



Individual Liberty
Economic Liberty
Strengthen Families
Sovereign States Rights
Ending Judicial Activism

March 4, 2015

HB 2345 School Board Members "Conflict of Interest"

Proponent testimony in favor of this bill

Mr. Chairman and Committee Members,

I want to thank the committee for hearing such an important issue. We have existing statutes in this state that are simply not being enforced or recognized. Under K.S.A. **75-4301a** (copy provided below) no municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his or her office, directly or indirectly, any compensation, gratuity or reward in connection with such contracts from any other person beneficially interested therein.

Obviously this is an accountability issue in which the state law requires that school districts ensure that fairness and the appearance of fairness is paramount. So when we have School Board members approving contracts in which their spouses or siblings are directly benefiting from, therein lies the conflict. We can reverse the roles and vetoing or deleting changes that might financially hurt those employees.

Obviously this a transparency issue. Public confidence is paramount in these situations because schools are the largest financial investment in this state. How a school board will deal with employment contracts between the district and the spouse of a district officer, a board member, a financially dependent family member or a member that has business ties to the district are not issues these individuals need to be placed in.

More districts than ever are facing this situation of having board members having direct conflicts of interest with the district and the fairness and appearance of fairness questions that particular situation raises. It is mathematically possible that **all** or certainly majority of our school boards are facing that sort of conflict. Districts are already in a situation across the state with board members with spouses or siblings in a collective bargaining unit. Voting on a collective bargaining agreement when a board member has a spouse in the union is against state law.

The law itself prohibits these kinds of interests from authorizing, approving or ratifying the contract that would benefit them. It's time we provide the citizenry of this state with the protection they deserve and have.

Respectfully Submitted,

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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.
- (5) If an individual or an individual's spouse receives compensation which is a portion or percentage of each separate fee or commission paid to a business or combination of businesses, the individual has a substantial interest in any client or customer who pays fees or commissions to the business or combination of businesses from which fees or commissions the individual or the individual's spouse, either individually or collectively, received an aggregate of \$2,000 or more in the preceding calendar year.

As used in this subsection, "client or customer" means a business or combination of businesses.

- (b) "Business" means any corporation, association, partnership, proprietorship, trust, joint venture, and every other business interest, including ownership or use of land for income.
- (c) "Local governmental employee" means any employee of any governmental subdivision or any of its agencies.
- (d) "Local governmental officer" means any elected or appointed officer of any governmental subdivision or any of its agencies.
- (e) "Candidate for local office" means any candidate for nomination or election to any elective office of a governmental subdivision.
- (f) "Governmental subdivision" means any city, county, township, school district, drainage district or other governmental subdivision of the state having authority to receive or hold public moneys or funds.
- (g) "Contracts" means agreements including but not limited to sales and conveyances of real and personal property and agreements for the performance of services.
- (h) "Acts" means the exercise of power or authority or performance of any duty incident to public office or employment.
- (i) "Compensation" means any money, thing of value or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by that person or another, but shall not mean nor include reimbursement of reasonable expenses if the reimbursement does not exceed the amount actually expended for the expenses and it is substantiated by an itemization of expenses.
- (j) "Preceding calendar year" has its usual meaning, except that in the case of candidates and individuals newly appointed to office or employment, it means the 12 months immediately preceding a required filing date.

75-4302a. Same; statement of substantial interests; individuals required to file; filing; rules and regulations; sample forms; disclosure if individual or spouse is officer of nonprofit corporation exempt from federal income taxes. (a) The statement of substantial interests shall include all substantial interests of the individual making the statement.

(b) Statements of substantial interests shall be filed by the following individuals at the times specified:

(1) By a candidate for local office who becomes a candidate on or before the filing deadline for the office, not later than 10 days after the filing deadline, unless before that time the candidacy is officially declined or rejected.

(2) By a candidate for local office who becomes a candidate after the filing deadline for the office, within five days of becoming a candidate, unless within that period the candidacy is officially declined or rejected.

(3) By an individual appointed on or before April 30 of any year to fill a vacancy in an elective office of a governmental subdivision, between April 15 and April 30, inclusive, of that year.

(4) By an individual appointed after April 30 of any year to fill a vacancy in an elective office of a governmental subdivision, within 15 days after the appointment.

(5) By any individual holding an elective office of a governmental subdivision, between April 15 and April 30, inclusive, of any year if, during the preceding calendar year, any change occurred in the individual's substantial interests.

(c) The statement of substantial interests required to be filed pursuant to this section shall be filed in the office where declarations of candidacy for the local governmental office sought or held by the individual are required to be filed.

(d) The governmental ethics commission shall adopt rules and regulations prescribing the form and the manner for filing the disclosures of substantial interests required by law. The commission shall provide samples of the form of the statement to each county election officer.

(e) If an individual or an individual's spouse holds the position of officer, director, associate, partner or proprietor in 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 shall comply with all disclosure provisions of subsections (a), (b), (c) and (d) of this section notwithstanding the provisions of K.S.A. 75-4301, and amendments thereto, which provide that these individuals may not have a substantial interest in these corporations.