

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS AND LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Barbara P. Allen at 1:30 p.m. on March 20, 2003 in Room 245-N of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Jack Rickerson, Director of Personnel Services, Department of Administration  
Carol Williams, Executive Director, Governmental Ethics Commission  
Andy Sanchez, Executive Director, Kansas Association of Public Employees (KAPE)

Others attending: See attached list

**Approval of minutes**

Senator Buhler made a motion to approve the committee minutes of January 21 through March 5. Senator Clark seconded the motion and the motion carried.

**Hearing on:**

SB 265 - Providing an exemption to the ban on certain former state officers and employees right to be employed by or contract with certain person or businesses

Chairperson Allen brought the committee's attention to and opened the public hearing on SB 265.

Jack Rickerson, Director, Division of Personnel Services, recognized by Chairperson Allen spoke in support of SB 265. His testimony reflected the original intent was to keep a person who was leaving the state, working for someone who had a contract with the state. SB 265 would lift this restriction (Attachment 1).

Carol Williams, Executive Director, Governmental Ethics Commission, presented testimony in support of SB 265. She stated a state officer or employee who has been involved in the making of a contract on behalf of the state with any person or business is prohibited from accepting employment with such person or business for either two years after leaving the state or two years after completion of the contract, whichever is first. The new language in SB 265 would permit a state employee who is laid off from any state position to accept employment with an outside entity in which the state employee has participated in the making of a contract while employed by the State without waiting for two years after leaving state employment or completion of the state contract (Attachment 2).

Andy Sanchez, executive director, Kansas Association of Public Employees presented testimony in support of SB 265. SB 265 would allow state employees who are laid off, a chance to further their career and support their families (Attachment 3).

Senator Schmidt ask Chairperson Allen, the minutes reflect, he did not participate in the deliberations and expressed his intent to excuse himself from consideration on SB 265.

Chairperson Allen requested Jack Rickerson, if the desire of the administration was to alter or amend SB 265, to draft amendments and work with Ken Wilke, Revisor. The Chair stated the committee would not be working the SB 265 today. The amendments would be needed to work SB 265 Tuesday, March 25.

There being no other conferees to testify on SB 265, the Chair closed the hearing.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS AND LOCAL GOVERNMENT at on March 20, 2003 in Room 245-N of the Capitol.

Action on **HB 2023, HB 2122**

Chairperson Allen asked the committee to turn their attention to **HB 2023**. **HB 2023** had a hearing on March 13, 2003. The Chair had requested Representative Goico and Marvin Rainey, conferee from Shawnee, who had appeared before the committee to draft language as an alternative. This balloon would apply to wood shakes, composition shingles if they would need or exceed the fire resistance for a Class C roof, apply to any restrictive covenant either in existence in effect of this act or introduce on or after the effect of this act and the covenant could address color style or other aesthetic characteristics of roofing material (Attachment 4).

Senator Schmidt moved to amend **HB 2023** by on line 15 after (,) insert "any provision of", line 18 before "shall" insert "any provision of", strike lines 22, 23 and the "or" in line 24, adopt the top bracket of the balloon putting "a" in the appropriate place. On the second bracket strike "permits or allows the use". Senator Buhler seconded the motion. The motion carried. Senator Schmidt moved to adopt the bottom two brackets, seconded by Senator Clark, the motion carried. Senator Clark moved to amend further on line 22 add the word "by" in the proper place and pass **HB 2023** as amended and requested a Substitute Bill. Senator Schmidt seconded the motion, and the motion carried.

**HB 2122** - abandoned property relating to the rehabilitation thereof

The Chair requested Ken Wilke, Revisor to hand out the balloon (Attachment 5), with the requested amendments of Representative Rehorn and Senator O'Connor concerns about mechanics lien. Moved by Senator Clark seconded by Senator Huelskamp that the committee adopt the balloon amendment, the motion carried.

Senator Gilstrap moved to pass **HB 2122** out of committee favorably as amended, seconded by Senator Gooch. The motion carried.

**Adjournment**

Chairperson Allen informed the committee it would not be meeting tomorrow, Friday, March 21, or Monday, March 24. The committee would meet on Tuesday, March 25, at 1:00 p.m. instead of the usual 1:30 p.m. time scheduled.

The meeting adjourned at 2:22 p.m.



