

## SENATE BILL No. 217

By Senator Haley

2-12

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AN ACT transferring the powers and duties of the governmental ethics commission to the secretary of state; requiring the attorney general to provide enforcement support; repealing K.S.A. 2002 Supp. 25-4119a.

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

Section 1. (a) There is hereby established within and as a part of the office of the secretary of state, the division of ethics. The secretary of state shall appoint a director of such division and such director shall be in the unclassified service of the Kansas civil service act. Subject to and in accordance with appropriations acts, the division of ethics shall include all powers, duties and functions of the governmental ethics commission pursuant to K.S.A. 25-4119a, and amendments thereto, which are hereby transferred.

Sec. 2. (a) The governmental ethics commission created by K.S.A. 25-4119a, and amendments thereto, is hereby abolished.

(b) Except as otherwise provided by this act, all of the powers, duties and functions of the existing governmental ethics commission are hereby transferred to and conferred and imposed upon, the secretary of state and the division of ethics established by this act.

(c) Except as otherwise provided by this act, the secretary of state and the division of ethics established by this act shall be the successor in every way to the powers, duties and functions of the governmental ethics commission in which the same were vested prior to the effective date of this act. Every act performed in the exercise of such powers, duties and functions by or under the authority of the secretary of state or the division of ethics established by this act shall be deemed to have the same force and effect as if performed by the governmental ethics commission, in which such powers, duties and functions were vested prior to the effective date of this act.

(d) Except as otherwise provided by this act, whenever the ethics commission, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the division of ethics established by this act.

(e) All rules and regulations of the ethics commission in existence on the effective date of this act shall continue to be effective and shall be

1 deemed to be duly adopted rules and regulations of the secretary of state  
2 on behalf of the division of ethics established by this act until revised,  
3 amended, revoked or nullified pursuant to law.

4 (f) All orders and directives of the governmental ethics commission  
5 in existence on the effective date of this act shall continue to be effective  
6 and shall be deemed to be orders and directives of the secretary of state  
7 on behalf of the division of ethics established by this act, until revised,  
8 amended or nullified pursuant to law.

9 (g) On the effective date of this act, the secretary of state shall suc-  
10 ceed to whatever right, title or interest the governmental ethics commis-  
11 sion has acquired in any real property in this state, and the secretary shall  
12 hold the same for and in the name of the state of Kansas. On and after  
13 the effective date of this act, whenever any statute, contract, deed or other  
14 document concerns the power or authority of the governmental ethics  
15 commission to acquire, hold or dispose of real property or any interest  
16 therein, the secretary of state shall succeed to such power or authority.

17 (h) The division of ethics in the office of secretary of state established  
18 by this act shall be continuations of the governmental ethics commission.

19 Sec. 3. (a) The secretary of state may organize the division of ethics  
20 in the manner the secretary deems most efficient, so long as the same is  
21 not in conflict with the provisions of this act or with the provisions of law,  
22 and the secretary may establish policies governing the transaction of busi-  
23 ness of the division of ethics within the department.

24 Sec. 4. Except as otherwise provided in this act, on the effective date  
25 of this act, officers and employees who, immediately prior to such date,  
26 were engaged in the performance of powers, duties or functions of any  
27 state agency or office which is abolished by this act, or which becomes a  
28 part of the division of ethics, or the powers, duties and functions of which  
29 are transferred to the secretary of state, and who, in the opinion of the  
30 secretary of state, are necessary to perform the powers, duties and func-  
31 tions of the division of ethics, shall be transferred to, and shall become  
32 officers and employees of the secretary of state. Any such officer or em-  
33 ployee shall retain all retirement benefits and all rights of civil service  
34 which had accrued to or vested in such officer or employee prior to the  
35 effective date of this act. The service of each such officer and employee  
36 so transferred shall be deemed to have been continuous. All transfers and  
37 any abolition of personnel positions in the classified service under the  
38 Kansas civil service act shall be in accordance with civil service laws and  
39 any rules and regulations adopted thereunder.

40 Sec. 5. (a) The governmental ethics commission created by K.S.A.  
41 25-4119a, and amendments thereto, is attached to and is a part of the  
42 division of ethics established by this act. All budgeting, purchasing and  
43 related management functions of the governmental ethics commission

1 shall be administered by or under the direction and supervision of the  
2 secretary of state as a part of the division of ethics. All vouchers for ex-  
3 penditures and all payrolls of the governmental ethics commission shall  
4 be approved by the secretary of state or by a person or persons designated  
5 by the secretary.

6 (b) The governmental ethics commission created by K.S.A. 25-4119a,  
7 and amendments thereto, is hereby specifically continued in existence.  
8 Persons who are members of the governmental ethics commission on July  
9 1, 2003, shall continue to hold such offices until their successors are ap-  
10 pointed and qualified.

11 (c) All rules and regulations and all opinions, orders or directives of  
12 the governmental ethics commission, in existence on July 1, 2003, shall  
13 continue to be effective and shall be deemed to be the rules and regu-  
14 lations and orders or directives of the secretary of state until revised,  
15 amended, revoked or nullified pursuant to law. Nothing in this act shall  
16 affect the authority of the governmental ethics commission, through the  
17 secretary of state, to adopt or promulgate rules and regulations or to issue  
18 orders or directives as authorized by law.

