

HOUSE BILL No. 2130

By Committee on Commerce and Economic Development

1-31

1 AN ACT concerning labor organizations; relating to political activities;  
2 amending K.S.A. 75-4333 and repealing the existing section.

3  
4 *Be it enacted by the Legislature of the State of Kansas:*

5 New Section 1. (a) It shall be unlawful for any labor organization, as  
6 defined in K.S.A. 44-802, and amendments thereto, to use any dues, fees,  
7 assessments or any ~~other~~ periodic payments ~~required of a member or to~~  
8 ~~deduct~~ **deducted** from a member's paycheck ~~any moneys~~ for the purpose of  
9 engaging in political activities as defined in subsection (c) **without first**  
10 **receiving from the member annually written authorization to do so.**

11 (b) Should a member of a labor organization want to donate money to  
12 the labor organization for the purpose of the labor organization engaging  
13 in political activities, such member shall do so by a personal payment  
14 which notes that it is donated for the labor organization's political  
15 activities. Moneys received by the labor organization for political activities  
16 shall be deposited by such organization in a separate fund for political  
17 activities.

18 (c) For the purposes of this section, "political activities" means any  
19 activities carried out for the purpose of influencing, in whole or part, any  
20 election for a state, local government or board of education office,  
21 including activities or causes of a partisan political or ideological nature  
22 engaged in by a public employee organization for those purposes, and  
23 including contributions to a political committee, continuing political  
24 employee committee, or both, ~~established by the labor organization~~ for the  
25 purpose of making contributions to aid or promote the endorsement,  
26 nomination, election or defeat of a candidate for public office of the state  
27 or of a county, municipality or school district or the passage or defeat of  
28 any public question ~~whose activities are not pertinent to the labor~~  
29 ~~organization's duties as a bargaining representative for its members.~~

30 (d) This section shall be part of and supplemental to article 8 of  
31 chapter 44 of the Kansas Statutes Annotated, and amendments thereto.

32 New Sec. 2. (a) It shall be unlawful for any professional employees'  
33 organization, as defined in K.S.A. 72-5413, and amendments thereto, to  
34 use any dues, fees, assessments or any ~~other~~ periodic payments ~~required of~~  
35 ~~a member or to deduct~~ **deducted** from a member's paycheck ~~any moneys~~  
36 for the purpose of engaging in political activities as defined in subsection

1 (c).

2 (b) Should a member of a professional employees' organization want  
3 to donate money to such organization for the purpose of the professional  
4 employees' organization engaging in political activities, such member shall  
5 do so by a personal payment which notes that it is donated for the  
6 professional employees' organization's political activities. Moneys  
7 received by the professional employees' organization for political activities  
8 shall be deposited by such organization in a separate fund for political  
9 activities.

10 (c) For the purposes of this section, "political activities" means any  
11 activities carried out for the purpose of influencing, in whole or part, any  
12 election for a state, local government or board of education office,  
13 including activities or causes of a partisan political or ideological nature  
14 engaged in by a public employee organization for those purposes, and  
15 including contributions to a political committee, continuing political  
16 employee committee, or both, ~~established by the professional employees'~~  
17 ~~organization~~ for the purpose of making contributions to aid or promote the  
18 endorsement, nomination, election or defeat of a candidate for public  
19 office of the state or of a county, municipality or school district or the  
20 passage or defeat of any public question ~~whose activities are not pertinent~~  
21 ~~to the professional employees' organizations' duties as a bargaining~~  
22 ~~representative for its members.~~

23 (d) This section shall be part of and supplemental to article 54 of  
24 chapter 72 of the Kansas Statutes Annotated, and amendments thereto.

25 Sec. 3. K.S.A. 75-4333 is hereby amended to read as follows: 75-  
26 4333. (a) The commission of any prohibited practice, as defined in this  
27 section, among other actions, shall constitute evidence of bad faith in meet  
28 and confer proceedings.

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

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

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

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

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

1 (5) refuse to meet and confer in good faith with representatives of  
2 recognized employee organizations as required in K.S.A. 75-4327, *and*  
3 *amendments thereto*;

4 (6) deny the rights accompanying certification or formal recognition  
5 granted in K.S.A. 75-4328, *and amendments thereto*;

6 (7) deliberately and intentionally avoid mediation, fact-finding, and  
7 arbitration endeavors as provided in K.S.A. 75-4332, *and amendments*  
8 *thereto*; or

9 (8) institute or attempt to institute a lockout.

