

SESSION OF 2020

SUPPLEMENTAL NOTE ON SENATE BILL NO. 361

As Recommended by Senate Committee on
Commerce

Brief*

SB 361 would declare public employees and professional employees (*i.e.*, teachers and certain other education personnel) to have the right to immediately cease the payment of union membership dues from their wages.

The bill would require, at least annually, school districts and public employers to obtain payroll withholding authorization from those employees wishing to have union membership dues deducted from their paychecks. Employers would be required to use forms approved by the Secretary of Labor or the Public Employee Relations Board for the authorizations from professional employees or government employees, respectively. Each form would include a statement in a 14-point boldface font that acknowledges the waiving of a certain First Amendment right, which could be revoked at any time. An employee would be required to fill out a form and send it to the school district or public employer. The school district or public employer would be required to transmit the authorization to the employee by work email or by some other appropriate means if the employee does not have a work email address. The employee would be required to confirm the authorization prior to payroll deductions occurring.

Under current law, public employees' authorizations of withholding, once effective, remain in force for a minimum of 180 days and may be terminated at any time thereafter with 30 days of notice. Professional employees' authorizations of

*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>

withholding is kept on file by the school district until modified or revoked.

Background

The bill was introduced by the Senate Committee on Assessment and Taxation.

In the Senate Committee on Commerce hearing, the plaintiffs from two U.S. Supreme Court cases (*Janus v. American Federation of State, County, and Municipal Employees (AFSCME) Council 31*, 585 U.S. ___, 2018 and *Friedrichs v. California Teachers Association*, 578 U.S. ____, 2016) and representatives from Americans for Prosperity in Kansas, Kansas Policy Institute, and Mackinac Center for Public Policy provided proponent testimony. TProponents said the bill would align Kansas law with the federal court's ruling that public employers receive clear and compelling evidence of affirmative consent from an employee that wishes union membership dues to be deducted from a paycheck.

Written-only opponent testimony was provided by a government employee, a Unified Government Commissioner from Wyandotte County, and representatives from the International Brotherhood of Electrical Workers (Local Union 304), Kansas AFL-CIO, Kansas National Education Association, Kansas Organization of State Employees, and the Kansas State Lodge of the Fraternal Order of Police. Opponents expressed concern the bill could adversely affect the working relationships between employers and employees, the costs of government operations and record keeping, and the cash flows of labor organizations.

According to the fiscal note prepared by the Division of the Budget on the bill, changes in administrative costs cannot be estimated.