

SENATE BILL No. 361

By Committee on Assessment and Taxation

2-4

1 AN ACT concerning public employee and professional employee
2 organizations; relating to public and professional employee
3 organization dues; amending K.S.A. 72-2219, 72-2241, 75-4324, 75-
4 4327 and 75-5501 and K.S.A. 2019 Supp. 44-319 and repealing the
5 existing sections.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2019 Supp. 44-319 is hereby amended to read as
9 follows: 44-319. (a) Except as provided in subsections (b) and (c), no
10 employer may withhold, deduct or divert any portion of an employee's
11 wages unless: (1) The employer is required or empowered to do so by state
12 or federal law; (2) the deductions are for medical, surgical or hospital care
13 or service, without financial benefit to the employer, and are openly,
14 clearly and in due course recorded in the employer's books; (3) the
15 employer has a signed authorization by the employee for deductions for a
16 lawful purpose accruing to the benefit of the employee; or (4) the
17 deductions are for contributions attributable to automatic enrollment, as
18 defined in K.S.A. 2019 Supp. 44-319a, and amendments thereto, in a
19 retirement plan established by the employer described in sections 401(k),
20 403(b), 408, 408A or 457 of the internal revenue code.

21 (b) Subject to the provisions of subsection (e), pursuant to a signed
22 written agreement between the employer and employee, an employer may
23 withhold, deduct or divert any portion of an employee's wages for the
24 following purposes:

25 (1) To allow the employee to repay a loan or advance ~~which~~ *that* the
26 employer made to the employee during the course of and within the scope
27 of employment;

28 (2) to allow for recovery of payroll overpayment; and

29 (3) to compensate the employer for the replacement cost or unpaid
30 balance of the cost of the employer's merchandise or uniforms purchased
31 by the employee.

32 (c) Subject to the provisions of subsection (e), upon providing a
33 written notice and explanation, an employer may withhold, deduct or
34 divert any portion of an employee's final wages for the following 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 customer
3 lists and intellectual property, security information, keys or access cards or
4 materials until such time as such property is returned by the employee to
5 the employer. Upon return of the employer's property, the employer shall
6 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. *Deductions of*
20 *dues to professional employee organizations and to public employee*
21 *organizations shall be subject to the provisions of K.S.A. 72-2219 and 75-*
22 *4324, and amendments thereto.*

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

27 Sec. 2. K.S.A. 72-2219 is hereby amended to read as follows: 72-
28 2219. (a) Professional employees shall have the right to form, join or assist
29 professional employees' organizations, to participate in professional
30 negotiation with boards of education through representatives of their own
31 choosing for the purpose of establishing, maintaining, protecting or
32 improving terms and conditions of professional service. Professional
33 employees shall also have the right to refrain from any or all of the
34 foregoing activities. In professional negotiations under this act the board of
35 education may be represented by an agent or committee designated by it.

36 (b) *Professional employees shall have the right to immediately cease*
37 *the withholding of professional employees' organization dues from their*
38 *wages at any time upon the submission of a written or email request to*
39 *their board of education. Upon receipt of a written or email request, the*
40 *board of education shall immediately provide written or email notification*
41 *of the employee's decision to the professional employees' organization and*
42 *shall cease any withholding of dues for the professional employees'*
43 *organization from the employee's wages, and no further debt to the*

1 professional employees' organization shall accrue. The right to
2 immediately resign from and immediately end any financial obligation to a
3 professional employees' organization shall not be waived. Boards of
4 education shall notify their professional employees of their right to cease
5 payment of professional employees' organization dues and to withdraw
6 from a professional employees' organization by providing, at least
7 annually, written notification in the authorization for withholding form as
8 provided in subsection (d).

9 (c) Authorization by a professional employee for the withholding of
10 professional employee organization dues shall not exceed one year in
11 duration and shall be subject to annual renewal.

