

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION AND ELECTIONS.

The meeting was called to order by the Chair, Rep. Carol Dawson, at approximately 9:00 a.m. on February 21, 1996 in Room 521-S of the Capitol.

All members were present except: All Present

Committee staff present: Dennis Hodgins, Legislative Research Department
Carolyn Rampey, Legislative Research Department
Jim Wilson, Revisor of Statutes
Donna Lutjohann, Committee Secretary

Conferees appearing before the committee: Arden Ensley, Revisor of Statutes
Carol Williams, KS Comm Standards & Conduct

Others attending: See attached list

Madam Chairman Dawson called the Committee's attention to the minutes of February 13, 14, 16 and 20, 1996. Rep. Benlon made a motion to approve the minutes. Rep. Gilmore seconded the motion. The minutes were approved.

Briefing on:

HB 3000: Prescribing certain standards governing ethics and conduct for public officers and employees

Chair Dawson recognized Arden Ensley to continue the briefing on HB 3000. Mr. Ensley explained how current law would be effected and responded to questions from the committee.

Hearing on:

HB 3000: Prescribing certain standards governing ethics and conduct for public officers and employees

Carol Williams was recognized by the Chair. She explained concerns with the bill and suggested amendments be made. See Attachment 1.

Madam Chairman Dawson announced that the hearing would be continued the next day, February 22, 1996.

The Madam Chair adjourned the meeting at 9:55 a.m. and announced that the next meeting would be February 22, 1996, at 9:00 a.m. at the Capitol with the possibility of a different room so as to accommodate the larger number of people.

GOVERNMENTAL ORGANIZATION AND ELECTIONS COMMITTEE GUEST LIST

DATE: February 21, 1996

NAME	REPRESENTING
Charlie Smithson	RCGSC
George Ross	Treasurers Dept.
Connie Hafenstein	KDOT
Annus Spudis	KDHE
Lina Brown	Peterson Public Affairs group
Elizabeth Easley	KS Co Clerks Assn
Sopora Clark	Kansas Insurance Dept
Karen Kowey	KASB
Connie Stewart	KS AFL-CIO
Edward Rome	League of Women Voters/KS
Craig Grant	HNFA
Jim Edwards	KCCIT
John Marshall	Harris news service
Jim Sheelar	United We Stand of Kansas
Paul Corbett	KCCII
Jane Kelly Coates	SRS
KEITH & LAURIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Don Moler	League of KS Municipalities
Pat Smith	KBA



KANSAS COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT

Testimony before House Governmental Organization and Elections House Bill 3000 February 21, 1996 by Carol Williams

I am testifying this morning on HB 3000 for several reasons; to stand as a proponent for several provisions of the bill, to offer technical amendments to the bill to make some sections administratively workable, and to provide information concerning the background of some of the current provisions in the Campaign Finance Act and Kansas Governmental Ethics Laws.

The Commission has not met since HB 3000 was introduced. Therefore, the comments and suggestions made are those of the Commission's staff who handle the day to day operations of the agency.

The following sections will be addressed:

Section 2, page 3. New section (f), which has been amended into K.S.A. 25-4153, would prohibit PAC to PAC contributions. For information purposes, in calendar year 1995, a non-election year, PACs gave \$57,875 to other PACs.

Section 3, page 4. K.S.A. 25-4142(d)(2)(A) has been amended to require the volunteer services provided or arranged for by a lobbyist or political committee to be valued as an in-kind contribution. What dollar value does one place on an individual's volunteer time?

*Campaign
finance Act.*

Section 3, page 5. The definition of "person" in the Campaign Finance Act is defined in K.S.A. 25-4143(h). This bill expands the definition of person to include limited partnerships, limited liability partnerships, limited liability companies, proprietorships, joint ventures and unincorporated associations. The definition of person has not been amended since the inception of the Commission in 1974. Limited liability companies, for instance, were not in existence in 1974. Therefore, staff believes the amendments made to this provision are reasonable.

Section 5, page 8. K.S.A. 25-4148 has been amended to require separate reporting of individual contributions from all other

contributions. This can be accomplished by merely providing two portions to Schedule A (Contributions and Other Receipts), one for individual contributors and another for all other contributions.

Section 15, page 18. This new section would prohibit any state agency from publishing or distributing any social calendar or notice of events at which hospitality will be provided to members of the legislature. The Commission finds this calendar invaluable. Staff uses the social calendar each month as a means of cross-check to make sure lobbyists who hold these events are registered and/or disclose the necessary information. On the average, each reporting period the Commission contacts approximately ten lobbyists to require them to register or to amend their reports to disclose the amount of money expended on these events.

Section 21, page 20. K.S.A. 46-237(d) has new language which would consider as hospitality continuing education seminars which are provided by an organization which usually charges a fee for such seminar so long as the seminar discusses legislative matters and for which continuing education credits may be obtained from a licensing agency. This provision was a part of Senate Bill 44 which passed the House and Senate in 1993. The bill was vetoed by Governor Finney because of another provision in SB 44.

