed officer charged by law with major administrative and
42 management responsibilities.

43 (f) "Public agency" or "public employer" means every governmental

1 subdivision, including any county, township, city, school district, special
2 district, board, commission, or instrumentality or other similar unit whose
3 governing body exercises similar governmental powers, and the state of
4 Kansas and its state agencies.

5 (g) "Governing body" means the legislative body, policy board or
6 other authority of the public employer possessing legislative or
7 policymaking responsibilities pursuant to the constitution or laws of this
8 state.

9 (h) "Representative of the public agency" means the chief executive
10 officer of the public employer or his or her designee, except when the
11 governing body provides otherwise, and except in the case of the state of
12 Kansas and its state agencies. Such chief executive shall be for counties,
13 the chairman of the board of county commissioners; for cities, the mayor,
14 city manager or city superintendent; for school districts, the president of
15 the board of education; and for other local units, such similar elected or
16 appointed officer. In the case of the state of Kansas and its state agencies,
17 "representative of the public employer" means a team of persons, the head
18 of which shall be a person designated by the secretary of administration
19 and the heads of the state agency or state agencies involved or one person
20 designated by each such state agency head.

21 (i) "Employee organization" means any organization which includes
22 employees of a public agency and which has as one of its primary
23 purposes representing such employees in dealings with that public agency
24 over conditions of employment and grievances.

25 (j) "Recognized employee organization" means an employee
26 organization which has been formally acknowledged by the public agency
27 or certified as representing a majority of the employees of an appropriate
28 unit.

29 (k) "Business agent" means any authorized person who is a full-time
30 official of an employee organization and whose principal duties are to act
31 or to attempt to act for an employee organization: (1) In proceedings to
32 meet and confer and other proceedings involving a memorandum of
33 agreement; (2) in servicing existing memorandums of agreement; or (3)
34 in organizing employees into employee organizations.

35 ~~(l) "Board" means the public employee relations board established~~
36 ~~pursuant to this act.~~

37 ~~(m) (l)~~ "Meet and confer in good faith" is the process whereby the
38 representative of a public agency and representatives of recognized
39 employee organizations have the mutual obligation personally to meet and
40 confer in order to exchange freely information, opinions and proposals to
41 endeavor to reach agreement on conditions of employment.

42 ~~(n) (m)~~ "Memorandum of agreement" means a written memorandum
43 of understanding arrived at by the representatives of the public agency and

1 a recognized employee organization which may be presented to the
 2 governing body of a public employer or its statutory representative and to
 3 the membership of such organization for appropriate action.

4 ~~(o) "Mediation" means effort by an impartial third party to assist in~~
 5 ~~reconciling a dispute regarding conditions of employment between~~
 6 ~~representatives of the public agency and recognized employee~~
 7 ~~organizations through interpretation and advice.~~

8 ~~(p) "Fact-finding" means investigation of such a dispute by an~~
 9 ~~individual, panel, or board with the fact-finder submitting a report to the~~
 10 ~~parties describing the issues involved; the report shall contain~~
 11 ~~recommendations for settlement and may be made public.~~

12 ~~(q) "Arbitration" means interpretation of the terms of an existing or a~~
 13 ~~new memorandum of agreement or investigation of disputes by an~~
 14 ~~impartial third party whose decision may or may not be final and binding.~~
 15 ~~Arbitration is advisory when the results are not binding upon the parties; it~~
 16 ~~is final and binding when both parties, of their own volition, agree to~~
 17 ~~submit a dispute to, and to abide by the decision of, the impartial third~~
 18 ~~party.~~

19 ~~(r) (n) "Strike" means an action taken for the purpose of coercing a~~
 20 ~~change in the conditions, rights, privileges or obligations of employment~~
 21 ~~through the failure by concerted action with others to report for duty or to~~
 22 ~~work at usual capability in the performance of the normal duties of~~
 23 ~~employment.~~

24 ~~(s) (o) "Lockout" means action taken by the public employer to~~
 25 ~~provoke interruptions of or prevent the continuity of work normally and~~
 26 ~~usually performed by the employees for the purpose of coercing the~~
 27 ~~employees into relinquishing rights guaranteed by this act.~~

