

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT.

The meeting was called to order by Chairman Senator Janice Hardenburger at 1:30 p.m. on March 20, 2000, in Room 245-N of the Capitol.

All members were present:

Committee staff present: Dennis Hodgins, Legislative Research Department
Mike Heim, Legislative Research Department
Ken Wilke, Revisor of Statutes
Graceanna Wood, Committee Secretary

Conferees appearing before the committee: None

Others attending: See attached list

Chairman Hardenburger opened discussion on **HB 2627 concerning state officers and employees concerning governmental ethics; and repealing the existing sections.** She reported that the Sub-Committee stripped **HB 2627** and inserted a proposal on contracting and also a new section on lobbyist reporting. The proposal on the disclosure section is a former Senate bill which passed 33- 6 in 1996. The bill proposes if any lobbyists spend \$100 within a reporting period, they would be required to report those expenses and who received them. During the legislative session, reportable periods are monthly. After the session is over, the report is made in September and January. Currently, lobbyists only have to report an aggregate of expenses and in the category of food and beverage, entertainment and hospitality, gifts, honoraria, or payment, mass media communication, recreation provided as hospitality and communications. **HB 2627** would require that each individual expenditure be reported for the purpose of providing entertainment and hospitality in the form of recreation or food or beverages to members of the legislature. The report would be required to be reported every 30 days or every month during the session, and thereafter on the reporting date, and would have to list the name of the member of the legislature, the amount of each expenditure, plus his or her spouse, and the purpose for which the expenditure was made, whether it was for entertainment, recreation, food and beverages. Exemptions defined in the bill would apply to an invitation that would go to all members of the legislature, or to all members of a standing or joint committee, or to all members of a legislative delegation, when all those members were from the same congressional district. This would have to be published in the social calendar. Any expenditure that was below \$5 would not be reportable. Currently, anything less than \$2 is not reportable. (Attachment #1)

Senator Becker asked how one would define personal friend. He said he has a number of people who are personal friends and who are also lobbyists. The Committee discussed if the entertainment is charged to a lobbyist's company credit card, then it is probably business; however, if it is put on their personal credit card, then it is friendship.

Senator Gooch discussed how the records are going to be kept straight. The Committee discussed the importance of meeting and receiving information from lobbyists which is part of the process.

Chairman Hardenburger said a reporting bill penalizes leadership, because rank and file really doesn't get all that many individual invitations that leadership does.

Senator Becker told the Committee that the lobbyists play a very important part in the legislative process, and the lobbyists job is to inform the legislators on all sides of an issue, not just their side of an issue.

The Committee discussed other states which banned lobbyists favors. Senator Becker informed the Committee that the legislators in those states make much more in salary than Kansas legislators. Senator Lawrence said that it is necessary for some legislators to attend expensive dinners during the interim, which are paid by themselves. She added that if legislators are required to pay for every meal while in session, it would be hard to find anyone to run for the legislative offices.

CONTINUATION SHEET - MARCH 20, 2000

Senator Huelskamp said he did not understand what the discussion had to do with pay. Senator Lawrence said that the lobbyists will try to influence you one way or another, in the office, in the hallway, wherever, and they should have access to you at any time.

Chairman Hardenburger said that a registered lobbyist is employed to influence. That is the purpose of a registered lobbyist. He has to report to his employers of who he has entertained. There is total difference between a constituent and a registered lobbyist. A constituent has every right to persuade and to influence you, but he is not being paid to do it. The bill only pertains to registered lobbyists. A legislator can avoid any report by attending all of the events that are for the whole legislature, or for your Committee, or for your delegation from the Congressional district, or pay your own way.

Chairman Hardenburger said that the public seems to think there is a problem. If this is brought up at any public forum, there is disdain for the situation that is going on.

Senator Steineger said a ban on food and entertainment for disclosure purposes should be worked on in the future.

Senator Lawrence said that whatever is done, will not satisfy the public that we are honest, good, hardworking people; they will always feel there is something really shady going on, and they want it stopped. The bill is not going to satisfy them.

Senator Gooch said **HB 2627** was not going to change anything as to how the public perceives the Legislature, but there is a chance they will say we did something by passing out this bill.

Chairman Hardenburger said that the legislators report contributions to their campaign, which is public information on the internet. These are contributions from registered lobbyists to our campaign, and we seem to not feel uncomfortable with that disclosure.

Senator Gooch moved that the bill be amended to ban all lobbyists contributions for hospitality, food and entertainment, seconded by Senator Huelskamp.

Senator Becker moved that a substitute motion be added to the amended motion presented by Senator Gooch to add contents of **SB 55** that was passed in the Federal and State Affairs Committee last year, regarding legislative pay raise, seconded by Senator Gooch. Motion carried.

No votes were reported by Senators Hardenburger, Huelskamp, Praeger and Vidricksen.

