

Approved: 3-16-93
Date

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION AND ELECTIONS.

The meeting was called to order by Chairperson Marvin Smith at 9:00 a.m. on March 15, 1993 in Room 521-S of the Capitol.

All members were present except: Representative Barbara Ballard (Excused)
Representative Rick Bowden (Excused)
Representative Tom Bradley (Excused)
Representative Sheila Hochhauser (Excused)
Representative Elaine Wells (Excused)

Committee staff present: Carolyn Rampey, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Arden Ensley, Revisor of Statutes
Nancy Kippes, Committee Secretary

Conferees appearing before the committee:

Carol Williams, Kansas Commission on Governmental Standards and Conduct

Others attending: See attached list

Hearing on:

SB 50 - applying state governmental ethics laws to the Kansas technology enterprise corporation.

Carol Williams, Kansas Commission on Governmental Standards and Conduct, testified in support of SB 50, recommending that Kansas Technology Enterprise Corporation be brought under the provisions of the State Conflict of Interests statutes (Attachment 1).

SB 52 - applying state governmental ethics laws to Kansas development finance authority.

Carol Williams, Kansas Commission on Governmental Standards and Conduct, testified in support of SB 52, recommending that Kansas Development Finance Authority be brought under the provisions of the State Conflict of Interests statutes (Attachment 2).

Action on:

SB 45 - elections; filing fees for candidates for certain offices.

Rep. Haulmark made a motion to pass favorably SB 45. Rep. O'Connor seconded. Motion carried.

SB 96 - leave by state employees who are disaster service volunteers.

A handout was passed out to members from Nancy Nichols, Department of Administration (Attachment 3).

Rep. McKechnie made a motion to pass favorably SB 96. Rep. Gilbert seconded. Rep. Benlon made a substitute motion to change level 2 disaster to level 3 disaster. Rep. Scott seconded. Motion failed. The original motion carried.

Rep. Dillon moved approval of the minutes for March 11, 1993 as presented. Representative O'Connor seconded. Motion carried.

The meeting was adjourned at 9:25 a.m. The next meeting is scheduled for March 16, 1993.

GUEST LIST

COMMITTEE: House Governmental Organization & Elections DATE: 3-15-93

[illegible]



KANSAS COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT

Testimony before House Governmental Organization and Elections

Senate Bill 50

By Carol Williams, Kansas Commission on Governmental Standards & Conduct

Senate Bill 50 which is before you this morning would amend K.S.A. 74-8113 relating to the Kansas Technology Enterprise Corporation, K-TEC. This bill is a recommendation made by the Kansas Commission on Governmental Standards and Conduct in its 1992 Annual Report and Recommendations.

The Commission has had advisory opinion requests in the past from members of quasi-governmental organizations like K-TEC asking whether the States' Conflict of Interest provisions pertained to their activities (see attached Advisory Opinion No. 87-16).

The Commission recommends that the board of directors, president and employees of K-TEC be brought under the provisions of the State Conflict of Interests statutes. The board of directors finance basic research, award grants, engage in seed-capital financing and provide technical referral services. Duties of the president and employees of K-TEC include, among other things, the holding and maintenance of trade or business secrets, preparation of business plans and the handling of grant applications.

Currently other than the requirement that its' board members file Statements of Substantial Interests, board members, officers and employees of the Kansas Technology Enterprise Corporation do not fall under the provisions of the Act. Placing board members, officers and employees under this act would prohibit them from: 1) participating in the making of a contract with a business in which they hold a substantial interest; 2) receiving gifts, economic opportunities, etc. from a person with a special interest; 3) prohibit the disclosure or use of confidential information acquired in the course of their official duties; and 4) require certain employees designated by the president of K-TEC to file the Statement of Substantial Interests.

