

MINUTES OF THE HOUSE GOVERNMENTAL ORGANIZATION AND ELECTIONS.

The meeting was called to order by Chairperson Lisa Benlon at 3:40 p.m. on January 31, 2000 in Room 521-S of the Capitol.

All members were present except: Margaret Long (A)

Committee staff present: Dennis Hodgins, Research
Mary Galligan, Research
Theresa Kiernan, Revisor
Dee Woodson, Committee Secretary

Conferees appearing before the committee:
Carol Williams, Governmental Ethics Commission

Others attending: See attached list.

HB 2627 - Governmental ethics; establishing requirements regarding gifts and hospitality

Chairperson Benlon called the Committee's attention to **HB 2627**, and asked the Revisor to go over the balloon revisions of the Governor's lobbying reporting bill. She explained that the amendment on the first page of the balloon was just clean up amendment since all the officers and employees of the Executive Branch are going to be covered, the two were combined. The Revisor also clarified that it would apply to officers such as the Attorney General and the Insurance Commissioner. On page 2, in lines 34 and 35 those are similar amendments as on page 1 in that it applies to all unclassified employees. Line 38, corrected the name of the Governmental Ethics Commission. In Line 40 the provision in the new section that the reporting of hospitality and gifts to legislative and members of the judicial branch and their employees, it would require the amount expended on such gifts and hospitality be included on the report. In subsection (a) beginning on line 43, the Revisor explained the wording "widely attended", and read the amended verbiage.

Discussion and questions followed regarding: exceptions for non-reporting listed in the proposed bill; the true definition of a lobbyist; how to designate official capacity or unofficial capacity for attendance at events, being a member of a group or organization attending meetings as a private citizen and not a legislator; as a speaker for a meeting in an official capacity vs. unofficial, Political Action Committees, special funds set up for future campaigns for political office, concern about media's inaccurate reporting, and the \$40.00 gift limit per legislator.

Carol Williams, Executive Director of the Governmental Ethics Commission, appeared to answer any questions. She set out the criteria required to be a lobbyist, and explained about coalitions and relationships of legislators who belong to such coalitions. Before the meeting started, she had handed out examples of a draft of a possible reporting form to demonstrate the various kinds of events and how they could be accurately reported. (Attachment 1)

Committee members expressed their discomfort with letting lobbyists have control in reporting various legislators who participated in an event without some proof of attendance. One Committee member suggested that being able to sign on a form that he/she did indeed attend a particular function would lend itself to accurate reporting of attendees and amounts expended by the lobbying entity. Participation and attendance at national committees involving out of state travel was also brought to the floor's attention, and questioned as to required reporting if any by lobbyists groups.

Carol Williams informed the Committee that most of those national committees are not themselves a lobbyist organization, but they do have lobbyists that work for them. She stated if the Ethics Commission does not know about it or are not told about the event, then they don't follow through to require the reporting. If they were told about it, they would first contact the organization and find out the purpose of the event, determine what it was the organization was asking the legislator for, and ascertain if it is reportable under Kansas law. Ms. Williams responded, in regard to attending receptions at national

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conferences, that she thought in those instances she didn't believe that was lobbying. She stated they were blanket invitations to all members of certain committees all over the country. They don't know your name or necessarily know what state you are from. They just want you to come to a specified event. When they truly don't have that intent to try and influence you as a specific representative, then how can that be considered lobbying. She said she knew there were lobbying groups that invited hundreds of people and they do that because of your position, i.e. what Committee assignments you have, whether you are a Democrat or a Republican, etc. She didn't think it's anything you could ever prove that it was something reportable for lobbying. Ms. Williams stated there are lobbyists that represent those groups who attend those conferences, and they do in fact invite certain legislators specifically because they know you and want you in attendance. They select which legislators to invite.

Representative Johnston proposed an amendment to the bill to add to the Governor's language taken from his bill which puts a limit for (excluding food and drink) on the amount of recreation and entertainment a lobbyist can spend. He stated that currently there is no limit on the amount of entertainment that lobbyists provide. There is a \$40 limit on the amount they can spend on gifts. There is no limit on how much they can spend on legislators for entertainment, which gets back to the Rolling Stones Concert. Those tickets were like \$99.00 and that wasn't the only expense. He said according to current law a lobbyist could theoretically spend thousands of dollars to entertain a legislator, and first they wouldn't have to report it and second of all they wouldn't be breaking the law to do that. It is important to understand that is something that is relatively new. Prior to 1991, there was a \$100 limit on how much a lobbyist could spend in providing entertainment to individual legislators during a certain period.

Representative Johnston made a motion to amend the governor's bill to put an aggregate \$100 limit on recreation per legislator that an individual lobbyist can spend annually. The motion was seconded by Representative Toplikar. General discussion followed, and Carol Williams clarified several points in question by Committee members concerning entertainment vs recreation. She said "widely attended" referred to meals only and not \$100 limit on recreation. Food becomes a gift because lobbyist is not in attendance with the legislator.

Representative Palmer made a substitute motion that the legislative branch be included under the same prohibition of accepting or solicit anything of value as the Governor, Lt. Governor, Secretary of State, all officers and employees of the executive branch of state government. The motion was seconded by Representative Vining.

General discussion followed with opposition being expressed to the substitute motion. Voice vote was taken with result being motion failed. Division was requested with 5 votes for and 9 against. Motion failed.

Representative Johnston restated his motion to put a \$100 annual limit per lobbyist per year in terms of recreation. Voice vote was taken and it passed.