12 (d) (1) Authorization for withholding shall be on a form approved by
13 the secretary of labor and shall contain a statement in 14-point boldface
14 font reading:

15 "I am aware that I have a First Amendment right, as recognized by the
16 United States Supreme Court, to refrain from joining and paying dues to a
17 labor union (professional employees organization). I further realize that
18 membership and payment of dues are voluntary and that I may not be
19 discriminated against for my refusal to join or financially support a union.
20 I hereby waive my First Amendment right to refrain from union
21 membership and dues payments and authorize my employer to deduct
22 union dues from my salary in the amounts specified in accordance with my
23 professional employees' organization's bylaws. I understand that I may
24 revoke this authorization at any time."

25 (2) The authorization for withholding form shall include the
26 professional employee's full name, position, professional employees'
27 organization and signature and shall be submitted to the employing board
28 of education. After receiving the authorization for withholding form, the
29 employer shall confirm the authorization by emailing the professional
30 employee at the employee's employer-provided work email address and
31 shall wait for confirmation of the authorization before starting any
32 deduction. If the employee does not possess an employer-provided work
33 email address, the employer may use other means it deems appropriate to
34 confirm the authorization.

35 Sec. 3. K.S.A. 72-2241 is hereby amended to read as follows: 72-
36 2241. (a) The board of education of any school district or the board of
37 trustees of any community college may provide by resolution for
38 deductions for specified purposes from the compensation paid to its
39 employees. Any such resolution shall provide for written authorization
40 from each employee, in specific terms as to the amount, subject to the
41 provisions of subsection (b), purpose and disposition of any amounts so
42 deducted. Deductions for taxes and other amounts required by law to be
43 deducted from employees' compensation shall not require written

1 authorization of the employee.

2 (b) *Subject to the provisions of K.S.A. 72-2219, and amendments*
3 *thereto*, written authorizations from employees for deductions from
4 compensation for payments of professional association dues shall remain
5 in effect until modified or revoked in writing by the professional
6 association or the employee; or until the employee's contract of
7 employment is terminated. So long as the written authorization from an
8 employee for deductions for professional association dues remains in
9 effect and upon written notice of an increase in the amount of such dues
10 being given to the board of education or the board of trustees and to all
11 affected employees, the amount specified to be deducted in such written
12 authorization may be increased by an amount deemed necessary by a
13 professional association for a school year. In no event shall the amount of
14 deductions from compensation for payments of professional association
15 dues be increased more than one time in each school year without specific
16 written authorization from the employee for such increase.

17 Sec. 4. K.S.A. 75-4324 is hereby amended to read as follows: 75-
18 4324. (a) Public employees shall have the right to form, join and
19 participate in the activities of employee organizations of their own
20 choosing; for the purpose of meeting and conferring with public employers
21 or their designated representatives with respect to grievances and
22 conditions of employment. Public employees also shall have the right to
23 refuse to join or participate in the activities of employee organizations.

24 (b) *Public employees shall have the right to immediately cease the*
25 *withholding of employee organization dues from their wages at any time*
26 *upon the submission of a written or email request to their public employer.*
27 *Upon receipt of a request, the public employer shall immediately provide*
28 *written or email notification of the employee's decision to the employee*
29 *organization and shall cease any withholding of dues for the employee*
30 *organization from the employee's wages, and no further debt to the*
31 *employee organization shall accrue. The right to immediately resign and*
32 *immediately end any financial obligation to an employee organization*
33 *shall not be waived. Public employers shall notify their employees of their*
34 *right to cease payment of employee organization dues and to withdraw*
35 *from an employee organization by, at least annually, providing written*
36 *notification and a request form to their employees.*

37 (c) *Authorization by a public employee for the withholding of public*
38 *employee organization dues shall not exceed one year in duration and*
39 *shall be subject to annual renewal.*

40 (d) (1) *Authorizations for withholding shall be on a form approved by*
41 *the public employee relations board, established by K.S.A. 75-4323, and*
42 *amendments thereto, and shall contain a statement in 14-point boldface*
43 *font reading:*

