

HOUSE BILL No. 2749

By Committee on Federal and State Affairs

5-4

9 AN ACT concerning challenging the constitutionality of a legislative ac-
10 tion or enactment by legislators; amending K.S.A. 2009 Supp. 46-233
11 and repealing the existing section.
12

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

14 Section 1. K.S.A. 2009 Supp. 46-233 is hereby amended to read as
15 follows: 46-233. (a) (1) No state officer or employee shall in the capacity
16 as such officer or employee be substantially involved in the preparation
17 of or participate in the making of a contract with any person or business
18 by which such officer or employee is employed or in whose business such
19 officer or employee or any member of such officer's or employee's im-
20 mediate family has a substantial interest and no such person or business
21 shall enter into any contract where any state officer or employee, acting
22 in such capacity, is a signatory to, has been substantially involved in the
23 preparation of or is a participant in the making of such contract and is
24 employed by such person or business or such officer or employee or any
25 member of such officer's or employee's immediate family has a substantial
26 interest in such person or business.

27 (2) Except as otherwise provided in this subsection, whenever any
28 individual has participated as a state officer or employee in the making
29 of any contract with any person or business, such individual shall not
30 accept employment with such person or business as an employee, inde-
31 pendent contractor or subcontractor until two years after performance of
32 the contract is completed or until two years after the individual terminates
33 employment as a state officer or employee, whichever is sooner. This
34 prohibition on accepting employment shall not apply in any case where
35 a state officer or employee who participated in making a contract while
36 employed by the state of Kansas is laid off or scheduled to be laid off
37 from any state position on or after July 1, 2002. As used in this subsection
38 (a)(2), "laid off" and "layoff" mean a state officer or employee in the
39 classified service under the Kansas civil service act, being laid off under
40 K.S.A. 75-2948, and amendments thereto.

41 (b) No individual shall, while a legislator or within one year after the
42 expiration of a term as legislator, be interested pecuniarily, either directly
43 or indirectly, in any contract with the state, which contract is funded in

1 whole or in part by any appropriation or is authorized by any law passed
2 during such term, except that the prohibition of this subsection (b) shall
3 not apply to any contract interest in relation to which a disclosure state-
4 ment is filed as provided by K.S.A. 46-239, and amendments thereto.

5 (c) No individual, while a legislator or within one year after the ex-
6 piration of a term as a legislator, shall represent any person in a court
7 proceeding attacking any legislative action taken or enactment made dur-
8 ing any term such individual served as a legislator as being unconstitu-
9 tional because of error in the legislative process with respect to such
10 action or enactment ~~unless such legislator voted no upon the enactment~~
11 ~~of the measure and declared on the record, during such term, that such~~
12 ~~legislation was unconstitutional.~~ The prohibition of this subsection (c)
13 shall not apply to ~~a current or former legislator charged with a violation~~
14 ~~of such legislative action or enactment~~ *any individual who was in com-*
15 *pliance with the provisions of this subsection in effect at the time the court*
16 *proceeding was filed.*

17 (d) Subsections (a) and (b) shall not apply to the following:

18 (1) Contracts let after competitive bidding has been advertised for by
19 published notice; and

20 (2) contracts for property or services for which the price or rate is
21 fixed by law.

22 (e) When used in this section:

23 (1) "Substantial interest" shall have the same meaning ascribed
24 thereto by K.S.A. 46-229, and amendments thereto, and any such interest
25 held within the preceding 12 months of the act or event of participating
26 in the preparation of making a contract.

27 (2) "Substantially involved in the preparation or participate in the
28 making of a contract" means having approved or disapproved a contract
29 or having provided significant factual or specific information or advice or
30 recommendations in relation to the negotiated terms of the contract.

31 Sec. 2. K.S.A. 2009 Supp. 46-233 is hereby repealed.

32 Sec. 3. This act shall take effect and be in force from and after its
33 publication in the statute book.