**Testimony to the  
Senate Committee on  
Elections and Local Government  
By  
Jack Rickerson, Director  
Division of Personnel Services**

**March 20, 2003**

**Senate Bill 265**

Madam Chairperson and members of the Committee, my name is Jack Rickerson. I am the Director of the Division of Personnel Services, and I appreciate the opportunity to speak in support of Senate Bill 265. This concept was developed jointly by the Department of Administration and the Governmental Ethics Commission, and I appreciate your consideration of our proposal.

Since the beginning of Fiscal Year 2003, the Division of Personnel Services has assisted with the processing of layoffs from 11 agencies with slightly over 200 positions designated for layoff. We anticipate seeing even more layoff proposals as we get closer to the end of the fiscal year. The most pressing issue for any employee facing a layoff is the opportunity to find other employment. It is my understanding that the original intent of this statute was to prevent state employees who participate in the making of a contract with another organization to reap personal benefits from their position with the state. While that concept is still valid, the statute as written could eliminate potential employment for laid off employees. I believe the state does not want to impede laid off employees from finding other employment, but rather to enhance those opportunities. The state, in this case, has nothing to lose by lifting that restriction for all employees who are laid off.

The severance packages approved by the Legislature for the closings of Topeka State Hospital, the Windfield State Hospital and Training Center, and the Reception and Diagnostic Unit of the Topeka Correctional Center, all contained the provisions to waive the two-year prohibition on accepting employment with a person or business with which the employee had participated in the making of a contract as a state employee. The Division believes broadening the application of this exception to any state employee who is laid off or scheduled to be laid off would eliminate a potential barrier and provide one more option at a very difficult time for the employee. While this bill may not affect a great number of employees due to the limited number of employees who may have participated in the making of contracts, we believe that anything that can be done to assist employees facing a layoff situation should be done.

The Governor is very supportive of this and any effort to assist laid off employees in finding employment. She believes the legislation makes sense and would be helpful to state employees who are laid off. For these reasons, we request favorable consideration of Senate Bill 265. I welcome the opportunity to answer any questions the committee may have.

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Attachment 1



## GOVERNMENTAL ETHICS COMMISSION

### Testimony before Senate Elections and Local Government In Support of SB 265 by Carol Williams March 20, 2003

On behalf of the Governmental Ethics Commission, I stand before you today as a proponent of SB 265. Senate Bill 265 amends K.S.A. 46-233, which is a provision of the Governmental Ethics Laws under the jurisdiction of the Commission.

Currently, a state officer or employee who has been involved in the making of a contract on behalf of the state with any person or business is prohibited from accepting employment with such person or business for either two years after leaving state employment or two years after completion of the contract, whichever is first. By definition, being substantially involved in the preparation of or participating in the making of a contract means having approved or disapproved a contract or having provided significant factual or specific information or advice or recommendations in relation to the negotiated terms of the contract.

Many state employees are being laid off due to the State's current budget crisis. Many of these employees have contacted the Commission asking if they could accept employment with private sector organizations they have been involved in contracting with on behalf of the State. These organizations are said to value the expertise these state employees possess and have offered these laid off employees jobs. By law, these employees can not accept employment with these organizations for two years after their lay off date, or two years after completion of the contract between the State and the organization, whichever comes first.

The new language in SB 265 found on page 2 on lines 30-33 would permit a state employee who is laid off or scheduled to be laid off from any state position to accept employment with an outside entity in which the state employee has participated in the making of a contract while employed by the State without waiting for two years after leaving state employment or completion of the state contract.

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In anticipation of the Topeka and Winfield State Hospitals being closed, the Kansas Legislature in 1996 amended K.S.A. 46-233 to allow employees of these two institutions to accept employment with organizations they had been involved in the making of a contract with upon the closing of these two institutions. The language stricken in SB 265 from line 34 on page one through line 30 on page two is technical clean up since the language is no longer necessary now that these two institutions are closed.

The Commission urges passage of SB 265





FPE / AFT / AFL-CIO

# The Kansas Association of Public Employees

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## KAPE/AFT Staff:

Andy Sanchez, Executive Director  
Marty Vines, Director of Negotiations  
Lisa Vines, Director of Public Relations  
Bill Gonzalez, Employee Relations  
Monica Shane, AFT Account Specialist  
Cindy Lovell, Data Control

## Testimony before the Senate Elections and Local Government Committee March 20, 2003

By Andy Sanchez, executive Director  
Kansas Association of Public Employees

Thank you Madam Chair and members of the Committee. KAPE represents state, city, and county employees. Today, I am here on behalf of state employees and to voice our support for SB 265.

