

As Amended by House Committee

As Amended by Senate Committee

Session of 2015

SENATE BILL No. 243

By Committee on Ways and Means

2-17

1 AN ACT concerning the state civil service board; transferred from the
2 department of administration to the office of administrative hearings;
3 amending K.S.A. 75-2929b, 75-2929g and 75-3746 and K.S.A. ~~2014~~
4 **2015** Supp. 75-2929d **and 75-2949** and repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 75-2929b is hereby amended to read as follows: 75-
8 2929b. (a) The board shall be attached to the ~~department of administration~~
9 *office of administrative hearings* and shall be within the ~~department~~ *office*
10 *of administrative hearings* as a part thereof. All budgeting, purchasing and
11 related management functions of the board shall be administered under the
12 direction and supervision of the ~~secretary of administration~~ *director of*
13 *administrative hearings*. All vouchers for expenditures and all payrolls of
14 the board shall be approved by the chairperson of the board or a person or
15 persons designated by such chairperson and the ~~secretary of administration~~
16 *director of administrative hearings* or a person or persons designated by
17 such ~~secretary~~ *director*.

18 (b) The board shall organize annually by electing one of its members
19 as chairperson and one as vice-chairperson. The board shall meet regularly
20 at least once each calendar quarter and special meetings may be called by
21 the chairperson or by a majority of the board. A quorum of the board shall
22 consist of three members. **Except for actions pursuant to the Kansas**
23 **administrative procedure act, K.S.A. 77-501 et seq., and amendments**
24 **thereto**, no action may be taken by the board without the affirmative vote
25 of at least three members. ~~In the holding of hearings of appeals by~~
26 ~~employees or appointing authorities pursuant to the Kansas civil service~~
27 ~~act, the board may delegate to one or more of its members the authority to~~
28 ~~serve as a hearing examiner for such a hearing, but action upon any such~~
29 ~~appeal shall require the concurrence of at least three members of the board.~~

30 (c) Meetings of the board shall be open to the public and no meeting
31 ~~or hearing~~ of the board shall be held unless at least three members of the
32 board are present. The director of ~~personnel services~~ *administrative*
33 *hearings* shall act as secretary of the board or may designate a person to
34 serve as the secretary of the board. The board shall keep records and

1 minutes of its business and official actions, and such records and minutes
2 shall be public records open to public inspection, subject to rules and
3 regulations specifying the hours and conditions of inspection. *The director*
4 *of administrative hearings shall be the legal custodian of such records and*
5 *shall have the duty to store and maintain such records in order to carry*
6 *out the official business of the board and respond to inquiries regarding*
7 *the business and official actions of the board.*

8 (d) Each member of the state civil service board attending meetings
9 of such board, attending a subcommittee meeting—~~thereof~~ authorized by
10 such board, or serving as hearing examiner at a hearing under the Kansas
11 civil service act shall be paid per diem compensation of \$70 and shall be
12 paid subsistence allowances, mileage and other expenses as provided in
13 K.S.A. 75-3223, and amendments thereto. In addition, each member, who
14 resides more than 100 miles from the location of an authorized meeting or
15 hearing, shall receive per diem compensation of \$35 for each day in travel
16 to or from such meeting or hearing if such travel is on a day other than the
17 day or days of such meeting or hearing.

18 Sec. 2. K.S.A. ~~2014~~ **2015** Supp. 75-2929d is hereby amended to read
19 as follows: 75-2929d. (a) The state civil service board shall hear appeals
20 taken to it pursuant to: (1) K.S.A. 75-2940, 75-2949 and 75-3747, and
21 amendments thereto, concerning demotion, dismissal or suspension of a
22 permanent employee in the classified service, or concerning refusal to
23 examine an applicant or to certify a person as eligible for a job class;; and
24 (2) K.S.A. 75-2973, and amendments thereto, concerning disciplinary
25 action in violation of that statute.

26 (b) When an appeal is taken to the board, the board shall establish a
27 time and a place for the hearing which shall be held within 45 days after
28 receipt of request for the appeal. The board shall notify the person bringing
29 the appeal and the appointing authority or other person whose action is
30 being reviewed of the time and the place of the hearing at least 14 days
31 prior to such hearing. Each party at the hearing shall have the right to be
32 represented by a person of the party's own choice. Hearings shall be
33 conducted in accordance with the provisions of the Kansas administrative
34 procedure act. For purposes of the administrative procedure act, the state
35 civil service board shall be deemed the agency head. The board may
36 affirm, modify or reverse an agency action and order any other action it
37 deems appropriate.

38 (c) The board, or the director of ~~personnel services~~ *administrative*
39 *hearings* when authorized by majority vote of the board, may depose
40 witnesses. Either party to a hearing may depose witnesses in accordance
41 with the Kansas administrative procedure act. If books and papers are
42 required to be produced in advance of a hearing date, the person or agency
43 producing the books and papers shall be entitled to receive reasonable

1 compensation to recover all costs of such production from the person or
2 agency for which they are produced. The board, any presiding officer or
3 the director *of administrative hearings* may examine such public records
4 as may be required in relation to any matter which the board has authority
5 to investigate.

