

Approved: 3-20-95
Date

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS, CONGRESSIONAL AND LEGISLATIVE APPOINTMENT & GOVERNMENTAL STANDARDS .

The meeting was called to order by Chairperson Sen. Janice Hardenburger at 1:30 p.m. on March 14, 1995 in Room 529-S of the Capitol.

All members were present except: Senator Martin, Excused

Committee staff present: Dennis Hodgins, Legislative Research Department
Arden Ensley, Revisor of Statutes
Stacey Soldan, Committee Secretary

Conferees appearing before the committee: Rep. Tom Sloan
Kelly Jennings-Kansas Association Public Employees
Brad E. Avery-State Employees Association of Kansas
Mike Auchard-President KU Classified Senate
Neva Entrikin

Others attending: See attached list

HB 2088--Relates to state officers and employees; would allow a state officer or employee in the state classified service to run as a candidate for elective office without first having to resign from the service upon filing as a candidate

Representative Sloan appeared before the committee to testify in support of **HB 2088**. (attachment 1) He testified he supported **HB 2088**, a bill that would allow a state classified officer to run for elective office without first having to resign. He stated current law is discriminatory to certain state classified employees. Discussion followed concerning how prohibitions of the Federal Hatch Act affected state employees. Rep. Sloan offered an amendment to make **HB 2088** comply with the federal Hatch Act.

Mike Auchard, President; KU Classified Senate, appeared before the committee to testify in support of **HB 2088**. (attachment 2) He stated he is representing 1,716 classified employees at the Lawrence campus. He also stated that current law is saying to classified employees that they are the only group of citizens who cannot be trusted to put the welfare of the state of Kansas above their personal interest. He urged favorable passage of **HB 2088**.

Kelly Jennings, Kansas Association of Public Employees, appeared before the committee to testify in support of **HB 2088**. (attachment 3) She stated that state employees are being given two sets of rules regarding running for and holding elective office, depending on their classification. She also stated that KAPE urges support of **HB 2088** with an amendment that would avoid violation of federal statute.

Brad Avery, State Employees Association of Kansas, appeared before the committee to testify in support of **HB 2088**. (attachment 4) He stated S.E.A.K. supports **HB 2088** providing an amendment be attached making state law conform to the Federal Hatch Act.

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HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 MEMBER: AGRICULTURE
 LOCAL GOVERNMENT
 ENERGY & NATURAL RESOURCES

Testimony on HB 2088

Permit Classified Employees To Seek Elective Office

Madam Chairman and Members of the Committee:

HB 2088 will permit classified state employees to seek elective offices - local, state and national - without first resigning from their employment.

1. First, I believe this is a fairness issue. Currently, unclassified state employees and teachers may seek elective offices without resigning from their positions - either to run for office or to serve if elected. In 1992, three state employees from Lawrence sought election to the House of Representatives - one had to resign her job before she could run, two did not. Both unclassified employees won and took leaves of absence to serve and then returned to their university positions. The third person not only lost the election, but had no job to which she could return. It is only fair that all state employees be treated the same.
2. Second, at a time when federal, state and local governments are making it easier for eligible citizens to register to vote and supporting programs like kids voting to increase the long-term number of potential voters, it is wrong to arbitrarily limit the number of persons eligible to seek elective offices.
3. There are more than 44,000 state employees, of which slightly more than 29,000 are classified employees. This is more than the population of 88 Kansas counties and more than such cities as Garden City, Junction City, Leawood and Prairie Village. If a law existed that persons living in 88 counties were excluded from the political process, the hue and cry from across our state would quickly result in a repeal. The fact that classified state employees live in all of our districts, rather than just in one community, should not mean they are prohibited from fully participating in the political process on which our nation was founded.
4. The state does not discriminate against candidates on the basis of gender, age, skin pigmentation, or physical condition. It is wrong to discriminate against a class of people because their employer is the people of Kansas.

Please remember, making classified state employees eligible to seek elective office does not mean any or all will do so. This bill is non-partisan, as the current prohibition affects Republicans, Democrats, Libertarians and Independents. Finally, should a classified state employee be elected, he or she will necessarily take a leave of absence from their employment, just as many of us do while we serve the people of Kansas.

