

MINUTES OF THE HOUSE ELECTIONS COMMITTEE

The meeting was called to order by Chairman Steve Huebert at 3:30 p.m. on February 3, 2010, in Room 144-S of the Capitol.

All members were present except:

Representative Bob Bethell- excused
Representative Mike Peterson- excused

Committee staff present:

Ken Wilke, Office of the Revisor of Statutes
Jill Shelley, Kansas Legislative Research Department
Florence Deeter, Committee Assistant

Conferees appearing before the Committee:

Carol Williams, Executive Director, Governmental Ethics Commission

Others attending:

See attached list.

Carol Williams, Executive Director, Governmental Ethics Commission, provided a history of the Commission, stating that the agency has been in existence thirty-six years under various titles: Governmental Ethics, Public Disclosure, Governmental Standards and Conduct, and presently, Governmental Ethics Commission. She explained that the Commission began with an eleven-member board; currently a nine-member board is in place with no more than five members drawn from each party. Appointments are made by The Governor who appoints the Chairman of the Commission. Each of the following appoints one person to a two-year term: the Chief Justice of the Supreme Court, the Secretary of State, the President of the Senate, the Speaker of the House, and the Attorney General. She indicated that reappointments are regularly issued for ongoing years of service (Attachment 1).

Meetings are conducted once each month and those sessions are open to the public. Topics for discussion and information vary from tenure, updates on the number of lobbyists who have filed, lobbyists' activity, review of complaints filed, investigations being conducted, to the handling of administrative matters. During the executive session, discussions center on audits, investigations, lobbyist involvement, and other issues which must remain confidential.

Ms. Williams explained the difference between errors and admissions forms and complaint forms. Errors and admission forms permit alterations and corrections on a filed report. She said that a formal complaint form requires an investigation of probable cause. The results of the investigation are submitted to the full commission for a decision. If the commission finds probable cause and a legitimate violation has occurred, the information is made public and a hearing date is determined. She said that if probable cause is not found, the complaint is not made public.

Ms. Williams referred the members to the new regulations in place regarding the confidentiality requirements of commission members and staff to comment on findings and procedures of the commission (page 3 of attachment 1). She said those regulations are in effect as of February 5, 2010.

During an informal question and answer session, Ms. Williams responded with equanimity to members' concerns.

The meeting was adjourned at 4:50 p.m. The next meeting is scheduled for February 10, 2010.

25-4119a. Governmental ethics commission; membership; terms; meetings; compensation and allowance, staff; fees; rules and regulations; annual report. (a) There is hereby created the Kansas commission on governmental standards and conduct.

(b) On July 1, 1998, the Kansas commission on governmental standards and conduct is hereby redesignated as the governmental ethics commission. On and after July 1, 1998, whenever the Kansas commission on governmental standards and conduct, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the governmental ethics commission. Nothing in this act shall be construed as abolishing and reestablishing the Kansas commission on governmental standards and conduct. The commission shall consist of nine members of whom two shall be appointed by the governor, one by the president of the senate, one by the speaker of the house of representatives, one by the minority leader of the house of representatives, one by the minority leader of the senate, one by the chief justice of the supreme court, one by the attorney general and one by the secretary of state. Nothing in this act shall be construed as affecting the terms of members serving on July 1, 1998. Not more than five members of the commission shall be members of the same political party and the two members appointed by the governor shall not be members of the same political party.