6 (d) Each person not in the classified or unclassified service who
7 appears before the board or the director *of administrative hearings* by
8 order shall receive for such person's attendance the fees and mileage
9 provided for witnesses in civil actions in the district court. Such fees and
10 mileage shall be audited and paid by the state upon presentation of proper
11 vouchers. Each witness subpoenaed at the request of parties other than the
12 board or the director *of administrative hearings* shall be entitled to
13 compensation from the state for attendance or travel only if the board
14 certifies that the testimony of such witness was relevant and material to the
15 matter investigated or, if such witness is not called to testify, the board
16 determines and certifies that such compensation should be paid.

17 Sec. 3. K.S.A. 75-2929g is hereby amended to read as follows: 75-
18 2929g. The secretary of administration, upon recommendation of the
19 director of ~~personnel services~~ *administrative hearings* and the board, may
20 adopt rules and regulations as provided in K.S.A. 75-3706, and
21 amendments thereto, to carry out the provisions of K.S.A. 75-2929d to 75-
22 2929g, ~~inclusive~~, and 75-2949d to 75-2949f, ~~inclusive~~, and amendments
23 thereto.

24 **Sec. 4. K.S.A. 2015 Supp. 75-2949 is hereby amended to read as**
25 **follows: 75-2949. (a) An appointing authority may dismiss or demote**
26 **any permanent employee in the classified service when the appointing**
27 **authority considers that the good of the service will be served thereby.**
28 **For disciplinary purposes, an appointing authority may suspend**
29 **without pay a permanent classified employee for a period not to**
30 **exceed 30 calendar days. No permanent employee in the classified**
31 **service shall be dismissed, demoted or suspended for political,**
32 **religious, racial or other nonmerit reasons.**

33 (b) Prior to dismissal, demotion or suspension of a permanent
34 employee in the classified service, the appointing authority shall
35 furnish the employee by certified mail to the employee's last known
36 address, return receipt requested, or by personal delivery, a statement
37 in writing specifically setting forth the reasons and factual basis
38 therefor. A copy of such statement shall be furnished immediately to
39 the director. This statement shall contain notice of the proposed
40 dismissal, demotion or suspension and shall specify the proposed
41 effective date thereof. Except as otherwise provided in the Kansas civil
42 service act, a proposed suspension, demotion or dismissal shall become
43 effective no less than three calendar days nor more than 14 calendar

1 days following the date the notice of such proposed suspension,
2 demotion or dismissal is personally delivered to the employee or
3 deposited with the post office as certified mail. If in the opinion of the
4 appointing authority conditions warrant, the appointing authority
5 may relieve the employee of duties or change the duties of the
6 employee during such period. If the employee is relieved from duty
7 during such period, the employee may be continued in pay status, or
8 placed on leave of absence without pay by the appointing authority. In
9 the statement proposing suspension, demotion or dismissal, the
10 appointing authority shall offer the employee who is proposed to be
11 suspended, demoted or dismissed an opportunity to reply in writing,
12 or appear in person, or both, before the appointing authority or a
13 designated representative of the appointing authority, on the issue of
14 the proposed suspension, demotion or dismissal prior to the time such
15 suspension, demotion or dismissal is specified by the notice to become
16 effective. The statement shall specify the date, time and place by, or at
17 which, the employee may reply in writing or appear, or both. If the
18 employee chooses to appear in person on the issue of the proposed
19 action, the employee may be represented by a person of the employee's
20 choice.

21 (c) Upon request by the employee, or upon the initiative of the
22 appointing authority, the appointing authority may extend the time
23 for reply or appearance, or both, if the circumstances warrant. Notice
24 of any such extension shall be furnished to the employee and to the
25 director of personnel services. The proposed suspension, demotion or
26 dismissal shall not become effective until after the extended period has
27 expired.

28 (d) Following the employee's response to the opportunity to reply
29 to the proposed action, or upon expiration of the time for such reply, if
30 no reply is made, the appointing authority, or the designee of the
31 appointing authority, shall notify the employee of the final decision on
32 the proposed action. Such notice shall be in writing and shall be sent
33 by certified mail to the employee's last known address or personally
34 delivered to the employee on or before the effective date of the
35 proposed action. A copy of the notice shall be furnished immediately to
36 the director of personnel services. This final notice of decision by the
37 appointing authority or the designee of the appointing authority, to
38 suspend, demote or dismiss the employee shall inform the employee of
39 the employee's right to appeal the decision to the state civil service
40 board within 30 calendar days after the effective date of the action.

41 (e) At any time prior to the effective date of the proposed
42 suspension, demotion or dismissal or, if an appeal is taken to the state
43 civil service board, at any time prior to the final decision of the board,

1 the appointing authority, or the designee of the appointing authority,
2 may withdraw or modify the action proposed to be taken or taken
3 against the employee. Notice of any such withdrawal or modification
4 shall be given in writing to the employee by certified mail to the
5 employee's last known address or by personal delivery. A copy of the
6 notice shall be furnished immediately to the director of personnel
7 services.