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Attachment 1

STATE OF KANSAS



KANSAS PUBLIC DISCLOSURE COMMISSION

109 W. NINTH
TOPEKA, KANSAS 66612
PHONE: (913) 296-4219

June 9, 1987

Opinion No. 87-16

TO ALL INTERESTED PERSONS:

Pursuant to K.S.A. 46-254, the Kansas Public Disclosure Commission takes this opportunity to issue its opinion on the applicability to K.S.A. 46-215 et seq. to members of Kansas, Inc., and Kansas Technology Enterprise Corporation and the president and employees of those organizations.

Under House Bill 2582, New Section 2(a), it is our opinion that the president of Kansas, Inc., and its employees are not covered by the provisions of K.S.A. 46-215 et seq. since that subsection describes such individuals as State employees only under very limited circumstances and specifically precludes the definition of State employee applying to such individuals in all other settings. Similarly, under House Bill 2582, New Section 5(a), it is our opinion that the president and employees of Kansas Technology Enterprise Corporation do not fall under the provisions of K.S.A. 46-215 et seq.

Members of the corporations are treated differently since there is no specific exemption relating to them. Thus, since the members of Kansas Technology Enterprise Corporation receive compensation under K.S.A. 75-3223, they are State officers and employees by definition of K.S.A. 46-221 and the conflict of interest law applies to them. In addition, substantial interest statements will need to be filed under K.S.A. 46-247(d) by those members to whom the provision applies.

Members of the Kansas, Inc., are not subject to the conflict of interest laws contained in K.S.A. 46-215 et seq. since they receive only expenses as provided in K.S.A. 75-3223(e) and are, therefore, exempt from the definition of State officer or employee under K.S.A. 46-221(a)(4). Those individuals who are members of Kansas, Inc., who are appointed subject to confirmation are, however, required to file the substantial interest statement under 46-247(d).

Sincerely,

A handwritten signature in cursive script that reads "Lowell R. Abeldt".

Lowell Abeldt, Chairman

By Direction of the Commission

LA:DDP:d1w



KANSAS COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT

Testimony before House Governmental Organization and Elections on Senate Bill 52

By Carol Williams, Kansas Commission on Governmental Standards & Conduct

Senate Bill 52 which is before you this morning would amend K.S.A. 74-8915 relating to the Kansas Development Finance Authority. This bill is a recommendation made by the Kansas Commission on Governmental Standards and Conduct in its 1992 Annual Report and Recommendations.

The Commission has had an advisory opinion request from a member of the Kansas Development Finance Authority asking if the Conflict of Interest statutes applied to him as a member (see attached Advisory Opinion No. 92-28).

The Commission recommends that the board of directors, president and employees of Kansas Development Finance Authority be brought under the provisions of the State Conflict of Interests statutes. The board of directors among other things acquire, hold and dispose of real and personal property; borrow money and issue notes and bonds; purchase notes; make secured or unsecured loans; sell mortgages and security interests at public or private sale; make and execute contracts for the servicing of mortgages acquired by the authority; and establish accounts in one or more depositories. The president of the authority appoints and employs additional officers, accountants, financial advisors or experts, bond counsel or other attorneys, agents and employees as is required and determines their qualifications, duties and compensation subject to the approval of the board of directors.

Currently other than the requirement that its' board members whose positions are subject to senate confirmation file statements of substantial interests as required by K.S.A. 46-247, members and employees are excluded

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Attachment 2

from the conflict of interest statutes. Placing board members, officers and employees under this act would prohibit them from: 1) participating in the making of a contract with a business in which they hold a substantial interest; 2) receiving gifts, economic opportunities, etc. from a person with a special interest; 3) prohibit the disclosure or use of confidential information acquired in the course of their official duties; and 4) require certain employees to file Statements of Substantial Interests as designated by the president of the Authority.



KANSAS COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT

August 21, 1992

Opinion No. 92-28

Curtis A. Krizek, Chairman of the
Kansas Development Finance Authority
Lathrop & Norquist
1050/40 Corporate Woods
9401 Indian Creek Parkway
Overland Park, KS 66210-2007

Dear Mr. Krizek:

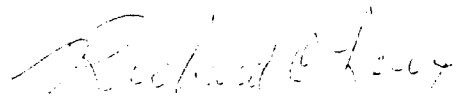
This opinion is in response to your letter of July 27, 1992, in which you request an opinion from the Kansas Commission on Governmental Standards and Conduct concerning the state conflict of interest law (K.S.A. 46-215 et seq.).

