

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION AND ELECTIONS.

The meeting was called to order by the Chair, Carol Dawson, at 9:00 a.m. on February 16, 1995 in Room 521-S of the Capitol.

All members were present:

Committee staff present: Carolyn Rampey, Legislative Research Department  
Dennis Hodgins, legislative Research Department  
Arden Ensley, Revisor of Statutes

Conferees appearing before the committee: Rep. Tom Sawyer

Others attending: See attached list

Chairman Dawson called the Committee's attention to HB 2129 which prohibits the mailing of personal letters or cards by state officers and employees. Rep. Chronister made the motion to pass the bill favorably, as amended, for passage. It was seconded by Rep. Tanner. The motion carried.

The Chairman brought the Committee's attention to HB 2222 which would permit county election officers in sparsely populated precincts to appoint an election board of two members. After Mr. Ensley reviewed the bill, Rep. O'Connor made a motion to recommend favorable passage of the bill and since it was of a non-controversial matter, place it on the Consent Calendar. It was seconded by Rep. Cox. The motion carried.

Chairman Dawson informed the Committee that Friday, February 17, would be devoted to the report of the Subcommittee on the National Voter Registration Act. In addition, the Committee would take action on HB 2148 which concerns crediting interest earned on campaign finance funds to the Kansas Commission on Governmental Standards and Conduct Fee Fund.

Chairman Dawson also told the Committee that in addition to announced hearing on bills scheduled for Monday, February 20, the Committee would take action on HCR 5010 which concerns term limits for members of the Kansas House of Representatives and the Kansas Senate, in addition to HB 2088 which would allow classified state employees to run for elective office.

The Chairman announced that the Committee would pass over HB 2019.

Chairman Dawson distributed copies of two opinions by the Kansas Commission on Governmental Standards and Conduct (Opinions No. 92-18 and 92-24) that pertain to HB 2020. In the opinions, the Commission sets forth its finding that current law does not permit a candidate or candidate committee use campaign funds to make donations to state or county central party committees or political action committees. See Attachment 1.

The Chairman opened the hearing on HB 2020. She recognized Rep. Tom Sawyer as the sponsor of the bill. He testified that he was one of the legislators who participated in a revision of the Campaign Finance Act several years ago. According to Rep. Sawyer, he and Rep. Shallenburger, who also was involved in the proposed revisions, never intended to prohibit candidates from making donations to party or political action committees. In his opinion, the Commission erred in its interpretation of the statute. Legislation that would have made clear that such donations were permissible was passed by the legislature but vetoed by Governor Finney for reasons unrelated to the matter of donations. Rep. Sawyer asked the Committee for its favorable consideration of HB 2020.

Chairman Dawson distributed two items of information related to HB 2088 which concerns classified employees running for elective office. One item was a letter from Rep. Tom Sloan dated February 10 entitled HB 2088-Removing Requirement That Classified State Employees Resign Before Seeking Elective Office. See Attachment 2. The other was a memorandum from the Legislative Research Department dated February 15, 1995, entitled Political Activity by State Officers and Employees. See Attachment 3.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION AND ELECTIONS, Room 521-S Statehouse, at 9:00 a.m. on February 16, 1995.

The Chair adjourned the meeting.

The next meeting is scheduled for Friday, February 17, 1995, at 9:00 a.m. in Room 521-S of the Capitol.



**KANSAS COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT**

June 23, 1992

Opinion No. 92-24

TO ALL INTERESTED PERSONS:

On May 26, 1992, this Commission issued Opinion No. 92-18 concerning the permissible use of candidate campaign funds and ruled generally that such funds could not be given as donations to party committees and political action committees. Nothing in this opinion or Opinion No. 92-18 precludes a candidate from using his or her own personal funds for contributions to his or her own party committee or a political action committee.

By this opinion, we wish to clarify that candidates may use campaign funds for expenditures to party committees as a "legitimate campaign purpose" when:

- (1) The candidate purchases an identifiable campaign service for his or her own campaign, and;
- (2) The amount is reasonable in relation to the service received.

Some examples of the types of purchases which are permissible from campaign funds include, but are not limited to:

- (1) Purchase of voter registration lists;
- (2) Reimbursement for production of campaign literature;
- (3) Payment for labeling, envelope stuffing, and phone banks at state or county committee headquarters, and;
- (4) Payment for voter registration drives within a candidate's district.

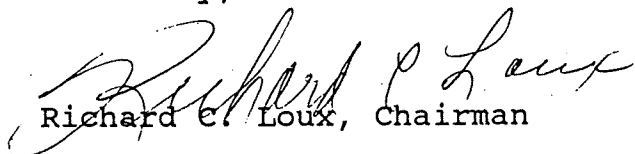
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In addition, purchase of tickets at the lowest necessary price for the candidate and his or her immediate family at fundraising and political events is permissible from campaign funds to the extent necessary to allow them to attend.

How these rules will apply to specific situations will be the subject of later opinions.

Sincerely,

  
Richard C. Loux, Chairman

By Direction of the Commission

RCL:DDP:dlw

**KANSAS COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT**

May 26, 1992

Opinion No. 92-18

TO ALL INTERESTED PERSONS:

Pursuant to K.S.A. 25-4159, the Kansas Commission on Governmental Standards and Conduct takes this opportunity to issue its opinion on the following question: May a candidate as defined by K.S.A. 25-4143 use campaign funds to make donations to state or county central party committees or political action committees?

K.S.A. 25-4157a (a)(b) states:

"No moneys received by any candidate or candidate committee of any candidate as a contribution under this act shall be used or be made available for the personal use of the candidate and no such moneys shall be used by such candidate or the candidate committee of such candidate except for legitimate campaign purposes or for expenses of holding political office.

