

Approved 2-5-91  
Date

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS

The meeting was called to order by SENATOR DON SALLEE at  
Chairperson

1:30 ~~xxx~~ p.m. on January 28, 1991 in room 529-S of the Capitol.

All members were present ~~except~~ or excused:

Committee staff present:

Pat Mah, Legislative Research Department  
Ardan Ensley, Revisor of Statutes Office  
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Jim Kaup, Kansas League of Municipalities  
Ron Thornburgh, Secretary of state's Office

Others attending: See attached list

The meeting was called to order by Chairman Sallee shortly after 1:30 p.m.  
The Chairman entertained requests for the introduction of bills.

Jim Kaup, Kansas League of Municipalities, advised the Committee of a problem brought before his organization by Overland Park concerning amending K.S.A. 1990 Supp. 75 - 4301a - dealing with local governmental ethics. (Attachment 1)

Senator Bond, with a second from Senator Lee, moved introduction of the bill. The motion carried.

Ron Thornburgh, Office of the Secretary of State, appeared before the committee to request introduction of legislation. The four bills to be introduced concern (1) Ease of Purging requirements for not voting. (2) Teenage poll workers. (3) Ballot specifications. (4) Candidate withdrawal within three days. (Attachment 2)

Senator Lee, with a second from Senator Brady, moved to accept all four requests for introduction of legislation. The motion carried.

Senator Lee told committee members SB 148, concerning consolidation of voting districts with populations below 20 to protect the right of privacy, passed the Senate but was held up in the House due to an opinion that the wrong statute was being addressed. Consequently, the request was again being submitted with the correct statute.

Senator Lee, with a second from Senator Bond, moved acceptance of the request. The motion carried.

Senator Sallee requested introduction of legislation concerning the number of signatures needed on petitions for candidates.

Senator Martin, with a second by Senator Sallee, moved introduction of the requested legislation. The motion carried.

Due to the contested election of the house candidate, staff was requested to present a review of troublesome areas of the statutes involved.

Chairman Sallee appointed two subcommittees to review sections of the report from the Kansas Select Commission on Ethics. Members of one subcommittee will be Senator Yost, Chairman, and Senators Martin and Kerr. The subcommittee will review the sections of the report dealing with contributions and lobbyists. The second subcommittee, chaired by Senator

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS,  
room 529-S, Statehouse, at 1:30 ~~am~~ p.m. on January 28, 1991

Bond, with Senators Lee and Sallee will review sections of the report concerning conflict of interest and the proposed new commission which would have investigative subpoena powers.

Senator Reilly, with a second by Senator Yost, moved adoption of the minutes of January 22, 1991. The motion carried.

The meeting adjourned at 2:15 p.m. The committee will convene at 1:30 p.m. January 29, 1991.

GUEST LIST

SENATE ELECTIONS COMMITTEE

DATE 1-28-91

(PLEASE PRINT)

NAME AND ADDRESS

ORGANIZATION

Craig Grant

K-NEA

Michael Wolf

Common Cause

Michelle Lester

John Peterson + Associates

Teresa Fleschinger

State Demographer - Div. of Budget

Rebecca Bossemeyer

SOS

Ron Hornburg

SOS

Janet Williams

Public Disclosure Comm

Paul Williams

" " " "

Jim Kang

League of Municipalities



**League  
of Kansas  
Municipalities**

**Municipal  
Legislative  
Testimony**

An Instrumentality of Its Member Cities. 112 West Seventh Street, Topeka, Kansas 66603 913-354-9565 Fax 354-4186

TO: Senate Committee on Elections  
FROM: Jim Kaup, League General Counsel  
RE: Proposed Amendment to Local Governmental Ethics Law  
DATE: January 28, 1991

**Background.**

Last September the City of Overland Park requested an advisory opinion from the Kansas Public Disclosure Commission on the question of whether a councilmember's service as a member of the board of directors of a private not-for-profit corporation was a "substantial interest" which would trigger certain provisions of, and prohibitions under, the local governmental ethics law (K.S.A. 1990 Supp. 75-4301a et seq.). The Disclosure Commission's response (October 17, 1990) stated that the state law did not distinguish between serving as an officer or director for a for-profit or a not-for-profit corporation or association. In short, serving as a director, without compensation, on the local United Way or Girl Scouts board is as much a substantial interest as a paid directorship on the board of Acme Manufacturing, Inc. or First State Bank.

**Problem.**

The significance of a "substantial interest" under the state law is not only the requirement of disclosure of that interest on forms filed with the county election officer, but also the general prohibition against participating in "the making of a contract" between the city and the business in which an official has a "substantial interest".

What this means, for example, is that it may well be unlawful for a councilmember who serves as a director of the board of the local United Way to not only "make or participate in the making of a contract" with the United Way but also unlawful to so "contract" with any agency affiliated with, or receiving funding from, the United Way.

This issue of the legality of such "contracting" arises regardless of whether the officer or employee has declared his or her directorship on the United Way on the statement of substantial interests. (K.S.A. Supp. 74-4305).

The seriousness of this issue is heightened by the fact that we do not know how broadly the phrase "making of a contract" should be, or could be read. Does it cover approval of city budgets which appropriate moneys to agencies which also United Way funding such as the local legal aid office? A homeless shelter? A safe house for battered women?

Finally, the League notes the penalties for violations of the act--forfeiture of public office and conviction of a Class B misdemeanor.

