

STATE OF KANSAS

HOUSE OF REPRESENTATIVES

MR. CHAIRMAN:

I move to amend **HB 2757**, on page 5, following line 1, by inserting:

"New Sec. 5. (a) For purposes of this section:

(1) "Employing authority" means a state agency, board, commission, city, county, municipality, authority, or institution that employs a "public employee."

(2) "Public employee" means parole officers, corrections officers, game wardens, municipal bus drivers, public sewer and water workers, social workers, paramedics, law enforcement, police and fire employees, municipal garbage collectors, compliance officers, state forestry officers, state highway maintenance workers, Kansas department of agriculture inspectors and any public sector employee who is a member of or represented by an employee organization.

(b) (1) Whenever a public employee is given written notice of intention by an employing authority to not renew or to terminate the employment or contract of the public employee, the written notice of the proposed nonrenewal or termination shall include: (A) A statement of the reasons for the proposed nonrenewal or termination; and (B) a statement that the public employee may have the matter heard by a hearing officer upon written request provided to the employing authority within 15 calendar days from the date of such notice of nonrenewal or termination.

(2) Within 10 calendar days after the filing of any written request of a public employee to be heard as provided in subsection (b)(1), the employing authority shall notify the secretary of administration that a list of qualified hearing officers is required. Such notice shall contain the mailing address of the public employee. Within 10 days after receipt of notification from the employing authority, the secretary of administration shall provide to the employing authority and to the public

employee, a list of five randomly selected, qualified hearing officers.

(3) Within five days after receiving the list from the secretary of administration, each party shall eliminate two names from the list, and the remaining individual on the list shall serve as hearing officer. In the process of elimination, each party shall eliminate no more than one name at a time, the parties alternating after each name has been eliminated. The first name to be eliminated shall be chosen by the public employee within five days after the public employee receives the list. The process of elimination shall be completed within five days thereafter.

(4) Either party may request that one new list be provided within five days after receiving the list. If such a request is made, the party making the request shall notify the secretary of administration and the other party, and the secretary of administration shall generate a new list and distribute it to the parties in the same manner as the original list.

(5) In lieu of using the process provided in paragraphs (3) and (4), if the parties agree, they may make a request to the American arbitration association for an arbitrator to serve as the hearing officer. Any party desiring to use this alternative procedure shall so notify the other party in the notice required under paragraph (1). If the parties agree to use this procedure, the parties shall make a joint request to the American arbitration association for a hearing officer within 10 days after the public employee files a request for a hearing. If the parties choose to use this procedure, the parties shall each pay $\frac{1}{2}$ of the cost of the arbitrator and of the arbitrator's expenses.

(6) The secretary of administration shall compile and maintain a list of hearing officers comprised of residents of this state who are attorneys at law. Such list shall include a statement of the qualifications of each hearing officer.

(7) Attorneys interested in serving as hearing officers under the provisions of this section shall submit an application to the secretary of administration. The secretary of administration shall determine if the applicant is eligible to serve as a hearing officer pursuant to the provisions of paragraph (8).

(8) An attorney shall be eligible for appointment to the list if the attorney has: (A) Completed a minimum of 10 hours of continuing legal education credit in the area of due process, administrative law or employment law within the past five years; or (B) previously served as the chairperson of a due process hearing committee prior to the effective date of this section. An attorney shall not be eligible for appointment to the list if the attorney has been employed to represent an employing authority or a public employee in a due process hearing within the past five years.

(c) The hearing provided for under subsection (b) shall commence within 45 calendar days after the hearing officer is selected, unless the hearing officer grants an extension of time. The hearing shall afford procedural due process, including the following:

(1) The right of each party to have counsel of such party's own choice present and to receive the advice of such counsel or other person whom such party may select;

(2) the right of each party or such party's counsel to cross-examine any person who provides information for the consideration of the hearing officer, except those persons whose testimony is presented by affidavit;

(3) the right of each party to present such party's own witnesses in person, or their testimony by affidavit or deposition, except that testimony of a witness by affidavit may be presented only if such witness lives more than 100 miles from the location of an employing authority, or is absent from the state, or is unable to appear because of age, illness, infirmity or imprisonment. When testimony is presented by affidavit, the same shall be served in person or by first-class mail not less than 10 calendar days prior to presentation to the hearing officer;

(4) the right of the public employee to testify in the public employee's own behalf and give reasons for the public employee's conduct, and the right of the employing authority to present its testimony through such persons as the employing authority may call to testify in its behalf and to give reasons for its actions, rulings or policies;

(5) the right of the parties to have an orderly hearing; and

(6) the right of the public employee to a fair and impartial decision based on substantial evidence.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "school districts" and inserting "public employees"; also in line 1, after "to" by inserting "public employee and"; in line 2, after the semicolon by inserting "school districts;"

_____ District.