28 ~~(t) (p) "Conditions of employment" means salaries, wages, hours of~~
 29 ~~work, vacation allowances, sick and injury leave, number of holidays,~~
 30 ~~retirement benefits, insurance benefits, prepaid legal service benefits,~~
 31 ~~wearing apparel, premium pay for overtime, shift differential pay, jury~~
 32 ~~duty and grievance procedures shall exclusively mean the minimum~~
 33 ~~amount of salaries and wages, but nothing in this act shall authorize the~~
 34 ~~adjustment or change of such matters which have been fixed by statute or~~
 35 ~~by the constitution of this state.~~

36 ~~(u) "Grievance" means a statement of dissatisfaction by a public~~
 37 ~~employee, supervisory employee, employee organization or public~~
 38 ~~employer concerning interpretation of a memorandum of agreement or~~
 39 ~~traditional work practice.~~

40 ~~(v) (q) "Budget submission date" means: (1) For any public~~
 41 ~~employers subject to the budget law in K.S.A. 79-2925 et seq., and~~
 42 ~~amendments thereto, the date of July 1; and (2) for any other public~~
 43 ~~employer, the date fixed by law. "Budget submission date" means, in the~~

1 case of the state and its state agencies, the date of September 15.

2 ~~(w)~~ (r) "Legislature" means the legislature of the state of Kansas.

3 (s) "*Secretary*" means the secretary of labor, or the secretary's
4 designee.

5 ~~(x)~~ (t) "State agency" means the same as is ascribed thereto in K.S.A.
6 75-3701, and amendments thereto.

7 Sec. 5. K.S.A. 75-4324 is hereby amended to read as follows: 75-
8 4324. Public employees shall have the right to form, join and participate in
9 the activities of employee organizations of their own choosing, for the
10 purpose of meeting and conferring with public employers or their
11 designated representatives with respect to ~~grievances and~~ conditions of
12 employment. Public employees also shall have the right to refuse to join or
13 participate in the activities of employee organizations.

14 Sec. 6. K.S.A. 75-4326 is hereby amended to read as follows: 75-
15 4326. Nothing in this act is intended to circumscribe or modify the existing
16 right of a public employer to:

17 (a) Direct the work of its employees;

18 (b) hire, promote, demote, transfer, assign and retain employees in
19 positions within the public agency;

20 (c) suspend or discharge employees for proper cause;

21 (d) maintain the efficiency of governmental operation;

22 (e) relieve employees from duties because of lack of work or for other
23 legitimate reasons;

24 (f) take actions as may be necessary to carry out the mission of the
25 agency in emergencies; ~~and~~

26 (g) determine the methods, means and personnel by which operations
27 are to be carried on;

28 (h) *determine the criteria, procedures and methods by which*
29 *candidates for hire, promotion, demotion, transfer, assignment, retention,*
30 *furlough, lay-off or termination are identified; and*

31 (i) *determine which personnel shall be hired, promoted, demoted,*
32 *transferred, assigned, retained, furloughed, laid-off or terminated.*

33 Sec. 7. K.S.A. 2014 Supp. 75-4327 is hereby amended to read as
34 follows: 75-4327. (a) Public employers shall recognize employee
35 organizations for the purpose of representing their members in relations
36 with public agencies as to ~~grievances and~~ conditions of employment.
37 Employee organizations may establish reasonable provisions for an
38 individual's admission to or dismissal from membership.

39 (b) Where an employee organization has been certified by the ~~board~~
40 *secretary* as representing a majority of the employees in an appropriate
41 unit, or recognized formally by the public employer pursuant to the
42 provisions of this act, the appropriate employer shall meet and confer in
43 good faith with such employee organization in the determination of

1 conditions of employment of the public employees as provided in this act,
2 and may enter into a memorandum of agreement with such recognized
3 employee organization.

