

SENATE BILL No. 428

By Committee on Local Government

2-1

1 AN ACT concerning governmental ethics; extending the time frame for
2 hearings before the governmental ethics commission; allowing federal
3 officials access to commission investigations; amending K.S.A. 46-255,
4 46-256, 46-259, 46-265 and 46-280 and repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 46-255 is hereby amended to read as follows: 46-
8 255. Any individual, including any member of the commission, may file
9 with the commission a verified complaint in writing stating the name of
10 any person to whom ~~or which~~ this act applies alleged to have violated any
11 provision of this act, and which shall set forth the particulars thereof. If a
12 member of the commission files a complaint, he must disqualify himself
13 from the commission consideration of that complaint. Whenever a
14 complaint is filed with the commission, the commission shall promptly
15 send a copy thereof to the person complained of, who shall thereafter be
16 designated as the respondent. ~~No complaint alleging a violation of K.S.A.~~
17 ~~46-245 may be filed with the commission after the expiration of thirty (30)~~
18 ~~days from the date upon which the alleged violation occurred.~~

19 Sec. 2. K.S.A. 46-256 is hereby amended to read as follows: 46-256.

20 (a) If the commission determines that a verified complaint does not allege
21 facts, directly or upon information and belief, sufficient to constitute a
22 violation of any provision of this act, it shall dismiss the complaint and
23 notify the complainant and respondent thereof.

24 (b) Whenever a complaint is filed with the commission alleging a
25 violation of any provision of this act, such filing and the allegations therein
26 shall be confidential and shall not be disclosed except as provided in this
27 act.

28 (c) If the commission determines that such verified complaint does
29 allege facts, directly or upon information and belief, sufficient to constitute
30 a violation of any of the provisions of this act, the commission promptly
31 shall investigate the alleged violation.

32 (d) The commission shall notify the attorney general of any apparent
33 violation of criminal law or other laws not administered by the
34 commission, which is discovered during the course of any such
35 investigation.

36 (e) If, after the investigation, the commission finds that probable

1 cause does not exist for believing the allegations of the complaint, the
2 commission shall dismiss the complaint. If after such preliminary
3 investigation, the commission finds that probable cause exists for
4 believing the allegations of the complaint, such complaint shall no longer
5 be confidential and may be disclosed. Upon making any such finding, the
6 commission shall fix a time for a hearing in the matter, ~~which shall be not~~
7 more than ~~30~~ 90 days after such finding. In either event the commission
8 shall notify the complainant and respondent of its determination.

9 (f) The remedies and protections provided by K.S.A. 75-2973 and
10 amendments thereto shall be available to any state employee against whom
11 disciplinary action has been taken for filing a complaint pursuant to this
12 act.

13 Sec. 3. K.S.A. 46-259 is hereby amended to read as follows: 46-259.
14 The commission shall maintain a record of its investigations, inquiries, and
15 proceedings. All records, complaints, documents, reports filed with or
16 submitted to or made by the commission, and all records and transcripts of
17 any investigations, inquiries or hearings of the commission under this act
18 shall be confidential and shall not be open to inspection by any individual
19 other than a member of the commission, an employee of the commission,
20 or a state officer or employee *or federal officer or employee* designated to
21 assist the commission, except as otherwise specifically provided in this
22 act. The commission may, by adoption of a resolution, authorize the
23 release to the attorney general of any information, records, complaints,
24 documents, reports, and transcripts in its possession material to any matter
25 pending before the attorney general. In addition the commission shall
26 notify the attorney general of any apparent violation of criminal law, other
27 than laws administered by the commission, discovered during the course
28 of any investigation conducted by the commission. All matters presented at
29 a public hearing of the commission and all reports of the commission
30 stating a final finding of fact pursuant to K.S.A. 46-262, *and amendments*
31 *thereto*, shall be public records and open to public inspection.

32 Violation of any provision of this section or the confidentiality
33 provision of K.S.A. 46-256, *and amendments thereto*, is a class B
34 misdemeanor.

35 Sec. 4. K.S.A. 46-265 is hereby amended to read as follows: 46-265.

36 (a) Every lobbyist shall register *electronically* with the secretary of state
37 by completing and signing a registration form prescribed and provided by
38 the commission. The registration shall show the name and address of the
39 lobbyist, the name and address of the person compensating the lobbyist for
40 lobbying, the purpose of the employment, the name of each state agency or
41 state office and any agency, division or unit thereof and each judicial
42 department, institution, office, commission, board or bureau and any
43 agency, division or unit thereof and whether the lobbyist will lobby the

1 legislative branch and the method of determining and computing the
2 compensation of the lobbyist. If the lobbyist is compensated or to be
3 compensated for lobbying by more than one employer or is to be engaged
4 in more than one employment, the relevant facts listed above shall be
5 stated separately for each employer and each employment. Whenever any
6 new lobbying employment or lobbying position is accepted by a lobbyist
7 already registered as provided in this section, the lobbyist shall report the
8 same on forms prescribed and provided by the commission before
9 engaging in any lobbying activity related to the new employment or
10 position, and the report shall be filed with the secretary of state. When a
11 lobbyist is an employee of a lobbying group or firm which contracts to
12 lobby and not an owner or partner of the lobbying group or firm, the
13 lobbyist shall report each client of the group, firm or entity whose interest
14 the lobbyist represents. Whenever the lobbying of a lobbyist concerns a
15 legislative matter, the secretary of state promptly shall transmit copies of
16 each registration and each report filed under this act to the secretary of the
17 senate and the chief clerk of the house of representatives.

