

## HOUSE BILL No. 2300

By Committee on Federal and State Affairs

2-11

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

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

1 position.

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

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

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

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

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

41 (C) the employment from which the person leaves to serve in the  
42 state legislature is for a brief, nonrecurrent period and there is no  
43 reasonable expectation that such employment will continue indefinitely or

1 for a significant period.  
2 (2) As used in subsection (f)(1), "undue hardship" means actions  
3 requiring significant difficulty or expense, when considered in light of:  
4 (A) The nature and cost of the action needed under this act;  
5 (B) the overall financial resources of the facility or facilities  
6 involved in the provision of the action; the number of persons employed  
7 at such facility; the effect on expenses and resources or the impact  
8 otherwise of such action upon the operation of the facility;  
9 (C) the overall financial resources of the employer or the employer's  
10 successor in interest; the overall size of the business of the employer or  
11 the employer's successor in interest with respect to the number of  
12 employees; the number, type and location of its facilities; and  
13 (D) the type of operation or operations of the employer or the  
14 employer's successor in interest, including the composition, structure and  
15 functions of the work force of such employer or successor in interest;  
16 the geographic separateness, administrative, or fiscal relationship of the  
17 facility or facilities in question to the employer or successor in interest.  
18 Sec. 2. This act shall take effect and be in force from and after its  
19 publication in the statute book.  
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