We understand you request this opinion in your capacity as Chairman of the Kansas Development Finance Authority. In this capacity you do not receive compensation except as provided for by K.S.A. 75-3223(e) for expense allowances and reimbursement.

You ask whether K.S.A. 46-215 et seq. applies to you as a result of your position.

You have correctly noted that K.S.A. 46-221 defines "state officer or employee" and subsection (a)(4) specifically excludes from the definition of "state officer and employee" persons who receive only the expense allowances and reimbursement provided to you. Thus, you do not meet the definition of "state officer or employee". As a general rule the Act does not apply to you due to your position with the Kansas Development Finance Authority. One exception to this rule is, as you have recognized, that you are required to file a Statement of Substantial Interest under K.S.A. 46-247. If you have any questions concerning the requirements of full disclosure in relationship to your firms clients, please contact our staff for guidance.

Sincerely,


Richard C. Loux, Chairman

By Direction of the Commission

RCL:DDP:dlw

STATE OF KANSAS



DEPARTMENT OF ADMINISTRATION
Division of Personnel Services

JOAN FINNEY,
Governor

NANCY M. ECHOLS,
Director of Personnel Services

March 9, 1993

Room 951-South
Landon State Office Building
900 S.W. Jackson Street
Topeka, Kansas 66612-1251
913-296-4278
FAX 913-296-6793

The Honorable Marvin Smith
Chairperson, Governmental Organization
Kansas House of Representatives
Room 115-S, Capitol Building
Topeka, Kansas 66612

Dear Representative Smith:

Senate Bill 96 is before the House Governmental Organization and Elections Committee for review. I am writing to express my support of the bill as proposed.

Senate Bill 96 would authorize paid leave for any state employee who is a certified disaster service volunteer of the American Red Cross to participate in disaster relief services designated at level II and above in Kansas and bordering states. This leave, like any other paid leave, would be subject to the approval of the employee's appointing authority and would be limited to 20 working days in each twelve month period.

Other states were contacted to see if they have or are considering authorizing paid leave of absences for employees to perform disaster relief services. Six states, (Connecticut, Illinois, Ohio, North Carolina, Tennessee and Virginia), have enacted similar laws for disaster service volunteer leave. Twelve other states have pending legislation related to disaster service volunteer leave. With the passage of this bill, the State of Kansas would be in the forefront of public employers authorizing disaster service volunteer paid leave to employees.

According to the American Red Cross, over a twelve year span beginning from 1980 to 1992, they have conducted an average of two Level II or above disaster service operations in Kansas each year. However, employees who are American Red Cross certified volunteers would also be expected to assist in any of the states bordering Kansas if needed.

In the event that an employee should become injured while performing disaster services for the American Red Cross, the American Red Cross provides insurance coverage for any damages or injuries suffered while volunteering in a disaster service operation that the employee's individual insurance would not cover.

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House Unit Org + Elections
Attachment 3

Representative Smith

March 9, 1993

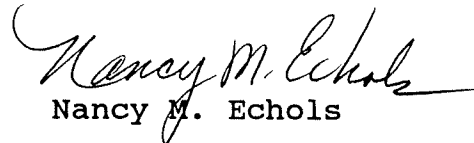
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In addition, the bill was amended to include a hold harmless provision for personal liability under the Kansas Tort Claims Act and Worker's Compensation.

The implementation of Senate Bill 96 and associated personnel regulations would facilitate the state's active involvement in responding to disaster emergencies and encourage state employees to voluntarily participate in American Red Cross disaster services.

I appreciate the opportunity to comment on Senate Bill 96. Please let me know if you have any questions.

Sincerely,



Nancy M. Echols

NME:kad

cc: Secretary Seltsam