

HOUSE BILL No. 2165

By Committee on Elections

1-25

1 AN ACT concerning campaign finance; relating to governmental ethics;
2 extending the time frame for governmental ethics commission hearings;
3 making technical amendments; amending K.S.A. 25-4148, 25-4156,
4 25-4161, 25-4174, 46-255, 46-256, 46-265 and 46-280 and repealing
5 the existing sections.
6

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

8 Section 1. K.S.A. 25-4148 is hereby amended to read as follows: 25-
9 4148. (a) Every treasurer shall file a report prescribed by this section.
10 Reports filed by treasurers for candidates for state office, other than
11 officers elected on a state-wide basis, shall be filed ~~in both~~ with the office
12 of the secretary of state. Reports filed by treasurers for candidates for
13 state-wide office shall be filed electronically and only with the secretary of
14 state. Reports filed by treasurers for candidates for local office shall be
15 filed in the office of the county election officer of the county in which the
16 name of the candidate is on the ballot. Except as otherwise provided by
17 subsection (h), all such reports shall be filed in time to be received in the
18 offices required on or before each of the following days:

19 (1) The ~~eight~~ 8th day preceding the primary election, which report
20 shall be for the period beginning on January 1 of the election year for the
21 office the candidate is seeking and ending 12 days before the primary
22 election, inclusive;

23 (2) the eighth day preceding a general election, which report shall be
24 for the period beginning 11 days before the primary election and ending 12
25 days before the general election, inclusive;

26 (3) January 10 of the year after an election year, which report shall be
27 for the period beginning 11 days before the general election and ending on
28 December 31, inclusive;

29 (4) for any calendar year when no election is held, a report shall be
30 filed on the next January 10 for the preceding calendar year; *and*

31 (5) a treasurer shall file only the annual report required by subsection
32 (4) for those years when the candidate is not participating in a primary or
33 general election.

34 (b) Each report required by this section shall state:

35 (1) Cash on hand on the first day of the reporting period;

36 (2) the name and address of each person who has made one or more

1 contributions in an aggregate amount or value in excess of \$50 during the
2 election period together with the amount and date of such contributions,
3 including the name and address of every lender, guarantor and endorser
4 when a contribution is in the form of an advance or loan;

5 (3) the aggregate amount of all proceeds from bona fide sales of
6 political materials such as, but not limited to, political campaign pins,
7 buttons, badges, flags, emblems, hats, banners and literature;

8 (4) the aggregate amount of contributions for which the name and
9 address of the contributor is not known;

10 (5) each contribution, rebate, refund or other receipt not otherwise
11 listed;

12 (6) the total of all receipts;

13 (7) the name and address of each person to whom expenditures have
14 been made in an aggregate amount or value in excess of \$50, with the
15 amount, date, and purpose of each; the names and addresses of all persons
16 to whom any loan or advance has been made; when an expenditure is
17 made by payment to an advertising agency, public relations firm or
18 political consultants for disbursement to vendors, the report of such
19 expenditure shall show in detail the name of each such vendor; and the
20 amount, date and purpose of the payments to each;

21 (8) the name and address of each person from whom an in-kind
22 contribution was received or who has paid for personal services provided
23 without charge to or for any candidate, candidate committee, party
24 committee or political committee, if the contribution is in excess of \$100
25 and is not otherwise reported under subsection (b)(7), and the amount, date
26 and purpose of the contribution;

27 (9) the aggregate of all expenditures not otherwise reported under this
28 section; and

29 (10) the total of expenditures.

30 (c) In addition to the requirements of subsection (b), every treasurer
31 for any political committee and party committee shall report the following:

32 (1) (A) The name and address of each candidate for state or local
33 office for whom an expenditure in the form of an in-kind contribution has
34 been made in an aggregate amount or having a fair market value in excess
35 of \$300, with the amount, date and purpose of each. The report shall show
36 in detail the specific service or product provided; and

37 (B) the name and address of each candidate for state or local office
38 who is the subject of an expenditure ~~which~~ *that*:

39 (i) Is made without the cooperation or consent of a candidate or
40 candidate committee;

41 (ii) expressly advocates the nomination, election or defeat of such
42 candidate; and

43 (iii) is an aggregate amount or having a fair market value in excess of

1 \$300.