(c) The terms of all subsequently appointed members shall be two years commencing on February 1 of the appropriate years. Vacancies occurring on the commission shall be filled for the unexpired term by the same appointing officer as made the original appointment. Members shall serve until their successors are appointed and qualified. The governor shall designate one of the members appointed by the governor to be the chairperson of the commission. A majority vote of five members of the commission shall be required for any action of the commission. The commission may adopt rules to govern its proceedings and may provide for such officers other than the chairperson as it may determine. The commission shall meet at least once each quarter, and also shall meet on call of its chairperson or any four members of the commission. Members of the commission attending meetings of such commission, or attending a subcommittee meeting thereof authorized by such commission, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in subsections (a) to (d), inclusive, of K.S.A. 75-3223, and amendments thereto. The commission shall appoint an executive director who shall be in the unclassified service and receive compensation fixed by the commission, in accordance with appropriation acts of the legislature, subject to approval by the governor. The commission may employ such other staff and attorneys as it determines, within amounts appropriated to the commission, all of whom shall be in the unclassified service and shall receive compensation fixed by the commission and not subject to approval by the governor.

(d) The commission may adopt rules and regulations for the administration of the campaign finance act. Subject to K.S.A. 25-4178, and amendments thereto, rules and regulations adopted by the commission created prior to this act shall continue in force and effect and shall be deemed to be the rules and regulations of the commission created by this section of this enactment, until revised, amended, repealed or nullified pursuant to law. All rules and regulations of the commission shall be subject to the provisions of article 4 of chapter 77 of Kansas Statutes Annotated. The commission shall continue to administer all of the acts administered by the commission to which it is successor.

(e) The commission may provide copies of opinions, informational materials compiled and published by the commission and public records filed in the office of the commission to persons requesting the same and may adopt rules and regulations fixing reasonable fees therefor. All fees collected by the commission under the provisions of this subsection shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto.

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Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the governmental ethics commission fee fund.

(f) The commission shall submit an annual report and recommendations in relation to all acts administered by the commission to the governor and to the legislative coordinating council on or before December 1 of each year. The legislative coordinating council shall transmit such report and recommendations to the legislature.

(g) Whenever the Kansas commission on governmental standards and conduct, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the governmental ethics commission.

History: L. 1975, ch. 272, § 14; L. 1979, ch. 112, § 1; L. 1981, ch. 171, § 39; L. 1986, ch. 143, § 1; L. 1990, ch. 306, § 6; L. 1991, ch. 150, § 1; L. 1992, ch. 116, § 25; L. 1998, ch. 117, § 1; L. 2001, ch. 5, § 87; July 1.

19-6-1. Nondisclosure and public record. (a) (1) Except as otherwise provided by relevant law and as provided in K.A.R. 19-5-5, the following shall be confidential:

(A) All records, complaints, and documents, of the commission and all reports filed with, submitted to, or made by the commission; and

(B) all records and transcripts of investigations, and inquiries, and ~~or~~ hearings of the commission under ~~this act shall be confidential~~ K.S.A. 46-215 et seq. and K.S.A. 25-4142 et seq. and amendments thereto. They

(2) The items specified in this subsection shall not be open to inspection by any individual other than a member of the commission, an employee of the commission, or a state officer or employee designated to assist the commission.

(b) Nothing contained herein prohibits disclosures as are in this regulation shall prohibit any disclosure that is reasonable and necessary to properly investigate any matter. The following shall be public records and open to public inspection:

(1) ~~a~~ Each complaint and any amendments after a ~~probable cause determination that~~ probable cause exists;

(2) ~~an~~ each answer and any amendments with the consent of the respondent;

(3) ~~all matters~~ any matter presented at a public meeting or public hearing; and

(4) ~~all reports~~ each report of the commission stating a final finding of fact.

~~(b)-(c)~~ A Any person subject to an investigation ~~or a~~ and any respondent may release any report or order issued pursuant to K.A.R. 19-3-1 or K.A.R. 19-5-9 and may comment thereon on the report or order. The confidentiality requirements of relevant law shall be ~~observed~~ met by all

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members of the commission, and its staff, and all parties to any proceedings. (Authorized by

K.S.A. ~~1979~~ 2008 Supp. 25-4119a, K.S.A. 46-253; implementing K.S.A. 25-4161, 25-4165,

46-256, and 46-259; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective

Feb. 15, 1977; amended May 1, 1980; amended P-_____.)

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