

HOUSE BILL No. 2300

By Committee on Federal and State Affairs

2-11

1 AN ACT concerning state legislatures; relating to re-employment.

2
3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. (a) Any person who is elected or appointed to the
5 state legislature and who gave notice thereof to the person's employer,
6 upon return from the legislative session; failure to be re-elected to the
7 legislature; or retirement from the legislature shall be reinstated in or
8 restored to the position of employment, except a temporary position,
9 which the person held at the time the person was elected or appointed to
10 the state legislature. The person shall report to the person's place of
11 employment within 72 hours upon return from the legislative session,
12 failure to be re-elected to the legislature or retirement from the
13 legislature. The person's employer or the employer's successor in interest,
14 whether an agency of the state, a political subdivision of the state or a
15 private employer, shall reinstate or restore the person in the same position
16 which the person left at the time of the person's election or appointment
17 to the legislature at no less compensation than that which the person was
18 receiving at the time of the person's election or appointment to the
19 legislature or to a position of like seniority, status and pay. However, if
20 the person is not qualified to perform the duties of the same position by
21 reason of disability occurring during the person's service in the state
22 legislature but is qualified to perform another position in the employ of
23 the employer or the employer's successor, the employer or the employer's
24 successor in interest shall employ such person in another position, the
25 duties of which the person is qualified to perform, that will provide like
26 seniority, status and pay or the nearest approximation thereof consistent
27 with the circumstances of the case.

28 (b) Any person who is restored to the person's position in
29 accordance with the provisions of subsection (a) shall be considered as
30 having been on temporary leave of absence during the period for which
31 the person is serving in the state legislature, shall be restored without loss
32 of seniority, shall be entitled to participate in any benefits offered by the
33 employer pursuant to established rules and practices relating to
34 employees on leave of absence in effect with the employer at the time the
35 person was elected or appointed to the state legislature and shall not be
36 discharged from the person's position without cause within one year after

1 restoration to the position.

2 (c) It is understood and declared to be the intent of this section
3 that any person who is restored to a position in accordance with the
4 provisions of subsections (a) and (b) shall be restored in such manner as
5 to give the person such status in the person's employment as the person
6 would have enjoyed if the person had continued in such employment
7 continuously from the time of the person's being elected or appointed to
8 the state legislature until the time of the person's restoration to such
9 employment.

10 (d) An application on behalf of a person claiming to be entitled
11 to any right or benefit under this section may be made to the attorney
12 general. If the attorney general is reasonably satisfied that the person is
13 entitled to the right or benefit sought, the attorney general may appear on
14 behalf of, and act as attorney for, the person on whose behalf the
15 application is submitted and may commence an action in the district court
16 of the county for appropriate relief for the person. The district court of
17 the county, where the employer of a person claiming a right or benefit
18 under this section, or the successor in interest to such employer maintains
19 a place of business, shall have jurisdiction of any action filed by or on
20 behalf of such person. If the court determines that the employer or the
21 employer's successor in interest has failed to comply with the provisions
22 of this section, the court may order the employer or the employer's
23 successor in interest to: (1) Comply with the provisions of this section;
24 and (2) compensate the person for any loss of wages or benefits suffered
25 by reason of the failure of the employer or employer's successor in
26 interest to comply with the provisions of this section. In addition, the
27 court may order the employer or the employer's successor in interest to
28 pay the person an additional amount equal to the amount authorized by
29 subsection (d)(2) if the court determines that the employer or the
30 employer's successor in interest willfully failed to comply with the
31 provisions of this section. No fees or court costs shall be taxed against
32 any person commencing an action under this subsection. The employer
33 or the employer's successor in interest shall be deemed the only necessary
34 party defendant to any such action.

35 (e) (1) An employer or an employer's successor in interest
36 shall not be required to re-employ a person under this section if:

37 (A) The circumstances of the employer or the employer's
38 successor in interest have so changed as to make re-employment of the
39 person impossible or unreasonable;

40 (B) re-employment of the person would impose an undue
41 hardship on the employer or the employer's successor in interest; or

42 (C) the employment from which the person leaves to serve in
43 the state legislature is for a brief, nonrecurrent period and there is no

1 reasonable expectation that such employment will continue indefinitely or
2 for a significant period.

3 (2) As used in subsection (f)(1), "undue hardship" means
4 actions requiring significant difficulty or expense, when considered in
5 light of:

6 (A) The nature and cost of the action needed under this act;

7 (B) the overall financial resources of the facility or facilities
8 involved in the provision of the action; the number of persons employed
9 at such facility; the effect on expenses and resources or the impact
10 otherwise of such action upon the operation of the facility;

11 (C) the overall financial resources of the employer or the
12 employer's successor in interest; the overall size of the business of the
13 employer or the employer's successor in interest with respect to the
14 number of employees; the number, type and location of its facilities; and

15 (D) the type of operation or operations of the employer or the
16 employer's successor in interest, including the composition, structure and
17 functions of the work force of such employer or successor in interest; the
18 geographic separateness, administrative, or fiscal relationship of the
19 facility or facilities in question to the employer or successor in interest.

20 Sec. 2. This act shall take effect and be in force from and after its
21 publication in the statute book.
22