Chairman Hardenburger asked for approval of the minutes for March 8, 9, 13, 14, 15 and 16.

Senator Becker moved that the minutes be approved as written, seconded by Senator Steineger. Motion carried.

Meeting was adjourned at 2:30 p.m. Next meeting is scheduled for March 21, 2000.

HOUSE BILL No. 2627

By Committee on Governmental Organization and Elections

1-13

12 AN ACT concerning governmental ethics, establishing requirements re-
13 garding gifts and hospitality, amending K.S.A. 1999 Supp. 46-237a and
14 46-269 and repealing the existing sections.
15 AN ACT concerning state officers and employees; **concerning gov-**
16 **ernmental ethics; [consulting and professional services con-**
17 **tracts;] amending [K.S.A. 46-292, 46-222 and 46-225 and K.S.A.**
18 **75-3738 and 75-3740 and] K.S.A. 1999 Supp. [46-236, 46-237 ;**
19 **46-237a and,][and 46-237a] [,] and 46-269[, 74-8904 and 75-**
20 **3739] and repealing the existing sections.**

relating to governmental ethics; relating to state agency contracts for consulting and professional services; amending K.S.A. 1999 Supp. 46-269 and repealing the existing section.

21
22 *Be it enacted by the Legislature of the State of Kansas:*
23 ~~Section 1. [K.S.A. 1999 Supp. 46-237a is hereby amended to read as~~
24 ~~follows: 46-237a. (a) The provisions of this section shall apply to:~~
25 ~~(1) The governor;~~
26 ~~(2) the lieutenant governor;~~
27 ~~(3) the governor's spouse;~~
28 ~~(4) all classified employees in the civil service of the state of Kansas;~~
29 ~~(5) all unclassified employees in the executive branch of state gov-~~
30 ~~ernment whose compensation is subject to approval by the governor pur-~~
31 ~~suant to K.S.A. 75-2035b, and amendments thereto; and~~
32 ~~(4) all officers and employees of the executive branch of state~~
33 ~~government; and~~
34 ~~(6) (5) all members of boards, commissions and authorities of the~~
35 ~~executive branch of state government.~~
36 ~~(b) No person subject to the provisions of this section shall solicit or~~
37 ~~accept any gift, economic opportunity, loan, gratuity, special discount or~~
38 ~~service provided because of such person's official position, except:~~
39 ~~(1) A gift having an aggregate value of less than \$40 given at a cere-~~
40 ~~mony or public function where the person is accepting the gift in such~~
41 ~~person's official capacity; or~~
42 ~~(2) gifts from relatives or gifts from personal friends when it is ob-~~
43 ~~vious to the person that the gift is not being given because of the person's~~

1 *[by the director of the office of administrative hearings. Any administrative*
2 *law judge contracted with or employed to conduct such proceedings shall*
3 *be admitted to the practice of law in this state. The office of administrative*
4 *hearings within the department of administration may establish and col-*
5 *lect reasonable amounts for services provided pursuant to this section.]*

6 **Sec. 3. 4. [13.] [K.S.A. 75-3738 and 75-3740 and] K.S.A. 1999**
7 **Supp. [46-222 and 46-225 46-236,] 46-237, 46-237a and[,] 46-269**
8 **[and 46-237a], 74-8904 and 75-3739] are hereby repealed.**

9 **Sec. 4. 5. [14.] This act shall take effect and be in force from and**
10 **after its publication in the statute book.**

New Section 1. (a)(1) "Professional services" means services performed under a contract with an agency of the state by any of the following:

(A) a certified public accountant;

(B) an attorney;

(C) a physician or other practitioner who is required to be licensed by the board of

healing arts; or

(D) a consultant.

(2) "Consultant" means an individual or firm providing contractual services in the form of professional or technical advice or opinions.

(b) Except as provided in subsections (c) and (d), all contracts for professional and consultant services shall be negotiated in accordance with the provisions of K.S.A. 75-37,102, and amendments thereto.

(c) The provisions of subsection (b) shall not apply to any contract for professional or consultant services that the director of purchases determines meets one or more of the criteria established in subsections (a) and (h) of K.S.A. 75-3739, and amendments thereto. When the director of purchases approves a contract for professional or consultant services under this subsection, the director may delegate authority to the agency to enter into the contract under conditions and procedures prescribed by the director.

(d) The provisions of subsection (b) shall not apply to any contract for professional or consultant services that is not anticipated to exceed \$25,000 in any fiscal year. Such a contract shall be entered into by the state agency on the basis of competitive negotiations with at least two individuals or firms unless the head of that state agency determines that competitive negotiations

are not in the best interest of the state. The agency head shall make a report to the director of purchases at least once in each calendar quarter of each contract for professional or consultant services that exceeds \$5,000 and is entered into without competitive negotiations.

