

HOUSE BILL No. 2160

By Committee on Local Government

Requested by Representative Barth

1-30

1 AN ACT concerning municipalities; enacting the Kansas municipal
2 employee whistleblower act; establishing legal protections for certain
3 municipal employees who report or disclose unlawful or dangerous
4 conduct.

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

7 Section 1. (a) This section shall be known and may be cited as the
8 Kansas municipal employee whistleblower act.

9 (b) As used in this section:

10 (1) "Auditing agency" means:

11 (A) The legislative post auditor;

12 (B) any employee of the division of post audit;

13 (C) any firm performing audit services pursuant to a contract with the
14 post auditor;

15 (D) any state agency or federal agency or authority performing
16 auditing or other oversight activities under authority of any provision of
17 law authorizing such activities; or

18 (E) the inspector general established under K.S.A. 75-7427, and
19 amendments thereto.

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

23 (3) "Municipality" means any county, city or unified school district or
24 any office, department, division, board, commission, bureau, agency or
25 unit thereof.

26 (c) No supervisor or appointing authority of any municipality shall
27 prohibit any of the following or take any disciplinary action against an
28 employee of such municipality because such employee:

29 (1) Discussed the operations of the municipality or other matters of
30 public concern, including matters relating to the public health, safety and
31 welfare either specifically or generally, with any member of the legislature
32 or any auditing agency;

33 (2) reported a violation of state or federal law, municipal resolution or
34 ordinance or any rules and regulations adopted pursuant such law,
35 resolution or ordinance to any person, agency or organization;

1 (3) failed to give notice to the supervisor or appointing authority prior
2 to making any report described in paragraph (2);

3 (4) disclosed malfeasance or other misappropriation of moneys held
4 by such municipality to any person, agency or organization; or

5 (5) disclosed a substantial and specific danger to public health or
6 safety to any person, agency or organization.

7 (d) This section shall not be construed to:

8 (1) Prohibit a supervisor or appointing authority from requiring that
9 an employee inform the supervisor or appointing authority regarding
10 legislative or auditing agency requests for information submitted to such
11 municipality or the substance of testimony made, or to be made, by the
12 employee to legislators or the auditing agency on behalf of such
13 municipality;

14 (2) permit an employee to leave the employee's assigned work areas
15 during normal work hours without following applicable rules and
16 regulations and policies pertaining to employee leave unless the employee
17 is requested by a legislator or legislative committee to appear before a
18 legislative committee or by an auditing agency to appear at a meeting with
19 officials of the auditing agency;

20 (3) authorize an employee to represent the employee's personal
21 opinions as the opinions of such municipality; or

22 (4) prohibit disciplinary action of an employee who discloses
23 information that:

24 (A) The employee knows to be false or that the employee discloses
25 with reckless disregard for the truth or falsity of such information;

26 (B) the employee knows to be exempt from required disclosure under
27 the open records act; or

28 (C) is confidential or privileged under state or federal law or court
29 rule.

30 (e) Any officer or employee of a municipality who alleges that
31 disciplinary action has been taken against such officer or employee in
32 violation of this section may bring an action in a court of competent
33 jurisdiction within 90 days after the occurrence of the alleged violation
34 seeking damages and any other equitable relief the court deems necessary.
35 The court may award the prevailing party in the action all or a portion of
36 the costs of the action, including reasonable attorney fees and witness fees.

37 (f) Each municipality shall prominently post a copy of this act in
38 locations where it can reasonably be expected to come to the attention of
39 all employees of such municipality.

40 Sec. 2. This act shall take effect and be in force from and after its
41 publication in the statute book.