4 (c) A recognized employee organization shall represent not less than a
5 majority of the employees of an appropriate unit. When a question
6 concerning the designation of an appropriate unit is raised by a public
7 agency, employee organization or by five or more employees, the ~~public~~
8 ~~employee relations board~~ *secretary*, at the request of any of the parties,
9 shall investigate such question and, after a hearing in accordance with the
10 provisions of the Kansas administrative procedure act, rule on the
11 definition of the appropriate unit in accordance with subsection (e).

12 (d) (1) Following determination of the appropriate unit of employees,
13 the ~~public employee relations board~~ *secretary*, at the request of the public
14 employer or on petition of employees, shall investigate questions and
15 certify to the parties in writing, the names of the representatives that have
16 been designated for an appropriate unit. The filing of a petition for the
17 investigation or certification of a representative of employees shall show
18 the names of not less than 30% of the employees within an appropriate
19 unit. In any such investigation, the ~~board~~ *secretary* may provide for an
20 appropriate hearing, shall determine voting eligibility and shall take a
21 secret ballot of employees in the appropriate unit involved to ascertain
22 such representatives for the purpose of formal recognition. Recognition
23 shall be granted only to an employee organization that has been selected as
24 a representative of an appropriate unit, in a secret ballot election, by a
25 majority of the employees in an appropriate unit who voted at such
26 election. Each employee eligible to vote shall be provided the opportunity
27 to choose the employee organization such employee wishes to represent
28 such employee, from among those on the ballot, or to choose "no
29 representation." When an election in which the ballot provided for three or
30 more choices between representatives and no representation resulted in no
31 choice receiving a majority of the valid votes cast, the ~~board~~ *secretary*
32 shall conduct a run-off election by secret ballot. The ballot in a run-off
33 election shall only provide for a selection between the two choices
34 receiving the largest and second largest number of votes in the original
35 election. The ~~board~~ *secretary* is authorized to hold elections to determine
36 whether: (1) (A) An employee organization should be recognized as the
37 formal representative of employees in a unit; (2) (B) an employee
38 organization should replace another employee organization as the formal
39 representative of employees in a unit; (3) or (C) a recognized employee
40 organization should be decertified.

41 (2) Any petition calling for an election in accordance with this section
42 shall be dismissed by the ~~board~~ *secretary* without determining the
43 questions raised therein if such petition is filed more than 150 days or less

1 than 90 days prior to the expiration date of an existing memorandum of
2 agreement which governs the ~~terms and~~ conditions of employment of the
3 employees within the appropriate unit.

4 (3) If the ~~board~~ *secretary* has certified a formally recognized
5 representative in an appropriate unit, it shall not be required to consider the
6 matter again for a period of one year, unless the ~~board~~ *secretary*
7 determines that sufficient reason exists. The ~~board~~ *secretary* may
8 promulgate such rules and regulations as may be appropriate to carry out
9 the provisions of subsections (c) and (d).

10 (e) Any group of public employees considering the formation of an
11 employee organization for formal recognition, any public employer
12 considering the recognition of an employee organization on its own
13 volition and the ~~board~~ *secretary*, in investigating questions at the request
14 of the parties as specified in this section, shall take into consideration,
15 along with other relevant factors: (1) The principle of efficient
16 administration of government; (2) the existence of a community of interest
17 among employees; (3) the history and extent of employee organization; (4)
18 geographical location; (5) the effects of overfragmentation and the
19 splintering of a work organization; (6) the provisions of K.S.A. 75-4325,
20 and amendments thereto; and (7) the recommendations of the parties
21 involved.

22 (f) A recognized employee organization shall not include: (1) Both
23 professional and other employees, unless a majority of the professional
24 employees vote for inclusion in the organization; (2) uniform police
25 employees and public property security guards with any other public
26 employees, but such employees may form their own separate homogenous
27 units; or (3) uniformed firemen with any other public employees, but such
28 employees may form their own separate homogenous units. The
29 employees of a public safety department of cities which has both police
30 and fire protection duties shall be an appropriate unit.