State employees, like many others are finding themselves in the precarious position of not knowing whether their job will be kept safe from our state budget problems. It is of no fault of their own, yet many will be made to pay the price of being unable to provide for their family. Most everyone I talk to is surprised and amazed at the lack of alternatives that exist for many long term employees of the state, some as much as 25 and 30 years. It is important to know that bumping rights, the ability to bump into positions held harmless from layoff can and are being severely limited. This is easily illustrated when you consider they have to meet the minimum qualifications for the job. That is expected. But, the "bumping right" may be further limited to first, agency, second, geographical location, and third organizational unit. As you might expect, organizational unit leaves them no opportunity for bumping.

State employees are hard-working Kansans. Many have devoted their life to public service. They are who keep our families and neighborhoods safe, plow our roads, protect the state's most vulnerable citizens, protect our children from sexual predators. They keep our food and drinking water safe and clean, provide higher education services to our children and much, much more.

As stated above, layoffs to state employees come as no fault of their own and that warrants this exception. SB 265 simply offers opportunity. We believe that the state is not doing enough to salvage the valuable experience and talent of laid-off state employees. Further, no consideration is being given to salvage their dignity like early retirement incentives and severance packages. Let's not restrict their opportunities in addition. We ask this committee for your favorable consideration of SB 265.

Thank you

Working Together,  
We Make A Difference!



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Attachment 3

HOUSE BILL No. 2023

By Representative Goico

1-15

12 AN ACT concerning certain restrictive covenants.

13

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

15 Section 1. (a) ~~Any~~ **On and after the effective date of this act, any**  
16 ~~restrictive covenant that requires the use of wood, shake wood shingles,~~  
17 ~~shakes, shake shingles or similar material in the roof of any building is~~  
18 **hereby declared to be against public policy and shall be void and**  
19 **unenforceable unless such covenant also allows for the use of an alter-**  
20 **native material which is comparable in appearance, flame resistant or**  
21 **retardant, and meets or exceeds any fire prevention standards es-**  
22 **tablished by the Kansas fire marshal pursuant to article [1 of chap-**  
23 **ter] 31 of the Kansas Statutes Annotated, and amendments thereto,**  
24 **or any municipal building code, which has been adopted as re-**  
25 **quired by law, whichever is more restrictive.**

26 (b) ~~The provisions of this section shall apply to existing restrictive~~  
27 ~~covenants and to restrictive covenants entered into after the effective date~~  
28 ~~of this act.~~

29 Sec. 2. This act shall take effect and be in force from and after its  
30 publication in the ~~statute book~~ **Kansas register.**

(a)

which requires, permits or allows the use the use of wood shingles or wood shakes as a roof covering material for any residential dwelling

as an alternative the use of composition shingles if such composition shingles are incorporated as part of a roof assembly that meets or exceeds the fire resistance standards for a Class C roof as established by testing standards recognized

applicable to such residential dwelling

(b) The provisions of this section shall apply to any restrictive covenant:

- (1) In existence on the effective date of this act; or
- (2) entered into on or after the effective date of this act.

(c) The provisions of this section shall not affect the enforceability of a restrictive covenant which regulates or restricts the color, style, dimension or other aesthetic characteristics of roofing material to be used on a residential dwelling if such restrictive covenant meets the requirements of subsection (a).

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1 (1) The property ~~has been declared abandoned pursuant to K.S.A.~~  
2 ~~12-1753~~ *meets the definition of abandoned as set forth in K.S.A. 12-1750,*  
3 and amendments thereto;

4 (2) the organization intends to rehabilitate the property and use the  
5 property as housing ~~for low and moderate income persons and families~~  
6 **[for first-time home buyers]**; and

7 (3) the organization has sent notice to the enforcing officer and the  
8 parties in interest of the property, by certified or registered mail, mailed  
9 to their last known address and posted on the property at least ~~30~~ **20**  
10 days but not more than 60 days before the date the petition is filed, of  
11 the organization's intent to file a petition for possession under K.S.A. 12-  
12 1750 through 12-1756e, and amendments thereto.