For the purpose of this subsection, expenditures for 'personal use' shall include expenditures to defray normal living expenses for the candidate or the candidate's family and expenditures for the personal benefit of the candidate having no direct connection with or effect upon the campaign of the candidate or the holding of public office.

No candidate or candidate committee shall accept from any other candidate or candidate committee for any candidate for local, state or national office, any moneys received by such candidate or candidate committee as a campaign contribution."

From this language it is clear that candidates may not make contributions to one another from campaign funds. In addition, candidates may not use funds except for "legitimate campaign purposes". The question is whether a donation by a candidate

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campaign fund to a state or county central party committee or political action committee is for "legitimate campaign purposes". In our view, this language was intended to reach expenditures made specifically to support the nomination and election of the candidate and not such intangible results as might arise from giving money to ones' party or a political action committee.

Thus, it is our opinion that contributions from campaign funds by an ongoing candidate fund to state or county central party committees or political action committees are not permissible.

Sincerely,

  
Richard C. Loux, Chairman

By Direction of the Commission

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TOPEKA

HOUSE OF  
 REPRESENTATIVES

## Memorandum

COMMITTEE ASSIGNMENTS  
 MEMBER: AGRICULTURE  
 LOCAL GOVERNMENT  
 ENERGY & NATURAL RESOURCES

**TO:** Governmental Organization and Elections Committee Members  
**FROM:** Representative Tom Sloan  
**DATE:** February 10, 1995  
**RE:** HB 2088 - Removing requirement that classified state employees resign before seeking elective office

Thank you for your attention during the hearing Wednesday, February 7, 1995, on HB 2088. From the questions asked, the committee appeared to have two questions:

1. Why were classified employees excluded?
2. What consequences would ensue if the prohibition were repealed?

1. Committee staff will formally report that all states created mini "Hatch Acts" based on federal statutes to protect civil servants from the pressure of politics. If my history lessons are correctly remembered, it was designed to combat the excesses of "Boss politics" (e.g., Tammany Hall in New York City, Pendergast in Kansas City) and to develop a permanent technically proficient administrative corps that would implement the policies enacted by the elected officials.

2. If HB 2088 becomes law, 29,000 individuals will have the right to seek elective office without first resigning their jobs. If the original goal was to protect classified employees from the vagaries of politics, that goal has been circumvented by moving groups of persons into and out of classified status for economic or administrative reasons (K.U. registered nurses). Please remember that Regents faculty receive tenure to protect them from political storms, yet they may freely seek elective office.

Classified employees only seek the same opportunities that unclassified state employees, school teachers, and private sector employees have - the opportunity to seek elective office, take unpaid leaves while serving, and return to their careers at the end of their public service.

Classified employees have no greater nor lesser potential for conflicts of interest than do unclassified state employees or persons employed in the private sector. If the committee wishes to address the conflict of interest statutes, you may. But please do not exclude classified employees from the opportunities which other "minority groups" have won.

Research staff has a memorandum from former Governor Finney indicating that special restrictions were placed on members of the highway patrol (KSA 74-2113) and employees engaged in the administration of the Employment Security Act (KSA 44-714(e)(2)).

The committee may or may not wish to address those specific groups, but I trust that at least the other classified state employees will be permitted to enjoy the political rights of other Kansas citizens.

I ask you to recommend HB 2088 favorably for passage. If you have additional questions or concerns, please do not hesitate to contact me.

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# MEMORANDUM

## Kansas Legislative Research Department

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February 15, 1995

**To:** House Committee on Governmental Organization and Elections

**From:** Dennis Hodgins, Research Analyst

**Re:** Political Activity by State Officers and Employees

Under current law, K.S.A. 1993 Supp. 75-2953 (b) prohibits any state officer or employee in the state classified service from filing as a candidate for political office unless that classified employee or officer resigns from the service upon filing. Exceptions include a township elective office, a county elective office, an elective office in the judicial branch of government, or an elected office for a nonpartisan election.

Unclassified employees are not subject to K.S.A. 1993, Supp. 75-2953 (b).

Additional prohibitions extend to members of the Kansas Highway Patrol [K.S.A. 74-2113 (e)] and to state employees engaged in the administration of the Employment Security Act [K.S.A. 1989 44-714 (c) (2)].

Under current law [K.S.A. 74-2113 (e)], members of the Kansas Highway Patrol, including the superintendent, are prohibited from participating in any political contest in any election. The superintendent is appointed by the Governor and serves in an unclassified position; the officers, troopers, and employees of the Highway Patrol serve in the classified service.

Attorney General Opinion No. 84-40 opined that members of the Kansas Highway Patrol may not be partisan candidates for a political office, even if they take a leave of absence without pay prior to filing for the office, with the understanding they would either resign or go back to work once the outcome of the election is known.

Under current law [K.S.A. 44-714 (c) (2)], employees engaged in the administration of the Employment Securities Law are prohibited from participating in any form of political activity except as candidates for a nonpartisan elective public office.

Attorney General Opinion No. 90-109 opined that the political activities of employees of the Kansas Department of Human Resources are subject to provisions contained in K.S.A. 44-714 and the federal Hatch Act, 5 United States Code (U.S.C.) §1501, *et seq.*

Under the provisions contained in 5 U.S.C. §1501, *et seq.*, of the federal Hatch Act, a state or local officer or employee may not be a candidate for elective office. A state or local officer or employee is defined, in this Act, as an individual employed by a state or local agency whose principal employment is

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in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a federal agency. Excluded from this definition is an individual employed by an educational or research institute, establishment, agency, or system which is supported in whole or in part by a state or political subdivision.