31 (g) It is the intent of this act that employer-employee relations
32 affecting the finances of a public employer shall be conducted at such
33 times as will permit any resultant memorandum of agreement to be duly
34 implemented in the budget preparation and adoption process. A public
35 employer, during the 60 days immediately prior to its budget submission
36 date, shall not be required to recognize an employee organization not
37 previously recognized, nor shall it be obligated to initiate or begin meet
38 and confer proceedings with any recognized employee organization for a
39 period of 30 days before and 30 days after its budget submission date.

40 (h) No employee organization shall be recognized unless it
41 establishes and maintains standards of conduct providing for: (1) The
42 maintenance of democratic procedures and practices, including periodic
43 elections by secret ballot and the fair and equal treatment of all members;

1 and (2) the maintenance of fiscal integrity, including accurate accounting
2 and periodic financial reports open to all members and the prohibition of
3 business or financial interests by officers which conflict with their
4 fiduciary responsibilities.

5 (i) The ~~board~~ *secretary* shall assess the reasonable costs for
6 conducting a secret ballot of the employees against the party seeking the
7 election. For the purposes of this subsection, the term "costs" shall include
8 amounts expended by the ~~board~~ *secretary* for printing of ballots and
9 necessary postage.

10 Sec. 8. K.S.A. 75-4328 is hereby amended to read as follows: 75-
11 4328. (a) A public employer shall extend to a certified or formally
12 recognized employee organization the right to represent the employees of
13 the appropriate unit involved in meet and confer proceedings ~~and in the~~
14 ~~settlement of grievances~~, and also shall extend the right to unchallenged
15 representation status, consistent with ~~subsection (d) of~~ K.S.A. 75-4327(d),
16 during the ~~twelve (12)~~ 12 months following the date of certification or
17 formal recognition.

18 Sec. 9. K.S.A. 75-4329 is hereby amended to read as follows: 75-
19 4329. Every public agency, other than the state, acting through its
20 governing body, may establish procedures, not inconsistent with the
21 provisions of K.S.A. 75-4327 and 75-4328, *and amendments thereto*, and,
22 after consultation with interested employee organizations and employer
23 representatives, may resolve disputes concerning the recognition status of
24 employee organizations composed of employees of such agency. ~~In the~~
25 ~~absence of such procedures, such disputes shall be submitted to the public~~
26 ~~employee relations board in accordance with K.S.A. 75-4327.~~

27 Sec. 10. K.S.A. 2014 Supp. 75-4330 is hereby amended to read as
28 follows: 75-4330. (a) The scope of a memorandum of agreement may
29 extend *only to all matters relating to* conditions of employment, ~~except~~
30 ~~and shall not include any other matter including, but not limited to,~~
31 proposals relating to: (1) Any subject preempted by federal or state law, or
32 by a municipal ordinance passed under the provisions of section 5 of
33 article 12 of the ~~Kansas~~ *constitution of the state of Kansas*; (2) public
34 employee rights defined in K.S.A. 75-4324, and amendments thereto; (3)
35 public employer rights defined in K.S.A. 75-4326, and amendments
36 thereto; or (4) the authority and power of any civil service commission,
37 personnel board, personnel agency or its agents established by statute,
38 ordinance or special act to conduct and grade merit examinations and to
39 rate candidates in the order of their relative excellence, from which
40 appointments or promotions may be made to positions in the competitive
41 division of the classified service of the public employer served by such
42 civil service commission or personnel board. Any memorandum of
43 agreement relating to conditions of employment entered into may be

1 executed for a maximum period of three years, notwithstanding the
2 provisions of the cash-basis law contained in K.S.A. 10-1102 et seq., and
3 amendments thereto, and the budget law contained in K.S.A. 79-2925 et
4 seq., and amendments thereto.