8 (f) Any permanent employee finally dismissed, demoted or
9 suspended, may request a hearing from the state civil service board to
10 determine the reasonableness of such action. Each such request for a
11 hearing shall be in writing and shall be filed in the office of the
12 director of ~~personnel services~~ *administrative hearings* within 30 calendar
13 days after the effective date of the dismissal, demotion or suspension.
14 Additional days shall not be added to the thirty-day period in which
15 an appeal may be filed if the notice of the effective date of the
16 dismissal, demotion or suspension is mailed to the employee. The
17 board shall grant the employee a hearing in accordance with the
18 provisions of the Kansas administrative procedure act within 45
19 calendar days after receipt of such request. At the hearing the burden
20 of proof shall be upon the employee to establish that the appointing
21 authority did not act reasonably in taking such action.

22 (g) No employee shall be disciplined or discriminated against in
23 any way because of the employee's proper use of the appeal procedure.

24 (h) A permanent employee who is demoted pursuant to this
25 section need not meet the qualifications for the class of positions to
26 which demoted if the appointing authority determines that the
27 employee can reasonably be expected to perform satisfactorily the
28 duties of the position to which the employee is demoted. A permanent
29 employee who is demoted pursuant to this section shall have
30 permanent status in the class to which demotion is made, effective on
31 the date of the demotion.

32 (i) In case of a situation in which the possibility of proposing
33 dismissal, suspension or demotion of a permanent employee is
34 indicated, but where the appointing authority needs time to conduct
35 an investigation before proposing such action, or in a situation where
36 immediate removal of an employee from such employee's job is
37 needed to avoid disruption of work, or for the protection of persons or
38 property, or for a similar reason, the appointing authority may relieve
39 the employee of duties or change the duties of the employee for a
40 limited period and keep the employee in pay status. The secretary of
41 administration shall provide by rules and regulations, adopted
42 pursuant to K.S.A. 75-3706, and amendments thereto, procedures to
43 be followed in such cases.

1 Sec. ~~4~~ 5. K.S.A. 75-3746 is hereby amended to read as follows: 75-
2 3746. The director of personnel services shall:

3 (a) Require the development of effective personnel administration
4 within all agencies in the state and make available the facilities of the
5 division of personnel services to this end.

6 (b) Keep in the office of the division of personnel services an official
7 roster of the state civil service showing the employment history of each
8 and every person who has been appointed to, employed, promoted,
9 reduced or reinstated in any position in such service. The director of
10 personnel services shall have access to all public records and papers, the
11 examination of which will aid in the discharge of the director's duty in
12 connection with this roster.

13 (c) Prepare, in accordance with the provisions of the Kansas civil
14 service act and rules and regulations adopted thereunder as provided in
15 K.S.A. 75-3706, and amendments thereto, examinations, eligible lists and
16 ratings of candidates for appointment.

17 (d) Make certification for appointment within the classified service,
18 in accordance with the provisions of the Kansas civil service act.

19 (e) Make investigations concerning all matters touching the
20 enforcement and effect of the provisions of the Kansas civil service act and
21 rules and regulations adopted thereunder as provided in K.S.A. 75-3706,
22 and amendments thereto.

23 (f) Make an annual report to the secretary of administration, the
24 legislature and the governor regarding the activities of the division.

25 ~~(g) Attend or designate a representative to attend all meetings of the~~
26 ~~state civil service board.~~

27 (h) Prepare and recommend to the secretary of administration rules
28 and regulations suitable for adoption as provided in K.S.A. 75-3706, and
29 amendments thereto, for the purpose of carrying out the provisions of the
30 Kansas civil service act. Such rules and regulations shall provide, among
31 other things, for current records of efficiency for methods of regular
32 distribution of communication materials; the manner of completing
33 appointments and promotions; the rejection of eligible candidates;
34 competitive examinations; creation of eligible lists with successful
35 candidates ranked according to their rating in the examinations; leave of
36 absence with and without pay; transfers, reinstatements, layoffs, vacations
37 and public notice of examinations; procedure for changes in rates of pay;
38 hours of work and other conditions of employment; the establishment of
39 programs, including trainee programs, designed to attract and utilize
40 persons with limited qualifications, but with potential for development, in
41 order to provide career development opportunities; establishment of a plan
42 for resolving employee grievances and complaints; development and
43 operation of programs to improve work effectiveness, including

1 orientation, on-the-job training, supervisory training, managerial
2 development, safety, fringe benefit counseling and employee relations; and
3 the establishment of policies regarding manpower allocation and control.

4 ~~(j)~~*(h)* Conduct regular planned assistance visits from the division of
5 personnel services to review personnel practices of agencies and identify
6 agency needs.

7 ~~(j)~~*(i)* Administer the Kansas civil service act.

8 Sec. ~~5~~ **6**. K.S.A. 75-2929b, 75-2929g and 75-3746 and K.S.A. ~~2014~~
9 **2015** Supp. 75-2929d **and 75-2949** are hereby repealed.

10 Sec. ~~6~~ **7**. This act shall take effect and be in force from and after July
11 1, ~~2016~~ **2017**, its publication in the statute book.