1 *"I am aware that I have a First Amendment right, as recognized by the*
2 *United States Supreme Court, to refrain from joining and paying dues to a*
3 *labor union (employee organization). I further realize that membership*
4 *and payment of dues are voluntary and that I may not be discriminated*
5 *against for my refusal to join or financially support a union. I hereby*
6 *waive my First Amendment right to refrain from union membership and*
7 *dues payments and authorize my employer to deduct union dues from my*
8 *salary in the amounts specified in accordance with my professional*
9 *organization's bylaws. I understand that I may revoke this authorization at*
10 *any time."*

11 (2) *The authorization for withholding form shall contain the*
12 *employee's full name, position, employee organization and signature and*
13 *shall be submitted to the employee's public employer. The employer shall*
14 *confirm the authorization by emailing the employee's employer-provided*
15 *work email address and shall wait for confirmation of the authorization*
16 *before starting any deduction. If the employee does not possess an*
17 *employer-provided work email address, the employer may use other means*
18 *it deems appropriate to confirm the authorization.*

19 Sec. 5. K.S.A. 75-4327 is hereby amended to read as follows: 75-
20 4327. (a) Public employers shall recognize employee organizations for the
21 purpose of representing their members in relations with public agencies as
22 to grievances and conditions of employment. Employee organizations may
23 establish reasonable provisions for an individual's admission to or
24 dismissal from membership, *subject to the provisions of K.S.A. 75-4324,*
25 *and amendments thereto.*

26 (b) Where an employee organization has been certified by the board
27 as representing a majority of the employees in an appropriate unit, or
28 recognized formally by the public employer pursuant to the provisions of
29 this act, the appropriate employer shall meet and confer in good faith with
30 such employee organization in the determination of conditions of
31 employment of the public employees as provided in this act, and may enter
32 into a memorandum of agreement with such recognized employee
33 organization.

34 (c) A recognized employee organization shall represent not less than a
35 majority of the employees of an appropriate unit. When a question
36 concerning the designation of an appropriate unit is raised by a public
37 agency, employee organization or by five or more employees, the public
38 employee relations board, at the request of any of the parties, shall
39 investigate such question and, after a hearing in accordance with the
40 provisions of the Kansas administrative procedure act, rule on the
41 definition of the appropriate unit in accordance with subsection (e).

42 (d) Following determination of the appropriate unit of employees, the
43 public employee relations board, at the request of the public employer or

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

27 Any petition calling for an election in accordance with this section shall
28 be dismissed by the board without determining the questions raised therein
29 if such petition is filed more than 150 days or less than 90 days prior to the
30 expiration date of an existing memorandum of agreement which governs
31 the terms and conditions of employment of the employees within the
32 appropriate unit.

33 If the board has certified a formally recognized representative in an
34 appropriate unit, it shall not be required to consider the matter again for a
35 period of one year, unless the board determines that sufficient reason
36 exists. The board may promulgate such rules and regulations as may be
37 appropriate to carry out the provisions of subsections (c) and (d).

38 (e) Any group of public employees considering the formation of an
39 employee organization for formal recognition, any public employer
40 considering the recognition of an employee organization on its own
41 volition and the board, in investigating questions at the request of the
42 parties as specified in this section, shall take into consideration, along with
43 other relevant factors: (1) The principle of efficient administration of

1 government; (2) the existence of a community of interest among
2 employees; (3) the history and extent of employee organization; (4)
3 geographical location; (5) the effects of overfragmentation and the
4 splintering of a work organization; (6) the provisions of K.S.A. 75-4325,
5 and amendments thereto; and (7) the recommendations of the parties
6 involved.

7 (f) A recognized employee organization shall not include: (1) Both
8 professional and other employees, unless a majority of the professional
9 employees vote for inclusion in the organization; (2) uniform police
10 employees and public property security guards with any other public
11 employees, but such employees may form their own separate homogenous
12 units; or (3) uniformed firemen with any other public employees, but such
13 employees may form their own separate homogenous units. The
14 employees of a public safety department of cities which has both police
15 and fire protection duties shall be an appropriate unit.