5 ~~(b) Such memorandum agreement may contain a grievance procedure~~
6 ~~and may provide for the impartial arbitration of any disputes that arise on~~
7 ~~the interpretation of the memorandum agreement. Such arbitration shall be~~
8 ~~advisory or final and binding, as determined by the agreement, and may~~
9 ~~provide for the use of a fact-finding board. The public employee relations~~
10 ~~board is authorized to establish rules for procedure of arbitration in the~~
11 ~~event the agreement has not established such rules. In the absence of~~
12 ~~arbitrary and capricious rulings by the fact-finding board during~~
13 ~~arbitration, the decision of that board shall be final. Judicial review shall~~
14 ~~be in accordance with the Kansas judicial review act.~~

15 (e) Notwithstanding the other provisions of this section ~~and the act of~~
16 ~~which this section is a part~~, when a memorandum of agreement applies to
17 the state or to any state agency, the memorandum of agreement shall not
18 be effective as to any matter requiring passage of legislation or state
19 finance council approval, until approved as provided in this subsection.
20 When executed, each memorandum of agreement shall be submitted to the
21 state finance council. Any part or parts of a memorandum of agreement
22 which relate to a matter which can be implemented by amendment of rules
23 and regulations of the secretary of administration or by amendment of the
24 pay plan and pay schedules of the state may be approved or rejected by the
25 state finance council, and if approved, shall thereupon be implemented by
26 it to become effective at such time or times as it specifies. Any part or
27 parts of a memorandum of agreement which require passage of legislation
28 for the implementation thereof shall be submitted to the legislature at its
29 next regular session, and if approved by the legislature shall become
30 effective on a date specified by the legislature.

31 Sec. 11. K.S.A. 2014 Supp. 75-4332 is hereby amended to read as
32 follows: 75-4332. (a) Public employers may include in memoranda of
33 agreement concluded with recognized employee organizations a provision
34 setting forth the procedures to be invoked in the event of disputes which
35 reach an impasse in the course of meet and confer proceedings. Such
36 memorandum shall define conditions under which an impasse exists, and if
37 the employer is bound by the budget law set forth in K.S.A. 79-2925 et
38 seq., and amendments thereto, the memorandum shall provide that an
39 impasse is deemed to exist if the parties fail to achieve agreement at least
40 14 days prior to budget submission date.

41 ~~(b) In the absence of such memorandum of procedures, or upon the~~
42 ~~failure of such procedures resulting in an impasse, either party may request~~
43 ~~the assistance of the public employee relations board, or the board may~~

1 render such assistance on its own motion. In either event, if the board
2 determines an impasse exists in meet and confer proceedings between a
3 public employer and a recognized employee organization, the board shall
4 aid the parties in effecting a voluntary resolution of the dispute, and
5 request the appointment of a mediator or mediators, representative of the
6 public, from a list of qualified persons maintained by the secretary of
7 labor, and such appointment of a mediator or mediators shall be made
8 forthwith by the secretary.

9 (e) All verbal or written information transmitted between any party to
10 a dispute and a mediator conducting the proceeding, or the staff of an
11 approved program under K.S.A. 5-501 et seq., and amendments thereto,
12 shall be confidential communications. No admission, representation or
13 statement made in the proceeding shall be admissible as evidence or
14 subject to discovery. A mediator shall not be subject to process requiring
15 the disclosure of any matter discussed during the proceedings unless all the
16 parties consent to a waiver. Any party, including the neutral person or staff
17 of an approved program conducting the proceeding, participating in the
18 proceeding has a privilege in any action to refuse to disclose, and to
19 prevent a witness from disclosing, any communication made in the course
20 of the proceeding. The privilege may be claimed by the party or anyone
21 the party authorizes to claim the privilege.

22 (d) The confidentiality and privilege requirements of this section shall
23 not apply to:

24 (1) Information that is reasonably necessary to establish a defense for
25 the mediator or staff of an approved program conducting the proceeding in
26 the case of an action against the mediator or staff of an approved program
27 that is filed by a party to the mediation;

28 (2) any information that the mediator is required to report under
29 K.S.A. 2014 Supp. 38-2223, and amendments thereto;

30 (3) any information that is reasonably necessary to stop the
31 commission of an ongoing crime or fraud or to prevent the commission of
32 a crime or fraud in the future for which there was an expressed intent to
33 commit such crime or fraud; or

34 (4) any information that the mediator is required to report or
35 communicate under the specific provisions of any statute or in order to
36 comply with orders of the court.