Senate Elections
 3-14-95
 Attachment 1

Testimony in Support of House Bill 2088
Senate Elections Committee

Mike Auchard
President of KU Classified Senate
March 14, 1995

Senator Hardenberger and members of this committee:

My name is Mike Auchard and I am employed at the University of Kansas, Department of Student Housing, as a mason. I am also president of KU Classified Senate, which is an organization that represents the 1,716 classified employees at the Lawrence campus to the university's administration, the public, the Board of Regents and to the state legislature. KU Classified Senate is not affiliated with any other employee representative organization.

I am here today to speak in support of HB 2088, a bill which is attempting to redress what we feel is an inequity in K.S.A. 75-2953. I first became aware of this law in 1991 and have spoken to state legislators and the governor about it at every opportunity that presented itself since that time. In addition I have also written letters to various legislators and to the state attorney general. I feel very grateful that my district's representative, Tom Sloan, and seventeen other sponsors have brought this matter before you.

K.S.A. 75-2953 is in two parts. The first part is a basically good law. Its intention is to protect state employees from being coerced into participating in political campaigns by other employees in positions of authority and, of course, such protection is a good and necessary thing.

It is the second part of the law to which we object and that is addressed by HB 2088. This section of the law is bad not because classified employees are likely to want to run for partisan political office and it denies them the opportunity; which it does. I personally don't know of any classified employees who want to run for office or could afford the expense of a political campaign. This section of the law is bad because it discriminates against classified employees and in favor of unclassified employees for no good and just reason. It denies classified employees of the state of Kansas the right to participate in the decisions that affect their lives and the lives of every other citizen of the state. Classified employees and convicted felons are the only two groups denied these rights. The only people in this room who cannot run for partisan political office are me and any other state civil service workers who might be here. In order to run for partisan political office I would have to quit my job. This would jeopardize the well being of my family and make several bankers very nervous.

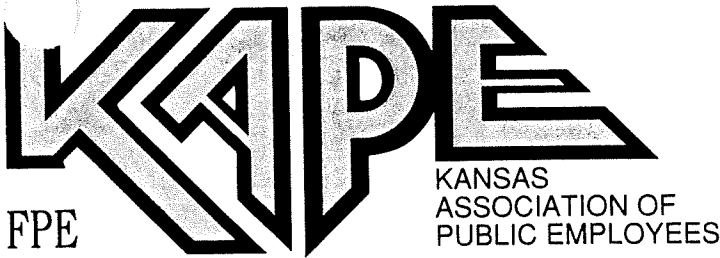
This law dates back to 1941 which is several years before I was born. I don't know what was going on in Kansas history at that time that compelled state lawmakers to pass this law. I can only assume that it was to protect the state against what must have been perceived as potential conflicts of interest. For example, state employees would be unable to vote on legislation affecting their retirement benefits or pay plans under this law, and on the surface this seems pretty reasonable. Everyone knows that conflicts of interest are to be avoided.

Something else that everyone knows is that conflicts of interest are as inevitable as the sun rising in the east. I would venture to say that there is not a single member of the state legislature who has not at one time or another had a piece of legislation in front of him or her that in one way or another would affect their personal fortunes or well being. Farmer legislators vote on farm bill. School teachers vote on education bills. Doctors vote on health bills. Legislators who have gas or oil well interests vote on mining and oil exploration bills. Legislators who own restaurants vote on liquor bills. There are so many conflicts of interest that one might almost say that life itself is a conflict of interest. What prevents people from abusing conflicts of interest are laws — and there are many, elections; and, more importantly and more basically, honesty, integrity and the trust we have in our fellow human beings. What K.S.A. 75-2953 is

saying to me and other classified employees is that we are the only group of citizens who cannot be trusted to put the welfare of the state of Kansas above our personal interests. The irony of this is that we are employed by the very state that doesn't trust us. The effect of this law is to deny us our right to participate in the democratic process and to make us feel like second class citizens.