*Senate Elections  
Attachment 1  
1-28-91*

## **League Proposal.**

1. The League hopes that this situation was not one intended by the Legislature. We hope the Legislature believes state law should allow local government officers and employees to serve on the boards of certain civic and social organizations without having to abstain from participating in city government actions that affect those organizations. The League offers one solution, recognizing that a good many others are possible.

The attached draft bill simply excludes from the definition of "substantial interest" at Supp. 75-4301a(a)(4) certain organizations which are tax-exempt under the federal tax code.

2. The League has also included in its proposed bill an amendment to the definition of "compensation" at Supp. 75-4301a(i). This amendment is intended only to clarify the current law and is unrelated to the Public Disclosure Commission Advisory Opinion which prompted the League's request for legislation. The proposed amendment is taken word-for-word from Section 204.06(b), A Model Law for Campaign Finance, Ethics, and Lobbying Regulation, July 1990 Proposed Draft for Adoption, Council on Governmental Ethics Law.

AN ACT relating to local governmental ethics; amending the definitions of substantial interests and compensation; amending K.S.A. 1990 Supp. 75-4301a and repealing the same.

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

Section 1. K.S.A. 1990 Supp. 75-4301 is hereby amended to read as follows:

75-4301a.

(a) "Substantial interest" means any of the following: (1) If an individual or an individual's spouse, either individually or collectively, has owned within the preceding 12 months a legal or equitable interest exceeding \$5,000 or 5% of any business, whichever is less, the individual has a substantial interest in that business.

(2) If an individual or an individual's spouse, either individually or collectively, has received during the preceding calendar year compensation which is or will be required to be included as taxable income on federal income tax returns of the individual and spouse in an aggregate amount of \$2,000 from any business or combination of businesses, the individual has a substantial interest in that business or combination of businesses.

(3) If an individual or an individual's spouse, either individually or collectively, has received in the preceding 12 months, without reasonable and valuable consideration, goods or services having an aggregate value of \$500 or more from a business or combination of businesses, the individual has a substantial interest in that business or combination of businesses.

(4) If an individual or an individual's spouse holds the position of officer, director, associate, partner or proprietor of any business, the individual has a substantial interest in that business, irrespective of the amount of compensation received by the individual or individual's spouse.

(5) If an individual or an individual's spouse receives compensation which is a portion or percentage of each separate fee or commission paid to a business or combination of businesses, the individual has a substantial interest in any client or customer who pays fees or commissions to the business or combination of businesses from which fees or commissions the individual or the individual's spouse, either individually or collectively, received an aggregate of \$2,000 or more in the preceding calendar year.

As used in this subsection, "client or customer" means a business or combination of businesses.

other than an organization exempt from federal taxation of corporations under Sec. 501(c)(3), (4), (7), (8), (10) or (19) of Chapter 26 of the United States Code.

(b) "Business" means any corporation, association, partnership, proprietorship, trust, joint venture, and every other business interest, including ownership or use of land for income.

(c) "Local governmental employee" means any employee of any governmental subdivision or any of its agencies.

(d) "Local governmental officer" means any elected or appointed officer of any governmental subdivision or any of its agencies.

(e) "Candidate for local office" means any candidate for nomination or election to any elective office of a governmental subdivision.

(f) "Governmental subdivision" means any city, county, township, school district, drainage district or other governmental subdivision of the state having authority to receive or hold public moneys or funds.

(g) "Contracts" means agreements including but not limited to sales and conveyances of real and personal property and agreements for the performance of services.

(h) "Acts" means the exercise of power or authority or performance of any duty incident to public office or employment.

(i) "Compensation" means any money, thing of value or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by that person or another.

(j) "Preceding calendar year" has its usual meaning, except that in the case of candidates and individuals newly appointed to office or employment, it means the 12 months immediately preceding a required filing date.

; provided, however, compensation does not mean reimbursement of expenses if the reimbursement does not exceed the amount actually expended for the expenses and it is substantiated by an itemization of expenses.

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

Bill Graves  
Secretary of State



2nd Floor, State Capitol  
Topeka, KS 66612-1594  
(913) 296-2236

## STATE OF KANSAS

SENATE ELECTIONS COMMITTEE  
JANUARY 28, 1991

Thank you Mr. Chairman and members of the committee for the opportunity to appear before you today to ask for introduction of legislation for our office. The four bills we are asking to be introduced are all geared towards improving or clarifying the election process.

1. Ease of Purging requirements for not voting.

We recommend no longer purging a registered voter for not voting. However, the act of not voting would still be an identifier for the County Election Officer to send a mailing to the non-voters to verify their residency. Only if a non-voter's residence has changed, will the name be removed from the registration list.

2. Teenage poll workers.

Hawaii tested a program in the last election using 16 and 17 year olds as polling place workers. The program was very successful and several states are now trying to implement the program.

3. Ballot specifications.

Because of some confusion in the last election over ballot layout, our office is asking for the authority to prescribe the format. This will also allow election officials to use the quickly changing technology in the voting machine industry without being limited by statute.

4. Candidate withdrawal within three days.

Candidates for office would be allowed to withdraw from nomination up to three days after the meeting of the state board of canvassers. This enables election officials to meet the requirements of the Federal Voting Assistance and Overseas Voting programs. The deadline to withdraw prior to a primary election will remain June 10.

Senate Elections  
Attachment 2  
1-28-91