37 (e) If the impasse persists seven days after the mediators have been
38 appointed, the board shall request the appointment of a fact-finding board
39 of not more than three members, each representative of the public, from a
40 list of qualified persons maintained by the secretary of labor. The fact-
41 finding board shall conduct a hearing, may administer oaths, and may
42 request the board to issue subpoenas. It shall make written findings of facts
43 and recommendations for resolution of the dispute and, not later than 21-

1 days from the day of appointment, shall serve such findings on the public
2 employer and the recognized employee organization. The board may make
3 this report public seven days after it is submitted to the parties. If the
4 dispute continues 14 days after the report is submitted to the parties, the
5 report shall be made public.

6 (f) (b) If the parties have not resolved the impasse by the end of a 40-
7 day period, commencing with the appointment of the fact-finding board, or
8 by a date not later than 14 days prior to the budget submission date,
9 whichever date occurs first: (1) The representative of the public employer
10 involved shall submit to the governing body of the public employer
11 involved a copy of the findings of fact and recommendations of the fact-
12 finding board, together with the representative's recommendations for
13 settling the dispute; (2) the employee organization may submit to such
14 governing body its recommendations for settling the dispute; (3) the
15 governing body or a duly authorized committee thereof shall forthwith
16 conduct a hearing at which the parties shall be required to explain their
17 positions; and (4) thereafter, the governing body shall take such action as it
18 deems to be in the public interest, including the interest of the public
19 employees involved. The provisions of this subsection shall not be
20 applicable to the state and its agencies and employees.

21 (g) The cost for the fees of court reporters and fact finders provided
22 by the secretary of labor upon the request of the board shall be borne
23 equally by the parties to a dispute.

24 Sec. 12. K.S.A. 2014 Supp. 75-4333 is hereby amended to read as
25 follows: 75-4333. (a) The commission of any prohibited practice, as
26 defined in this section, among other actions, shall constitute evidence of
27 bad faith in meet and confer proceedings.

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

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

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

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

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

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; *or*

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, 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.

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

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

36 Sec. 13. K.S.A. 2014 Supp. 75-4334 is hereby amended to read as
37 follows: 75-4334. (a) Any controversy concerning prohibited practices
38 may be submitted to the ~~board~~ *secretary*. Proceedings against the party
39 alleged to have committed a prohibited practice shall be commenced
40 within six months of the date of such alleged practice by service upon the
41 accused party by the ~~board~~ *secretary* of a written notice, together with a
42 copy of the charges. The accused party shall have seven days within which
43 to serve a written answer to such charges, unless the ~~board~~ *secretary*

1 determines an emergency exists and requires the accused party to serve a
2 written answer to such charges within 24 hours of their receipt. Hearings
3 on prohibited practices shall be conducted in accordance with the
4 provisions of the Kansas administrative procedure act. If the ~~board~~
5 *secretary* determines an emergency exists, the ~~board~~ *secretary* may use
6 emergency adjudicative proceedings as provided in K.S.A. 77-536, and
7 amendments thereto. A strike or lockout shall be construed to be an
8 emergency. The ~~board~~ *secretary* may use its rulemaking power, as
9 provided in ~~K.S.A. 75-4323~~ *section 1*, and amendments thereto, to make
10 any other procedural rules it deems necessary to carry on this function.

11 (b) The ~~board~~ *secretary* shall either dismiss the complaint or
12 determine that a prohibited practice has been or is being committed. If the
13 ~~board~~ *secretary* finds that the party accused has committed or is
14 committing a prohibited practice, the ~~board~~ *secretary* shall make findings
15 as authorized by this act and shall file them in the proceedings.

16 (c) Any action of the ~~board~~ *secretary* pursuant to subsection (b) is
17 subject to review and enforcement in accordance with the Kansas judicial
18 review act. The procedures for obtaining injunction and allied remedies
19 shall be as set forth in the code of civil procedure, except that the
20 provisions of K.S.A. 60-904, and amendments thereto, shall not control
21 injunction actions arising out of public employer-employee relations under
22 this act.

