

Approved: March 9, 1993  
Date

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS, CONGRESSIONAL & LEGISLATIVE  
APPORTIONMENT AND GOVERNMENTAL STANDARDS

The meeting was called to order by Chairperson Barbara Lawrence at 1:30 p.m. on February 25, 1993 in  
Room 529-S of the Capitol.

All members were present except: Senator Richard Bond  
Senator Mark Parkinson

Committee staff present: Dennis Hodgins, Legislative Research Department  
~~Mary Galligan, Legislative Research Department~~  
~~Raney Gilliland, Legislative Research Department~~  
Arden Ensley, Revisor of Statutes  
Pat Brunton, Committee Secretary

Conferees appearing before the committee: Senator Sheila Frahm, Kansas Legislature  
Carol Williams, Kansas Commission on Governmental  
Standards and Conduct  
John Koepke, Kansas Association of School Boards

Others attending: See attached list

Hearings were opened on **SB 232**--governmental ethics; conflicts of interests of local governmental officers  
and employees.

Senator Sheila Frahm, Kansas Legislature, testified in favor of **SB 232** saying this is an important piece of  
legislation that would close an existing loophole in the conflict of interest rules applicable to public officials  
and employees.

Carol Williams, Kansas Commission on Governmental Standards and Conduct, testified in favor of **SB 232**  
stating **HB 2050** is a piece of legislation which has the same identical language as **SB 232** but that the  
House committee will not take any further action on **HB 2050** this session. The Commission recommends  
that K.S.A. 75-4304 (a) be amended on lines 18-24 to state "Whenever any individual has, within the  
preceding two years participated as a local government officer or employee in the making of any contract with  
any person or business, such individual shall not accept employment with or provide contractual services to  
such person or business for one year following termination of employment as a local government officer or  
employee." This amendment would bring the local and state conflict provisions in line with each other.  
(Attachment 1)

Ms. Williams distributed copies of a "balloon" to the committee which reads (line 24 after "officer or  
employee") Upon application to and for good cause shown, and taking into consideration whether the local  
governmental officer or employee had an expectancy of taking the employment or providing contractual  
services when he or she participated in the making of the contract and considering the size of the contract and  
the employment opportunities in the community, the commission may waive the requirement. (Attachment 2)

John Koepke, Kansas Association of School Boards, testified in opposition to **SB 232**. He is concerned  
about the enforcement issue among other aspects of this legislation.

Chairperson Lawrence announced that hearings on **SB 232** will be continued at a later date.

Senator Hardenburger distributed copies of the subcommittee report on **SB 327**--elections; runoff primary  
elections for state offices. After much discussion, the subcommittee agreed that the bill should be considered.  
(Attachment 3) **SB 327** will be continued at a later date.

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS, CONGRESSIONAL & LEGISLATIVE APPORTIONMENT AND GOVERNMENTAL STANDARDS, Room 529-S Statehouse, at 1:30 p.m. on February 25, 1993.

The meeting adjourned at 2:15 p.m.

The next meeting is scheduled for March 9, 1993.

GUEST LIST

SENATE ELECTIONS COMMITTEE

DATE February 25, 1993

(PLEASE PRINT)  
NAME AND ADDRESS

ORGANIZATION

John W. Kaege  
J. A. Dela  
Carol Williams  
Janet Withers

KASB  
SOS  
KCGSC  
KCGSC

**KANSAS COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT****Testimony before Senate Elections, Congressional & Legislative  
Apportionment and Governmental Standards****on Senate Bill 232****By Carol Williams, Kansas Commission on Governmental Standards & Conduct**

Senate Bill 232 which is before you this afternoon amends a provision of the local conflict of interest law, K.S.A. 75-4304(a). This bill contains the same language as HB 2050, which is a recommendation made by the Kansas Commission on Governmental Standards and Conduct in its 1992 Annual Report and Recommendations.

Under current law, a local government official can participate in the making of a contract with a person or business and accept employment with that person or business the next day, while continuing to serve as a local government official. (See attached Advisory Opinion 92-27.) Currently, the time frame for holding a substantial interest at the local level is "in the preceding 12 months". Prior to 1991, the local conflict of interest definition of substantial interest covered the time period "current, preceding, or succeeding calendar year". In essence, prior to 1991, this meant that if a local government official had a substantial interest in any business or combination of businesses, he or she could not participate in the making of a contract with such business.

Current state conflict of interest provisions prohibits a state officer or employee from accepting employment with any person or business for one year if the state officer or employee has participated in the making of any contract with such person or business, within the preceding two years.

SENATE ELECTIONS  
2-25-93  
ATTACHMENT 1

The Commission recommends that K.S.A. 75-4304(a) be amended on lines 18-24 to state "Whenever any individual has, within the preceding two years participated as a local government officer or employee in the making of any contract with any person or business, such individual shall not accept employment with or provide contractual services to such person or business for one year following termination of employment as a local government officer or employee.". This amendment would bring the local and state conflict provisions in line with each other.

The Commission urges your support of Senate Bill 232.



## KANSAS COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT

August 21, 1992

Opinion No. 92-27

Paul R. Oller  
 Trego County Attorney  
 216 N. Main  
 WaKeeney, Kansas 67672

Dear Mr. Oller:

This opinion is in response to your letter of July 17, 1992, in which you request an opinion from the Kansas Commission on Governmental Standards and Conduct concerning the local conflict of interest law (K.S.A. 75-4301a et seq.)