10 (c) It shall be a prohibited practice for public employees or employee  
11 organizations willfully to:

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

14 (2) interfere with, restrain or coerce a public employer with respect to  
15 management rights granted in K.S.A. 75-4326, *and amendments thereto*,  
16 or with respect to selecting a representative for the purposes of meeting  
17 and conferring or the adjustment of grievances;

18 (3) refuse to meet and confer in good faith with a public employer as  
19 required in K.S.A. 75-4327, *and amendments thereto*;

20 (4) deliberately and intentionally avoid mediation, fact-finding and  
21 arbitration efforts as provided in K.S.A. 75-4332, *and amendments thereto*;  
22 or

23 (5) engage in a strike.

24 (d) (1) It shall be a prohibited practice for a public employee  
25 organization to endorse candidates, spend any of its income, *including any*  
26 *income in the form of or derived from any dues, fees, assessments or any*  
27 *other periodic payments ~~required of its members~~*, directly or indirectly, for  
28 *partisan or political purposes or engage in any kind of activity advocating*  
29 *or opposing the election of candidates for any public office to engage in*  
30 *political activities as defined in paragraph (2).*

31 (2) *For the purposes of this section, "political activities" means any*  
32 *activities carried out for the purpose of influencing, in whole or part, any*  
33 *election for a state, local government or board of education office,*  
34 *including activities or causes of a partisan political or ideological nature*  
35 *engaged in by a public employee organization for those purposes, and*  
36 *including contributions to a political committee, continuing political*  
37 *employee committee, or both, ~~established by the public employee-~~*  
38 *~~organization~~ for the purpose of making contributions to aid or promote the*  
39 *endorsement, nomination, election or defeat of any candidate for public*  
40 *office of the state or of a county, municipality or school district or the*  
41 *passage or defeat of any public question ~~whose activities are not pertinent~~*  
42 *~~to the public employee organizations' duties as a bargaining~~*  
43 *~~representative for its members.~~*

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

5 New Sec. 4. (a) For a period of two years, no public employer shall  
6 collect, deduct, or assist in the collection or deduction of funds for any  
7 purpose for a person or organization if, in violation of subsection (d) of  
8 K.S.A. 75-4333, and amendments thereto, the person or organization has:

9 (1) Used as political funds any of the funds collected or deducted for  
10 it by any public employer, or

11 (2) commingled funds collected or deducted by any public employer  
12 with political funds.

13 (b) Any employee whose wages have been deducted or used in  
14 violation of sections 1 ~~and 2 and~~ **or 2 or** subsection (d) of K.S.A. 75-4333,  
15 and amendments thereto, may bring suit in a court of competent  
16 jurisdiction to obtain injunctive relief against the violator or person or  
17 public employer threatening violation. Nothing in this section shall be  
18 considered nor otherwise construed to waive, or in any way abrogate state  
19 immunity. An employee whose wages have been deducted in violation of  
20 this article may bring suit in a court of competent jurisdiction to recover  
21 damages equal to:

22 (1) From a public employer violating the provisions of this article, or  
23 failing to take appropriate action when informed of the violation, any  
24 amounts actually deducted from the public employee's wages; and

25 (2) from any individual or organization acting separately or in league  
26 with a public employer to violate the provisions of this article, twice any  
27 amounts actually received by said individual or organization from the  
28 injured public employee.

29 (3) The remedies in subsections (b)(1) and (b)(2) above shall not  
30 preempt any other causes of action and damage awards which may be  
31 available to public employees injured as a result of violations of this act.

32 (c) In any judgment for the plaintiff intended to enforce sections 1  
33 and 2 and subsection (d) of K.S.A. 75-4333, and amendments thereto, the  
34 court may award reasonable attorney's fees as part of the court costs.

35 ***New Sec. 5. If any provision of this act, including any amendment***  
36 ***made by this act, or the application of any such provision to any person***  
37 ***or circumstance, is held invalid, the validity of any other provision of***  
38 ***this act, or the application of such provision to other persons and***  
39 ***circumstances, shall not be affected thereby.***

40 Sec. ~~5~~ 6. K.S.A. 75-4333 is hereby repealed.

41 Sec. ~~6~~ 7. This act shall take effect and be in force from and after its  
42 publication in the statute book.