23 (d) If there is an alleged violation of either ~~subsection (b)(8) or (c)(5)~~
24 ~~of K.S.A. 75-4333(b)(7) or (c)(4)~~, and amendments thereto, the aggrieved
25 party is authorized to seek relief in district court in the manner provided
26 for the ~~board~~ *secretary* in subsection (c) while proceedings on such
27 prohibited practices are pending before the ~~board~~ *secretary*. Any ruling of
28 the district court shall remain in effect until set aside by the court on
29 motion of the parties or of the ~~board~~ *secretary* or upon review of the
30 ~~board's~~ *secretary's* order as provided by subsection (c).

31 Sec. 14. K.S.A. 75-4335 is hereby amended to read as follows: 75-
32 4335. This act, except for K.S.A. 75-4322, ~~75-4323~~, 75-4324, 75-4325,
33 75-4326, 75-4327, 75-4328, 75-4333 and 75-4334, *and amendments*
34 *thereto*, shall be inapplicable to any public employer, other than the state
35 and its agencies which, acting through its governing body, has adopted by
36 ordinance or resolution its own provisions and procedures which have
37 been submitted to the ~~board~~ *secretary* by such public employer and as to
38 which there is in effect a determination by the ~~board~~ *secretary* that such
39 provisions and procedures and the continuing implementation thereof are
40 reasonably equivalent to the provisions and procedures set forth in this act
41 with respect to the state.

42 Sec. 15. K.S.A. 75-4337 is hereby amended to read as follows: 75-
43 4337. (a) Every employee organization operating in the state of Kansas

1 and having 100 or more members shall file an annual report with the
2 secretary of state on or before April 15, showing the financial condition of
3 the employee organization on the December 31 next preceding the date of
4 filing or at the close of business on the last day of the organization's fiscal
5 year next preceding the date of filing. Each annual report filed under this
6 section shall be accompanied by a filing fee of \$5. The secretary of state
7 may upon showing of reasonable cause grant an extension of time for
8 filing of annual report.

9 (b) The annual report shall be in such form as the ~~board~~ *secretary*
10 shall prescribe and shall include:

11 (1) The name of the employee organization;

12 (2) the location and mailing address of its office;

13 (3) the name and title of each of its officers and registered business
14 agents, together with the salaries, wages, bonuses and other remuneration
15 paid each, and mailing address of each;

16 (4) the date of the regular election of officers of such employee
17 organization;

18 (5) the rate of its initiation fees, dues, assessments and any other
19 periodic payments required of its members; and

20 (6) an audited statement of the income, expenditures, assets and
21 liabilities of the employee organization.

22 (c) In lieu of filing an annual report in the form prescribed by the
23 ~~board~~ *secretary* under subsection (b) ~~of this section~~, the employee
24 organization may file copies of the reports required to be filed with the
25 United States department of labor by the federal labor management
26 reporting and disclosure act of 1959, 29 U.S.C.A. § 431, et seq., as
27 follows:

28 (1) By having on file with the secretary of state a copy of the labor
29 organization information report form LM-1 which is currently on file with
30 the United States department of labor; and

31 (2) by filing annually as required in subsection (a) ~~of this section~~, a
32 copy of the labor organization annual report form LM-2 or form LM-3
33 which is filed with the United States department of labor and covers a
34 reporting period specified in subsection (a).

35 (d) Every employee organization which has filed an annual report as a
36 labor organization under the provisions of K.S.A. 44-806, and
37 amendments thereto, shall be deemed to have fully satisfied the
38 requirements of this section and shall not be required to file an annual
39 report under this section.

40 Sec. 16. K.S.A. 75-4321, 75-4322, 75-4324, 75-4326, 75-4328, 75-
41 4329, 75-4335 and 75-4337 and K.S.A. 2014 Supp. 75-4323, 75-4327, 75-
42 4330, 75-4332, 75-4333, 75-4334 and 75-5713 are hereby repealed.

43 Sec. 17. This act shall take effect and be in force from and after its

- 1 publication in the statute book.