AN ACT concerning governmental ethics; relating to actions of local governmental officials affecting the development, construction and operation of certain renewable energy systems; requiring local governmental officials and candidates for local office to disclose substantial interests in a renewable energy system; prohibiting local governmental officials who have a substantial interest from acting on matters relating to the renewable energy system; amending K.S.A. 75-4301a, 75-4303a and 75-4306 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) Except as otherwise provided by this section, no local governmental officer who has a substantial interest in a renewable energy system as defined in K.S.A. 75-4301a(a)(6), and amendments thereto, shall act on any matter or participate in the making of a contract relating to such renewable energy system in such officer's official capacity. This section shall apply regardless of whether a local governmental officer has filed a disclosure of the substantial interest. Except as otherwise provided, a local governmental officer shall not be deemed to have passed or acted upon any matter or participated in the making of a contract relating to the renewable energy system if the officer abstains from any action regarding such matter. A local governmental officer who has a substantial interest in a renewable energy system may only act to prohibit the development, construction or operation of the renewable energy system in such officer's jurisdiction.

(b) If any contract is made in violation of this section, the governmental subdivision shall have a right to declare such contract void and rescind the contract if such declaration is made within five years following the date such contract was executed by the parties.

(c) Any violation of this section may be prosecuted by the attorney general or the district attorney or county attorney of the county where the renewable energy system is located or proposed to be located. If, by the attorney general's or the county or district attorney's own inquiry or upon receipt of a written notice or complaint that a local governmental officer has engaged in, is engaging in or is about to engage in any act that violates this section, the attorney general, the county attorney or district attorney may:
(1) subpoena witnesses or materials;
(2) take testimony under oath;
(3) examine or cause to be examined any documentary material of whatever nature relevant to such alleged violations;
(4) require attendance during such examination of documentary material and take testimony under oath or acknowledgment with respect to any such material; or
(5) seek injunctive or any other equitable relief as may be required to enforce the provisions of this section.

(d) In addition to any penalty provided by this section and K.S.A. 75-4306, and amendments thereto, any local governmental officer who is convicted of violating this section shall forfeit such office.

Sec. 2. K.S.A. 75-4301a is hereby amended to read as follows: 75-4301a. As used in K.S.A. 75-4302a, 75-4303a, 75-4304, 75-4305 and 75-4306, and amendments thereto, and section 1, 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 that 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 paragraph, "client or
customer" means a business or combination of businesses.

(6) (A) An individual has a substantial interest in a renewable energy
system if the individual, relative of such individual, person who is involved
in an intimate relationship with such individual or person residing in the
household of such individual receives or knowingly will receive
compensation, derives or knowingly will derive profit or has or knowingly
will obtain a pecuniary interest from any contract, including, but not
limited to, any lease, easement or option agreement, relating to the
development, construction or operation of a renewable energy system in
the local governmental subdivision where such individual is a local
governmental officer or candidate for local office.

(B) This paragraph shall apply regardless of the form by which such
compensation, profit or pecuniary interest is obtained, including, but not
limited to, compensation, profit or pecuniary interest obtained through any
business or combination of businesses that the individual, relative of such
individual, person who is involved in an intimate relationship with such
individual or person residing in the household of such individual, either
individually or collectively:

(i) Holds the position of officer, director, member, associate, partner
or proprietor;
(ii) owns a legal or equitable interest; or
(iii) receives compensation that is required to be included as taxable
income on federal income tax returns.
(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.

(k) "Relative" means, with respect to an individual, any spouse, former spouse, parent, stepparent, child, stepchild, daughter-in-law, son-in-law, grandparent of any degree, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt, cousin of the first or second degree, nephew or niece.

(l) "Renewable energy system" means any wind energy conversion system or any solar energy conversion system.

(m) "Solar energy conversion system" means an electric generation facility that converts radiant energy from the sun into thermal or electrical energy for the production of electricity and has a system generating capacity of 500 kilowatts or greater.

(n) "Wind energy conversion system" means an electric generation facility consisting of one or more wind turbines that have a generating capacity of 500 kilowatts or greater and any accessory structures, buildings, electrical infrastructure, transmission lines and other appurtenant structures.

Sec. 3. K.S.A. 75-4303a is hereby amended to read as follows: 75-4303a. (a) The governmental ethics commission shall render advisory opinions on the interpretation or application of K.S.A. 75-4301a, 75-4302a, 75-4303a, 75-4304, 75-4305 and 75-4306, and amendments thereto, and section 1, and amendments thereto. The opinions shall be rendered after receipt of a written request therefor by a local governmental officer or employee or by any person who has filed as a candidate for local office. Any person who requests and receives an advisory opinion and who acts in accordance with its provisions shall be presumed to have complied with the provisions of the general conflict of interests law. A copy of any advisory opinion rendered by the commission shall be filed by the commission in the office of the secretary of state, and any opinion so filed shall be open to public inspection. All requests for advisory opinions shall be directed to the secretary of state who shall notify the commission thereof.

(b) The governmental ethics commission shall administer K.S.A. 75-4301a, 75-4302a, 75-4303a, 75-4304, 75-4305 and 75-4306, and
amendments thereto, and section 1, and amendments thereto, and may
adopt rules and regulations therefor.

Sec. 4. K.S.A. 75-4306 is hereby amended to read as follows: 75-
4306. (a) Violation of K.S.A. 75-4304 or 75-4305, and amendments
thereto, or section 1, and amendments thereto, or failure to make any
disclosure of substantial interests required by K.S.A. 75-4302a, and
amendments thereto, is a class B misdemeanor.

(b) If any clause, paragraph, subsection or section provision of this
act is held invalid or unconstitutional, it shall be conclusively presumed
that the legislature would have enacted the remainder of this act without
the invalid or unconstitutional clause, paragraph, subsection or section
provision.

Sec. 5. K.S.A. 75-4301a, 75-4303a and 75-4306 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its
publication in the statute book.