(e) The director of purchases shall prepare a detailed report at least once in each calendar quarter of each contract for professional or consultant services that exceeds \$5,000 and is entered into under subsection (c) and all contracts for professional or consultant services reported to the director under subsection (d). The director of purchases shall submit the report to the legislative coordinating council, the chairperson of the committee on ways and means of the senate, the chairperson of the committee on appropriations of the house of representatives, and the chairperson of the Kansas performance review board.

(f) All contracts for architectural services, engineering services, construction management, or ancillary technical services entered into by an agency of the state shall be entered into in accordance with the applicable provisions of K.S.A. 75-430a, K.S.A. 75-1250 through 75-1266 and K.S.A. 75-5801 through 75-5807, and amendments thereto.

New Section 2. If a state agency expends grant funds to purchase goods or services for which the state agency receives a direct service or a tangible asset, the procurement of those goods or services shall be subject K.S.A. 75-3739, K.S.A. 75-37,102, New Section 1, and amendments thereto, or other applicable statute relating to procurement of those goods and services.

Sec. 3.K.S.A. 1999 Supp 46-269 is hereby amended to read as follows: 46-269.

~~46-269. Same, content of report, contribution to a single special event; reports by lobbyists having same employer; maintenance of records, inspection by commission.~~ Each report under K.S.A. 46-268, and amendments thereto, shall disclose the following:

(a) The full name and address of each person who has paid compensation for lobbying to the lobbyist or has paid for expenses of lobbying by the lobbyist during the period reported.

(b) The aggregate amount or value of all expenditures made, except for expenses of general office overhead, by the lobbyist or by the lobbyist's employer for or in direct relation to lobbying during the reporting period. If such expenditures exceed \$100. Individual expenditures of less than \$2 shall not be required to be reported under this subsection. Every lobbyist shall keep detailed accounts of all expenditures required to be reported pursuant to K.S.A. 46-268, and amendments thereto. Such expenditures shall be reported according to the following categories of expenditures:

- (1) Food and beverages provided as hospitality;
- (2) entertainment, gifts, honoraria or payments;
- (3) mass media communications;
- (4) recreation provided as hospitality;
- (5) communications for the purpose of influencing legislative or executive action; and

(6) all other reportable expenditures made in the performance of services as a lobbyist. With regard to expenditures for entertainment or hospitality which is primarily recreation, food and beverages, only amounts expended on a state officer or employee or on such officer or employee's spouse shall be considered to be for or in direct relation to lobbying. Notwithstanding the requirements of this subsection and subsection (c), no lobbyist shall be responsible to report any expenditure by the lobbyist's employer of which such person has no knowledge.

(d) (c) Whenever an individual lobbyist contributes to a single special event, such lobbyist shall report only the aggregate amount or value of the expenditure contributed by such lobbyist.

(e) (d) Whenever more than one lobbyist is employed by a single employer, the reports required

(c) In addition to the information reported in accordance with subsection (b), each lobbyist expending an aggregate amount of \$100 or more for lobbying in any reporting period shall report the amount of each individual expenditure made for the purpose of providing entertainment and hospitality in the form of recreation or food or beverages to members of the legislature. Such report shall state the name of the member of the legislature, the amount of each expenditure made for such member or such member and such member's spouse and the purpose for which the expenditure was made, whether for entertainment, recreation or food and beverages. If an expenditure is made for entertainment, the event for which such expenditure shall be reported. The provisions of this subsection shall not apply to expenditures for entertainment, recreation or food and beverages provided to all members of the legislature, all members of a standing or joint committee or all members of a legislative delegation when all members from a congressional district have been invited if notice of such invitation and function has been published in the listing or schedule of such events for such members published and provided by the division of legislative administrative services for such purposes.

\$5

(d)

more than one

each

by this section relating to such employer shall be made by only one such lobbyist and that lobbyist shall be the lobbyist who is most directly connected with the particular expenditure or gift, honoraria or payment. No expenditure or gift, honoraria or payment required to be reported by this section shall be reported by more than one lobbyist.

(e) All accounts, records and documents of the lobbyist which relate to every expenditure reported or which should have been reported shall be maintained and preserved by the lobbyist for a period of five years from the date of the filing of such report or statement and may be inspected under conditions determined by the commission.

~~History: L. 1974, ch. 353, § 55, L. 1975, ch. 272, § 20; L. 1981, ch. 171, § 45; L. 1983, ch. 173, § 2; L. 1987, ch. 199, § 1; L. 1990, ch. 306, § 12; L. 1991, ch. 150, § 44; L. 1997, ch. 155, § 1, July 1.~~

(f)

Records in support of every report or statement filed shall be maintained and preserved by the lobbyist for a period of five years from the date of filing of such report or statement

Sec. 4. K.S.A. 1999 Supp 46-269 is hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.