13 (b) The proceeding shall be commenced by filing a verified petition  
14 in the district court in the county in which the property is located. The  
15 petition shall state that the conditions specified in subsection (a) exist. All  
16 parties in interest of the property shall be named as defendants in the  
17 petition. Summons shall be issued and service shall be made pursuant to  
18 K.S.A. 60-303, and amendments thereto. Service may be made by pub-  
19 lication if the organization with due diligence is unable to make service  
20 of summons upon a defendant pursuant to subsection (a)(3) of K.S.A. 60-  
21 307, and amendments thereto.

22 (c) Any defendant may file as part of such defendant's answer, as an  
23 affirmative defense, a plan for the rehabilitation of the property *and ev-*  
24 *idence of capacity and resources necessary to complete rehabilitation of*  
25 *the property.* The court shall grant the defendant 90 days to bring the  
26 property into compliance with applicable fire, housing and building codes  
27 *and to pay all delinquent ad valorem property tax.* ~~The court, for good~~  
28 ~~cause shown, may extend the ninety-day compliance period. If the prop-~~  
29 ~~erty is brought into such compliance within the ninety-day period or ex-~~  
30 ~~ension of time thereof, the petition shall be dismissed.~~ **For good cause**  
31 **shown, the court may extend the ninety-day compliance period. If**  
32 **the property is brought into such compliance within the ninety-**  
33 **day period or extension of time thereof, the petition shall be dis-**  
34 **missed.** If the defendant fails to bring the property into such compliance  
35 within the ninety-day period ~~or extension of time thereof~~ **or extension**  
36 **of time thereof,** or if the defendant's plan is otherwise insufficient, the  
37 defendant's affirmative defense shall be stricken.

38 (d) At the hearing on the organization's petition, the organization  
39 shall submit to the court a plan for the rehabilitation of the property and  
40 present evidence that the organization has adequate resources to reha-  
41 bilitate and thereafter manage the property. For the purpose of devel-  
42 oping such a plan, representatives of the organization may be permitted  
43 entry onto the property by the court at such times and on such terms as

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the court may deem appropriate.

(e) The court shall make its own determination as to whether the property is in fact abandoned consistent with the terms of K.S.A. 12-1750 through 12-1756e, and amendments thereto.

(f) If the court approves the petition, the court shall enter an order approving the rehabilitation plan and granting temporary possession of the property to the organization. The organization, subject to court approval, may enter into leases or other agreements in relation to the property. Whether the court approves or denies the petition, the organization shall provide the governing body a copy of the order within 30 days of the organization's receipt or knowledge of such order.

Sec. 3. K.S.A. 12-1756b is hereby amended to read as follows: 12-1756b. An organization which has possession of property pursuant to K.S.A. 12-1756a, and amendments thereto, shall file an annual report with the governing body of the city court concerning the rehabilitation and use of the property. The city court shall require reports and status dates to be filed as it deems appropriate under the circumstances but no less frequently than once a year. The report shall include statements of all expenditures made by the organization including, but not limited to, payments for the rehabilitation, operation and maintenance of and repairs to the property, and for real estate taxes, and payments to mortgagees and lienholders during the preceding year and shall include statements of all income and receipts from the property for the preceding year.

Sec. 4. K.S.A. 12-1756e is hereby amended to read as follows: 12-1756e. If an owner of property of which temporary possession has been transferred to an organization pursuant to K.S.A. 12-1756a, and amendments thereto, takes no action to regain possession of the property in the five-year period following the granting of temporary possession of the property to the organization prior to the organization completing rehabilitation of the property, the organization may file a petition for judicial deed to the property and upon. Upon due notice to the named defendants and, an order may be entered granting a quit-claim judicial deed to the organization providing that the property shall be used for low and moderate income housing for at least a 10-year period after the deed is granted. A conveyance by judicial deed shall operate to extinguish all existing ownership interests in, liens on, and other interest in the property, except tax liens.

*or mechanics liens*

**New Sec. 5.** Any person who purchases a house from an organization which has rehabilitated such house pursuant to K.S.A. 12-1750 et seq., and amendments thereto, shall be a first-time home buyer and shall agree to occupy such house for at least three years following the date of taking title to such property.

Sec. 6. K.S.A. 12-1750, 12-1756a, 12-1756b and 12-1756e are