19 (d) The commission shall consist of nine members of whom two shall  
20 be appointed by the governor, one by the president of the senate, one by  
21 the speaker of the house of representatives, one by the minority leader  
22 of the house of representatives, one by the minority leader of the senate,  
23 one by the chief justice of the supreme court, one by the attorney general  
24 and one by the secretary of state. Nothing in this act shall be construed  
25 as affecting the terms of members serving on July 1, 1998. Not more than  
26 five members of the commission shall be members of the same political  
27 party and the two members appointed by the governor shall not be mem-  
28 bers of the same political party.

29 (e) The terms of all subsequently appointed members shall be two  
30 years commencing on February 1 of the appropriate years. Vacancies  
31 occurring on the commission shall be filled for the unexpired term by the  
32 same appointing officer as made the original appointment. Members shall  
33 serve until their successors are appointed and qualified. The governor  
34 shall designate one of the members appointed by the governor to be the  
35 chairperson of the commission. A majority vote of five members of the  
36 commission shall be required for any action of the commission. The com-  
37 mission may adopt rules to govern its proceedings and may provide for  
38 such officers other than the chairperson as it may determine. The com-  
39 mission shall meet at least once each quarter, and also shall meet on call  
40 of its chairperson or any four members of the commission. Members of  
41 the commission attending meetings of such commission, or attending a  
42 subcommittee meeting thereof authorized by such commission, shall be  
43 paid compensation, subsistence allowances, mileage and other expenses

1 as provided in subsections (a) to (d), inclusive, of K.S.A. 75-3223, and  
2 amendments thereto.

3 (f) The commission may provide copies of opinions, informational  
4 materials compiled and published by the commission and public records  
5 filed in the office of the commission to persons requesting the same and  
6 may fix reasonable fees therefor. All fees collected by the commission  
7 under the provisions of this subsection shall be remitted to the state trea-  
8 surer in accordance with the provisions of K.S.A. 75-4215, and amend-  
9 ments thereto. Upon receipt of each such remittance, the state treasurer  
10 shall deposit the entire amount in the state treasury to the credit of the  
11 governmental ethics commission fee fund.

12 (g) The commission shall submit an annual report and recommen-  
13 dations in relation to all acts administered by the commission to the gov-  
14 ernor and to the legislative coordinating council on or before December  
15 1 of each year. The legislative coordinating council shall transmit such  
16 report and recommendations to the legislature.

17 Sec. 6. (a) When any conflict arises as to the disposition of any power,  
18 function or duty or the unexpended balance of any appropriation as a  
19 result of any abolition, transfer, attachment or change made by or under  
20 authority of this act, such conflict shall be resolved by the governor, whose  
21 decision shall be final.

22 (b) The secretary of state shall succeed to all property and records  
23 which were used for or pertain to the performance of the powers, duties  
24 and functions transferred to the secretary of state. Any conflict as to the  
25 proper disposition of property or records arising under this section, and  
26 resulting from the transfer, attachment or abolition of any state agency,  
27 or all or part of the powers, duties and functions thereof, shall be deter-  
28 mined by the governor, whose decision shall be final.

29 Sec. 7. (a) The secretary of state shall have the legal custody of all  
30 records, memoranda, writings, entries, prints, representations or combi-  
31 nations thereof of any act, transaction, occurrence or event of the division  
32 of ethics and any agency or office abolished or transferred thereto under  
33 this act.

34 (b) No suit, action or other proceeding, judicial or administrative,  
35 lawfully commenced, or which could have been commenced, by or against  
36 any state agency mentioned in this act, or by or against any officer of the  
37 state in such officer's official capacity or in relation to the discharge of  
38 such officer's official duties, shall abate by reason of the governmental  
39 reorganization effected under the provisions of this act. The court may  
40 allow any such suit, action or other proceeding to be maintained by or  
41 against the successor of any such state agency or any officer affected.

42 (c) No criminal action commenced or which could have been com-  
43 menced by the state shall abate by the taking effect of this act.

1 Sec. 8. (a) On the effective date of this act, the balance of all funds  
2 appropriated and reappropriated to any of the state agencies abolished  
3 by this act is hereby transferred to the secretary of state and shall be used  
4 only for the purpose for which the appropriation was originally made.

5 (b) On the effective date of this act, the liability for all accrued com-  
6 pensation or salaries of officers and employees who, immediately prior to  
7 such date, were engaged in the performance of powers, duties or func-  
8 tions of any state agency or office abolished by this act, or which becomes  
9 a part of the division of ethics established by this act, or the powers, duties  
10 and functions of which are transferred to the secretary of state provided  
11 for by this act, shall be assumed and paid by the secretary of state on  
12 behalf of the division of ethics established by this act.

13 Sec. 9. Upon the request of the secretary of state, the attorney gen-  
14 eral shall provide all legal services and advice necessary concerning the  
15 enforcement of the campaign finance act and the state governmental  
16 ethics law.

17 Sec. 10. K.S.A. 25-4119a is hereby repealed.

18 Sec. 11. This act shall take effect and be in force from and after its  
19 publication in the statute book.

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