

Substitute for SENATE BILL No. 182

By Committee on Public Health and Welfare

2-19

1 AN ACT concerning the department of health and environment; relating to
2 the elimination of inspector general; amending K.S.A. 2014 Supp. 75-
3 2973 and repealing the existing section; also repealing K.S.A. 2014
4 Supp. 75-7427.

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

7 Section 1. K.S.A. 2014 Supp. 75-2973 is hereby amended to read as
8 follows: 75-2973. (a) This section shall be known and may be cited as the
9 Kansas whistleblower act.

10 (b) As used in this section:

11 (1) "Auditing agency" means the: (A) Legislative post auditor; (B)
12 any employee of the division of post audit; (C) any firm performing audit
13 services pursuant to a contract with the post auditor; *or* (D) any state
14 agency or federal agency or authority performing auditing or other
15 oversight activities under authority of any provision of law authorizing
16 such activities; ~~or (E) the inspector general created under K.S.A. 2014~~
17 ~~Supp. 75-7427, and amendments thereto.~~

18 (2) "Disciplinary action" means any dismissal, demotion, transfer,
19 reassignment, suspension, reprimand, warning of possible dismissal or
20 withholding of work.

21 (3) "State agency" and "firm" have the meanings provided by K.S.A.
22 46-1112, and amendments thereto.

23 (c) No supervisor or appointing authority of any state agency shall
24 prohibit any employee of the state agency from discussing the operations
25 of the state agency or other matters of public concern, including matters
26 relating to the public health, safety and welfare either specifically or
27 generally, with any member of the legislature or any auditing agency.

28 (d) No supervisor or appointing authority of any state agency shall:

29 (1) Prohibit any employee of the state agency from reporting any
30 violation of state or federal law or rules and regulations to any person,
31 agency or organization; or

32 (2) require any such employee to give notice to the supervisor or
33 appointing authority prior to making any such report.

34 (e) This section shall not be construed as:

35 (1) Prohibiting a supervisor or appointing authority from requiring
36 that an employee inform the supervisor or appointing authority as to

1 legislative or auditing agency requests for information to the state agency
2 or the substance of testimony made, or to be made, by the employee to
3 legislators or the auditing agency, as the case may be, on behalf of the state
4 agency;

5 (2) permitting an employee to leave the employee's assigned work
6 areas during normal work hours without following applicable rules and
7 regulations and policies pertaining to leaves, unless the employee is
8 requested by a legislator or legislative committee to appear before a
9 legislative committee or by an auditing agency to appear at a meeting with
10 officials of the auditing agency;

11 (3) authorizing an employee to represent the employee's personal
12 opinions as the opinions of a state agency; or

13 (4) prohibiting disciplinary action of an employee who discloses
14 information which: (A) The employee knows to be false or which the
15 employee discloses with reckless disregard for its truth or falsity; (B) the
16 employee knows to be exempt from required disclosure under the open
17 records act; or (C) is confidential or privileged under statute or court rule.

18 (f) Any officer or employee of a state agency who is in the classified
19 service and has permanent status under the Kansas civil service act may
20 appeal to the state civil service board whenever the officer or employee
21 alleges that disciplinary action was taken against the officer or employee
22 in violation of this act. The appeal shall be filed within 90 days after the
23 alleged disciplinary action. Procedures governing the appeal shall be in
24 accordance with ~~subsections (f) and (g)~~ of K.S.A. 75-2949(f) and (g), and
25 amendments thereto, and K.S.A. 75-2929d through 75-2929g, and
26 amendments thereto. If the board finds that disciplinary action taken was
27 unreasonable, the board shall modify or reverse the agency's action and
28 order such relief for the employee as the board considers appropriate. If
29 the board finds a violation of this act, it may require as a penalty that the
30 violator be suspended on leave without pay for not more than 30 days or,
31 in cases of willful or repeated violations, may require that the violator
32 forfeit the violator's position as a state officer or employee and disqualify
33 the violator for appointment to or employment as a state officer or
34 employee for a period of not more than two years. The board may award
35 the prevailing party all or a portion of the costs of the proceedings before
36 the board, including reasonable attorney fees and witness fees. The
37 decision of the board pursuant to this subsection may be appealed by any
38 party pursuant to law. On appeal, the court may award the prevailing party
39 all or a portion of the costs of the appeal, including reasonable attorney
40 fees and witness fees.

41 (g) Each state agency shall prominently post a copy of this act in
42 locations where it can reasonably be expected to come to the attention of
43 all employees of the state agency.

1 (h) Any officer or employee who is in the unclassified service under
2 the Kansas civil service act who alleges that disciplinary action has been
3 taken against such officer or employee in violation of this section may
4 bring an action pursuant to the Kansas judicial review act within 90 days
5 after the occurrence of the alleged violation. The court may award the
6 prevailing party in the action all or a portion of the costs of the action,
7 including reasonable attorney fees and witness fees.

8 (i) Nothing in this section shall be construed to authorize disclosure
9 of any information or communication that is confidential or privileged
10 under statute or court rule.

11 Sec. 2. K.S.A. 2014 Supp. 75-2973 and 75-7427 are hereby repealed.

12 Sec. 3. This act shall take effect and be in force from and after its
13 publication in the statute book.