Chairperson Benlon called for a motion to be made covering the balloon revisions. Representative O'Connor made the motion to approve the balloon as revised on **HB 2627**, and was seconded by Representative Huff. Motion carried.

Representative Palmer made a motion to add to her previous amendment, on page 3 of the balloon, a clause requiring a sign-in sheet whereby the individual legislators would certify by signing that they attended the event or were provided meals. She stated her intent was for more accountability and proof in legislators' activities. Motion was seconded by Representative Welshimer.

Discussion followed involving the amendment changes. Questions from the Committee were addressed to Carol Williams regarding the following issues: actual reporting of meals and gifts, all gifts will be reported, recreation totals reported, penalties and fines assessed for fraudulent reporting, and the accountability of other states is indicated by 32 states require disclosure in itemization. She stated there is at least one state that requires the signing off on something. Carol Williams reminded the Committee that if legislators gave a gift they received from a lobbying entity to a staff member or donated to a charitable agency, the gift would still be detailed on the lobbyist report because it was intended for them. She also stated the problems are in the one to one lobbying tactics, and not when all legislators receive the same invitation.

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Representative O'Connor recommended that the signature list not be attached to the lobbyist report in order to reduce the bulk of the reporting; however, the lobbyist should be prepared to present the list as proof if needed. She asked if the motion could be modified, and Representative Palmer agreed to the modification to her motion. The motion was restated by Representative Palmer.

Additional discussion was held and concerns were raised about the time involved to get legislators to sign receipts for various items delivered to their offices plus the additional paperwork. Representative Johnston suggested amending Representative Palmer's motion to exempt anything that was \$10 or less in order to eliminate the numerous small items that are given each year.

Representative Palmer made the motion to amend her original motion to include gifts of \$10 or more would require a signature for receipt. No second received.

Representative Huff stated that he felt very strongly that this bill would not stand a chance when it reached the House floor because of the amendments, and asked Carol Williams what she thought of this amendment.

Carol Williams stated that lobbyists when it comes to ethics laws or conflicts are the best checks and balances, they control each other, and they are the ones that will be looking at the reports. She felt it was a good idea to put a \$10 limit on the value of gifts because that makes it easy on the lobbyists to give their little token gifts. She stated the more disclosure that is accomplished, the perception of impropriety will be gone. The public will see that it is no big deal if someone goes to lunch with a lobbyist four or five times. No one is getting a thousand dollar bill, no one is going to a concert every single night because that would show up. The problem would go away because the disclosure is there regardless whether you list the amounts or don't list the amounts.

Representative Huff said the Committee had never been able to pass a good ethics bill in the last four years.

Representative Horst stated her concern is that we have a bill that basically limits lobbyists having meals with a few individuals, and now we have a bill to sign in for gifts for \$10 and above. We are losing the fact that it is only a few people that we are trying to get to report. Representative Horst made a substitute motion that the separate reporting of gifts only apply to those certain individuals that receive the gifts of \$10 or more. That would limit the number of people that lobbyists have to keep track of or check off. No second received, motion dies for lack of second.

Representative Powers asked if the motion required a sign-off list for gifts and recreation of anything of \$10 or more in value and also for food and beverage for events that are not widely attended or anything reportable has to be signed off on. Representative Palmer agreed that was her motion with Representative Vining having seconded it. Representative Palmer said she moved the motion. Voice vote was called, and the motion carried.

Representative Topliker asked the Revisor for clarification on bottom of page 3, line 43, of the balloon regarding the definition of "personal relationship". He felt this would be taken advantage of from old friendships of former legislators who are now lobbyists, and creates a loop hole.

The Revisor explained it would depend on whether they were paying it out of their own pocket or submitting it to their company and having the client pay the bill.

Carol Williams said that provision has been in effect since 1974. What the intent of the relationship is; pay for themselves and not get reimbursed by their company. She said this was not a lobbyist issue, and it is in the ethics regulations, and has been in effect over 25 years. She did not see it as a loop hole.

Representative O'Connor made a request to see a balloon drafted before it is sent out of Committee, and postpone the final vote.

Chairperson Benlon asked if there were any other questions or comments. Representative Storm made the request to Carol Williams to draft a form and instructions for better reporting of activities and improve public's perception of lobbying and eliminate inflated numbers being reported. Carol Williams responded

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that the instructions for the lobbyists to use in reporting are attached to the forms, but adding a column for noting those who actually attended would be a good idea and differentiate between those in attendance whether they be legislators or other guests of the lobbying entity.

Chairperson Benlon said that since the Committee was not comfortable with this bill and all the amendments offered, they would work it in balloon form on Wednesday, February 2.

Chairperson Benlon opened the floor to bill introductions, and Representative Johnston made a motion to introduce a bill that would sunset the current 40 exemptions to the Kansas Open Records law, and would require that the legislature re-approve each of those exemptions or all of those exemptions every five (5) years. He stated that this would be a check to see if the exemptions were valid and appropriate, and it is modeled after a Florida law. He would like it to be part of the discussion that Representative Carlos Mayans' Committee is going to discuss on Open Records. Representative Barnes seconded the motion. Motion carried.

Chairperson Benlon made the motion to introduce a bill that would eliminate any person making unsolicited consumer telephone calls to a residential telephone number in this state. She gave the definition of an unsolicited consumer call other than a call made as (a) in response to an express request of the person called; (b) primarily in connection with an existing debt or contract payment or performance which has not been completed at the time of such call. Motion was seconded by Representative Powers. Motion carried.

The Chair asked if there were any other bill introductions. Seeing none the meeting was adjourned at 5:30 p.m.

The next Committee meeting is scheduled for Wednesday, February 2, 2000.