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

25 (h) No employee organization shall be recognized unless it
26 establishes and maintains standards of conduct providing for: (1) The
27 maintenance of democratic procedures and practices, including periodic
28 elections by secret ballot and the fair and equal treatment of all members;
29 and (2) the maintenance of fiscal integrity, including accurate accounting
30 and periodic financial reports open to all members and the prohibition of
31 business or financial interests by officers which conflict with their
32 fiduciary responsibilities.

33 (i) The board shall assess the reasonable costs for conducting a secret
34 ballot of the employees against the party seeking the election. For the
35 purposes of this subsection, the term "costs" shall include amounts
36 expended by the board for printing of ballots and necessary postage.

37 Sec. 6. K.S.A. 75-5501 is hereby amended to read as follows: 75-
38 5501. (a) The director of accounts and reports shall formulate a system of
39 payroll accounting, including timekeeping, payroll calculation and pay
40 distribution (, or delivery), and labor cost distribution and analysis, and
41 shall install and operate such system of payroll accounting for all state
42 agencies. The system shall include provision for centralized records, which
43 shall include payroll data for all individuals which with the common law

1 employer-employee relationship is created by agencies of the state of
2 Kansas and which shall be coordinated with records maintained by the
3 division of personnel services and other state agencies. If biweekly payroll
4 periods are established under K.S.A. 75-5501a, the system of payroll
5 accounting shall be modified to implement such biweekly payroll periods.
6 State agencies shall utilize the system of payroll accounting to the extent
7 prescribed by the director of accounts and reports, and shall submit such
8 reports and statements as may be required by the director in order to carry
9 out the provisions of this act. The director of accounts and reports shall
10 design, revise and direct the use of records and procedures and prescribe
11 classifications of coding payroll data, methods of funding labor cost
12 through the central payroll account and a system of prepayment and
13 postpayment debit and credit transactions and entries on the records
14 created from payroll data and the necessary forms to be used by all state
15 agencies in connection with such system of payroll accounting. The
16 payroll system so designed shall include generally accepted accounting
17 principles of internal check, and may include timekeeping for attendance
18 and performance, as prescribed in this act.

19 (b) The director of accounts and reports shall provide, as a part of the
20 system of payroll accounting, a plan for the deduction from the salary or
21 wages of an amount equal to regular membership dues for state officers
22 and employees who are members of the Kansas troopers association or
23 who are in any employee organization which has filed an annual report
24 pursuant to K.S.A. 75-4337 or which has a business agent registered
25 pursuant to K.S.A. 75-4336. Such plan, in addition to such provisions as
26 are negotiated by the director of accounts and reports and the employee
27 organization, *and subject to the provisions of K.S.A. 75-4324, and*
28 *amendments thereto*, shall provide for:

29 (1) A written authorization-assignment by a state officer or employee
30 prior to any dues deduction from the salary or wages of such officer or
31 employee, ~~which authorization-assignment shall remain effective for not~~
32 ~~less than 180 days and shall be terminated at any time thereafter upon 30~~
33 ~~days' prior notice by the state officer or employee of termination of the~~
34 ~~authorization-assignment;~~

35 (2) change in the amount of regular membership dues to be deducted,
36 but not more often than twice in any fiscal year;

37 (3) renewal of an authorization-assignment by an officer or employee
38 after termination of a prior authorization-assignment upon 90 days' prior
39 notice by the officer or employee who has terminated a membership dues
40 deduction; and

41 (4) payment of all moneys deducted each payroll period pursuant to
42 this section to the employee organization less the amount of actual direct
43 expenses incurred by this state for the membership dues deduction.

1 Sec. 7. K.S.A. 72-2219, 72-2241, 75-4324, 75-4327 and 75-5501 and
2 K.S.A. 2019 Supp. 44-319 are hereby repealed.

3 Sec. 8. This act shall take effect and be in force from and after its
4 publication in the statute book.