Section 26, page 22. K.S.A. 46-225 defines "lobbying". The new language in this section substantially amends the current definition. The bill would define lobbying to mean promoting or opposing in any manner any official action or non-action by **direct communication** with an officer or employee of such agency for the purpose of influencing such officer or employee in the performance of their official duties. Staff believes that "direct communication" must be defined.

Section 27, page 23. K.S.A. 46-222 defines "lobbyist". The new language in this section substantially amends the current definition. The bill would define a lobbyist to mean any person who incurs expenses or makes or arranges for expenditures in an aggregate amount of \$100 or more in any calendar year for or related to lobbying. Deleted from the current definition of "lobbyist" is any person employed for lobbying and any person formally appointed as the primary representative of an organization to lobby in person on state property. Without a definition of "direct communication", staff is unsure of the number of individuals who would be required to register to lobby since those who are employed or appointed may or may not be required to register as a lobbyist under the amended language.

Section 29, page 24. K.S.A. 46-265(c)(1) and (2) has been amended to require not only individuals to register as lobbyists but also organizations or other entities will be required to

register as lobbyists. No other state requires organizations or other entities to register as lobbyists. Only natural persons or individuals are required to register as lobbyists. Most states require the organization or other entity employing or appointing a lobbyist to register as a "Lobbyist Principal" and to also file reports.

Section 29, page 27. New subsection (n) of K.S.A. 46-265 requires every person employing or compensating any lobbyist to engage in lobbying to register with the Secretary of State. The registration statement will show the name and address of the lobbyist hired, employed or compensated by such person. Currently, 32 states require the lobbyist's principal to register. Staff is currently dealing with a situation in which an individual registered to lobby on behalf of an organization which has not retained, hired, or asked to be represented by such person. This situation came to light when the lobbyist who actually was retained by the organization filed his registration statement. This type of dispute would not occur if the lobbyist's principal filed a registration statement which listed the name of the lobbyist which represented the organization.

Section 30, page 29. New subsection (f) prohibits a lobbyist from charging or collecting an illegal or clearly excessive fee for lobbying. The section goes on to say "A fee for lobbying is clearly excessive when, after a review of the facts, a lobbyist of ordinary prudence would be left with a definite and firm conviction that the fee is in excess of a reasonable fee." Since violations of this Lobbyists Code of Professional Responsibility will be reported to the Commission, staff believes additional guidance or parameters should be provided in the bill as to what constitutes "excessive".

Section 33, page 35. Subsection (e) of K.S.A. 46-269 would require every lobbyist to keep detailed accounts, records, bills, and receipts in connection with activities which are reportable as lobbying expenditures. The lobbyist would be required to keep the records for five years and make the records available to the Commission. The Commission made a recommendation to the 1996 Legislature to permit it to conduct audits of all records maintained by a lobbyist for lobbying. The amendments to this provision would permit the Commission to audit the records of a lobbyist.

Section 37, page 37. This new section would prohibit any public agency from using or authorizing the use of funds, property, time, etc. to lobby any state officer or employee. We believe this prohibition may have broad ramifications and would urge your serious consideration of this section.

Section 44, page 39. This new section would set up a separate fee fund for the Commission in which lobbyist registration fees

would be credited. This money credited to this fee fund would be used exclusively to administer and enforce the State's lobbying laws.

Currently, the Commission has one fee fund into which candidate, PAC and lobbying fees are credited. This fee fund is used to supplement general fund dollars in administering and enforcing all laws under the jurisdiction of the Commission. In non-election years, lobbyist fees comprise about 66% of the fee fund. To restrict the use of this much of the fund to exclusively administering the lobbying provisions would mean more general fund appropriations would be required to supplement the agency's budget. The administration and enforcement of the Campaign Finance Act is approximately 75 percent of the agency's budget. Staff believes all lobbying fees should continue to be credited to the agency's existing fee fund.

Section 60, page 49. K.S.A. 46-246a is amended to include the phrases "supervise or manage" and "associated or related person" to the State's nepotism provision. K.S.A. 46-246a was enacted into law in 1991. As originally drafted, this provision included the phrase "supervise or manage" in its prohibition. After its enactment, this provision caused numerous problems in communities that did not have many employers other than the State. Since brothers, sisters, mothers, fathers, cousins, nephews, nieces, etc. lived and worked at the same state institution, the broad term "supervise or manage" caused unforeseen problems in the state institution. The 1992 Legislature deleted the phrase "supervise or manage" at the request of several large state agencies. Staff believes that the same unworkable situations would occur as in 1991 if "supervise or manage" were to be reinserted into this provision.

Section 61, page 50. K.S.A. 46-233 has been amended by adding to the prohibition of a state officer or employee participating in their official capacity in the making of a contract with any person or business the officer or employee is employed with or in whose business he or she has a substantial interest the substantial interest of a "household" member or "associated or related person". Staff would recommend that in addition to the substantial interest the spouse, household member or associated or related person might have, that the word "employed" be added. A state employee should not be allowed to participate in a contract between the state and his or her spouse's employer. This prohibition would also extend to the new language in the section.