I entreat all of you to help pass HB 2088. It is a chance to extend equal opportunity under the law to all law abiding citizens of Kansas. It is a just and moral bill. It is a reasonable bill. And what's more, it is a revenue neutral bill. Let the electoral process determine who should be allowed to serve. Give classified employees the same right to be heard as that enjoyed by other state employees. Grant classified employees freedom of speech.

Thank you.



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**Testimony of Kelly Jennings
Kansas Association of Public Employees
In Support of:
House Bill 2088
March 14, 1995**

Distinguished members of the committee, good afternoon. My name is Kelly Jennings, I represent the Kansas Association of Public Employees. I appreciate the opportunity to appear before you in support of House Bill 2088.

Currently, state classified employees must resign from state service before they may file as a candidate for state office. HB 2088 proposes to strike the language prohibiting employees from first resigning from office before filing as a candidate for elective office.

State employees, depending on their classification status, are at the present time being given two sets of rules regarding running for and holding elective office. Unclassified employees may run for and hold elective office without resigning their state position. Classified employees must resign their state position before filing for an elective office. HB 2088 seeks to extend the same set of rules regarding filing and holding of elective office for all state employees.



Page 2

House Bill 2088 is very similar to Senate Bill 137 which was heard by this committee. During testimony on SB 137 it was discovered that provisions of the Federal Hatch Act may apply to this legislation. These provisions of the Federal Hatch Act will certainly affect HB 2088 as well. Therefore, KAPE urges support of an amendment that will allow any state employee who is not affected by the provisions of the federal statute to be allowed to file for elective office without resigning their state position regardless of their classification status.

Certainly, the state should not violate federal law. However, state employees should be treated equally where possible under Kansas jurisdiction. KAPE urges support of HB 2088 with an amendment that would avoid violations of federal statute.

Thank you for your consideration. I would be happy to answer any questions you may have.

Senate Elections
3-14-95
Attachment 3-2

SState Employees Association of Kansas

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TESTIMONY OF BRAD E. AVERY STATE EMPLOYEES ASSOCIATION OF KANSAS ON HOUSE BILL 2088

House Bill 2088 permits classified state employees to run for elective office without first resigning their positions. The bill would eliminate all state restrictions currently in effect that prevent classified employees from running for statewide, legislative and congressional elective offices.

Currently, under state law, classified state employees are allowed to run only for a county commissioner's office, a nonpartisan city council position, a judgeship, or a township office without first resigning.

State law does not so restrict unclassified employees. There are approximately 29,000 classified and 13,000 unclassified state employees. The latter group is free to run for office and maintain their state employment after election, while the former cannot. S.E.A.K. believes these distinctions to be both inequitable and unnecessary.

Some have argued that the relatively secure nature of classified state employees' positions is good reason to prevent them from seeking political office. However, for most Kansans the option to run for political office, any office, is a fundamental right, not a privilege. The only restrictions placed on other citizens are those of age, time limitations and geography.

Job security is not a relevant distinction in determining the restrictions to

Senate Elections
3-14-95
Attachment 4

(2)

be placed upon such a basic part of the democratic process. It cannot be argued that other public employees who are not restricted in their ability to run for office, such as teachers, are any fundamentally less secure in their positions than classified state employees.

Unclassified state employees can be elected to the Legislature and find themselves in the position to make their jobs more secure by virtue of both the perceived and actual authority of holding political office. It is also beyond dispute that other professions and occupations are represented in the Legislature and have benefitted from the fact of that representation.

The one structural flaw in this legislation is that it does not address the restrictions inherent in the federal Hatch Act. As the committee is aware, federal law would take away the equivalent of two years salary from an agency that allowed an employee to run for partisan office if the agency received federal money and the employee was not otherwise exempted under the Act.

While S.E.A.K. views these restrictions as unnecessarily intrusive on the part of the federal government, we would recommend that an amendment be attached making state law conform to the Hatch Act.

Otherwise, we would urge favorable consideration of this legislation by the committee.

Senate Elections
3-14-95
Attachment 4-2