We understand you request this opinion in your capacity as County Attorney for Trego County, Kansas. You also have a part-time law practice and have received an offer of employment from The Farm, Inc., which will run concurrently with your duties as County Attorney.

You indicate that you may have participated in recommendations to the county to contract with The Farm, Inc., in your capacity as County Attorney.

You ask whether this situation precludes you from accepting the part-time position with The Farm, Inc. while County Attorney, and for general guidance from the Commission should your acceptance of this position be permissible.

While the situation you describe may well be prohibited under K.S.A. 46-233 which applies to state officers and employees there is no corresponding provision in the local law. Thus, you are not prohibited from accepting the position with The Farm, Inc., while serving as County Attorney. However, under K.S.A. 75-4304 and 75-4305, we suggest you file a disclosure statement and also avoid participating in your capacity as County Attorney with any contracts between the County and The Farm, Inc.

Sincerely,

*Richard C. Loux*  
 Richard C. Loux, Chairman

By Direction of the Commission

RCL:DDP:dlw

**75-4301a.** Governmental ethics applicable to local governmental subdivisions: definitions. As used in K.S.A. 75-4302a, 75-4303a, 75-4304, 75-4305 and 75-4306, and amendments thereto:

(a) "Substantial interest" means any of the following: (1) If an individual or an individual's spouse, either individually or collectively, has owned within the preceding 12 months a legal or equitable interest exceeding \$5,000 or 5% of any business, whichever is less, the individual has a substantial interest in that business.

(2) If an individual or an individual's spouse, either individually or collectively, has received during the preceding calendar year compensation which is or will be required to be included as taxable income on federal income tax returns of the individual and spouse in an aggregate amount of \$2,000 from any business or combination of businesses, the individual has a substantial interest in that business or combination of businesses.

(3) If an individual or an individual's spouse, either individually or collectively, has received in the preceding 12 months, without reasonable and valuable consideration, goods or services having an aggregate value of \$500 or more from a business or combination of businesses, the individual has a substantial interest in that business or combination of businesses.

(4) If an individual or an individual's spouse holds the position of officer, director, associate, partner or proprietor of any business, other than an organization exempt from federal taxation of corporations under section 501(c)(3), (4), (6), (7), (8), (10) or (19) of chapter 26 of the United States code, the individual has a substantial interest in that business, irrespective of the amount of compensation received by the individual or individual's spouse.

**75-4301.** Public officers and employees; conflict of interests; definitions. The following words and terms, when used in this act and the acts of which this act is amendatory, shall have the meanings respectively ascribed to them herein:

*Substantial interest.* The ownership by an individual or his or her spouse, either individually or collectively of a legal or equitable interest exceeding five thousand dollars (\$5,000) or five percent (5%) of any business, whichever is less, and also including the receipt by an individual or his or her spouse directly or indirectly of any salary, gratuity, other compensation or remuneration or a contract for or promise or expectation of any such salary, gratuity, other compensation or remuneration having a dollar value of one thousand dollars (\$1,000) or more in the current or immediately preceding or succeeding calendar year from any business or combination of businesses, and also including the holding of the position of officer or director of any business, irrespective of the amount of compensation or remuneration received by the person holding any such position. If a person's salary, compensation or other remuneration is a portion or percentage of a fee paid to a business or combination of businesses, a person shall have a substantial interest in any client who pays a fee to such business or combination of businesses from which fee such person receives one thousand dollars (\$1,000) or more in the current or immediately preceding calendar year.

Balloon for SB 232

Line 24 after "officer or employee"

Upon application to and for good cause shown, and taking into consideration whether the local governmental officer or employee had an expectancy of taking the employment or providing contractual services when he or she participated in the making of the contract and considering the size of the contract and the employment opportunities in the community, the commission may waive the requirement.

SENATE ELECTIONS  
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ATTACHMENT 2



February 25, 1993

Elections Subcommittee on SB 327

Present:	Janice Hardenburger	Joe deLa Torre
	Mark Parkinson	Becky _____
	Bill Wisdom	Linda Schreppel
	Arden Ensley	

Senate Bill 327 has been referred to Ways and Means.

The Sub-committee met on February 24 at 1:30 p.m. in the Elections Committee Room.

The following information was provided by the Secretary of State's Office:

In a sampling run, dating from 1974 through 1992, 31 races would have been run-offs. Twenty of those were Republican contests.

Ten states, mostly Southern states, in the Union have run-offs [Alabama, Arizona, Florida, Georgia, Mississippi, North Carolina, Oklahoma, South Carolina (Democrats only), South Dakota, Texas]. Secretary of State's office will request information from Texas, and possible other states. The time between the State primary and the state run-off range between 14 days to 35 days span of time.

If the law is implemented, the County Clerk raised the question of the necessity to exempt elections from the tax lid on counties to pay for the run-off, or should the run-off be state funded?

Discussion centered on the offices which would be affected: State offices (Gov., AG, Secretary of State, Treasurer, and Insurance Commissioner) and? legislative seats (House and Senate)

The Secretary of State's office and the County Clerk recommended the run-off ballot should not be rotated to save costs and time.

The committee agreed that the bill should be considered.

SENATE ELECTIONS  
2-25-93  
ATTACHMENT 3