18 (b) On or after October 1, in any year any person may register as a
19 lobbyist under this section for the succeeding calendar year. The
20 registration shall expire annually on December 31 of the year for which
21 the lobbyist is registered. In any calendar year, before engaging in
22 lobbying, persons to whom this section applies shall register or renew their
23 registration as provided in this section. Except for employees of lobbying
24 groups or firms, every person registering or renewing registration who
25 anticipates spending \$1,000 or less for lobbying in the registration year on
26 behalf of any one employer shall pay to the secretary of state a fee of \$50
27 for lobbying for each employer. Except for employees of lobbying groups
28 or firms, every person registering or renewing registration who anticipates
29 spending more than \$1,000 for lobbying in the registration year on behalf
30 of any one employer shall pay to the secretary of state a fee of \$350 for
31 lobbying for the employer. Any lobbyist who at the time of initial
32 registration anticipated spending less than \$1,000, on behalf of any one
33 employer, but at a later date spends in excess of that amount, within three
34 days of the date when expenditures exceed that amount, shall file an
35 amended registration form which shall be accompanied by an additional
36 fee of \$300 for the year. Every person registering or renewing registration
37 as a lobbyist who is an employee of a lobbying group or firm and not an
38 owner or partner of the lobbying group or firm shall pay an annual fee of
39 \$450. The secretary of state shall remit all moneys received under this
40 section to the state treasurer in accordance with the provisions of K.S.A.
41 75-4215, and amendments thereto. Upon receipt of each such remittance,
42 the state treasurer shall deposit the entire amount in the state treasury to
43 the credit of the governmental ethics commission fee fund.

1 (c) Any person who has registered as a lobbyist pursuant to this act
2 may file, upon termination of the person's lobbying activities, a statement
3 terminating the person's registration as a lobbyist. The statement shall be
4 on a form prescribed by the commission and shall state the name and
5 address of the lobbyist, the name and address of the person compensating
6 the lobbyist for lobbying and the date of the termination of the lobbyist's
7 lobbying activities.

8 (d) No person who has failed or refused to pay any civil penalty
9 imposed pursuant to K.S.A. 46-280, and amendments thereto, shall be
10 authorized or permitted to register as a lobbyist in accordance with this
11 section until the penalty has been paid in full.

12 Sec. 5. K.S.A. 46-280 is hereby amended to read as follows: 46-280.

13 (a) Except as provided in subsection (b), the commission shall send a
14 notice by registered or certified mail to any person failing to register or to
15 file any report or statement as required by K.S.A. 46-247 or 46-265, and
16 amendments thereto, within the time period prescribed therefor. The notice
17 shall state that the required registration, report or statement had not been
18 filed with the office of secretary of state. The notice ~~also~~ shall *also* state
19 that such person shall have five days from the date ~~of receipt~~ of such
20 notice *is deposited in the mail* to comply with the registration and
21 reporting requirements before a civil penalty shall be imposed for each day
22 that the required documents remain unfiled. If such person fails to comply
23 within such period, such person shall pay to the state a civil penalty of \$10
24 per day for each day that such person remains unregistered or that such
25 report or statement remains unfiled, except that no such civil penalty shall
26 exceed \$300. The commission may waive, for good cause, payment of any
27 civil penalty imposed hereunder.

28 (b) Subject to the notice provisions of subsection (a), reports required
29 for lobbyists under K.S.A. 46-268, and amendments thereto, that are late
30 more than 48 hours shall be subject to civil penalties as provided in
31 subsection (b)(2).

32 (2) The lobbyist shall be liable for a civil penalty of \$100 for the first
33 day the report is more than 48 hours late and \$50 for each subsequent day
34 the report is late, but in no case shall the civil penalty exceed \$1,000. The
35 commission may waive, for good cause, payment of any civil penalty
36 imposed by this section.

37 (c) Whenever the commission shall determine that any report filed by
38 a lobbyist as required by K.S.A. 46-269, and amendments thereto, is
39 incorrect, incomplete or fails to provide the information required by such
40 section, the commission shall notify such lobbyist by registered or certified
41 mail, specifying the deficiency. Such notice shall state that the lobbyist
42 shall have 30 days from the date ~~of the receipt~~ of such notice *is deposited*
43 *in the mail* to file an amended report correcting such deficiency before a

1 civil penalty will be imposed and the registration of such lobbyist revoked
2 and the badge be required to be returned to the office of the secretary of
3 state. A copy of such notice shall be sent to the office of the secretary of
4 state. If such lobbyist fails to file an amended report within the time
5 specified, such lobbyist shall pay to the commission a civil penalty of \$10
6 per day for each day that such person fails to file such report except that no
7 such civil penalty shall exceed \$300. On the 31st day following the ~~receipt~~
8 ~~of date~~ such notice *is deposited in the mail*, the registration of any lobbyist
9 failing to file such amended report shall be revoked.

10 (d) Civil penalties provided for by this section shall be remitted to the
11 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
12 amendments thereto. Upon receipt of each such remittance, the state
13 treasurer shall deposit the entire amount in the state treasury to the credit
14 of the governmental ethics commission fee fund.

15 (e) (1) Except as provided in paragraph (2), if a person fails to pay a
16 civil penalty provided for by this section, it shall be the duty of the
17 commission to bring an action to recover such civil penalty in the district
18 court of the county in which such person resides.

19 (2) If a person required to file under K.S.A. 46-247(f), and
20 amendments thereto, fails to pay a civil penalty provided for by this
21 section, it shall be the duty of the commission to bring an action to recover
22 the civil penalty in the district court of Shawnee county, Kansas.

23 Sec. 6. K.S.A. 46-255, 46-256, 46-259, 46-265 and 46-280 are hereby
24 repealed.

25 Sec. 7. This act shall take effect and be in force from and after its
26 publication in the statute book.