2 (2) The report shall state the amount, date and purpose of the
3 expenditure in the form of an in-kind contribution. The report shall show
4 in detail the specific service or product provided. The reporting
5 requirements imposed by this subsection shall be in addition to all other
6 requirements required by this section.

7 (d) Treasurers of candidates and of candidate committees shall
8 itemize the purchase of tickets or admissions to testimonial events by a
9 person who purchases such tickets or admissions in an aggregate amount
10 or value in excess of \$50 per event, or who purchases such a ticket or
11 admission at a cost exceeding \$25 per ticket or admission. All other
12 purchases of tickets or admissions to testimonial events shall be reported
13 in an aggregate amount and shall not be subject to the limitations specified
14 in K.S.A. 25-4154, and amendments thereto.

15 (e) If a contribution or other receipt from a political committee is
16 required to be reported under subsection (b), the report shall include the
17 full name of the organization with which the political committee is
18 connected or affiliated or, a description of the connection to or affiliation
19 with such organization. If, the committee is not connected or affiliated
20 with any one organization, the report shall state the trade, profession or
21 primary interest of the political committee as reflected by the statement of
22 purpose of such organization.

23 (f) The commission may require any treasurer to file an amended
24 report for any period for which the original report filed by such treasurer
25 contains material errors or omissions. The notice of the errors or omissions
26 shall be part of the public record. The amended report shall be filed within
27 30 days after notice by the commission.

28 (g) The commission may require any treasurer to file a report for any
29 period for which the required report is not on file. The notice of the failure
30 to file shall be part of the public record. Such report shall be filed within
31 five days after notice by the commission.

32 (h) For the purpose of any report required to be filed pursuant to
33 subsection (a) by the treasurer of any candidate seeking nomination by
34 convention or caucus or by the treasurer of the candidate's committee or by
35 the treasurer of any party committee or political committee, the date of the
36 convention or caucus shall be considered the date of the primary election.

37 (i) If a report is sent by certified or registered mail on or before the
38 day it is due, the mailing shall constitute receipt by that office.

39 (j) Any report required by this section may be signed by the candidate
40 in lieu of the candidate's treasurer or the treasurer of the candidate's
41 committee.

42 Sec. 2. K.S.A. 25-4156 is hereby amended to read as follows: 25-
43 4156. (a) (1) Whenever any person sells space in any newspaper, magazine

1 or other periodical to a candidate or to a candidate committee, party
2 committee or political committee, the charge made for the use of such
3 space shall not exceed the charges made for comparable use of such space
4 for other purposes.

5 (2) Intentionally charging an excessive amount for political
6 advertising is a class A misdemeanor.

7 (b) (1) Except as provided in paragraph (2), corrupt political
8 advertising of a state or local office is:

9 (A) Publishing or causing to be published in a newspaper or other
10 periodical any paid matter that expressly advocates the nomination,
11 election or defeat of a clearly identified candidate for a state or local
12 office, unless such matter is followed by the word "advertisement" or the
13 abbreviation "adv." in a separate line together with the name of the
14 chairperson or treasurer of the political or other organization sponsoring
15 the same or the name of the individual who is responsible therefor;

16 (B) broadcasting or causing to be broadcast by any radio or television
17 station any paid matter that expressly advocates the nomination, election
18 or defeat of a clearly identified candidate for a state or local office, unless
19 such matter is followed by a statement that states: "Paid for" or
20 "Sponsored by" followed by the name of the sponsoring organization and
21 the name of the chairperson or treasurer of the political or other
22 organization sponsoring the same or the name of the individual who is
23 responsible therefor;

24 (C) telephoning or causing to be contacted by any telephonic means
25 including, but not limited to, any device using a voice over internet
26 protocol or wireless telephone, any paid matter that expressly advocates
27 the nomination, election or defeat of a clearly identified candidate for a
28 state or local office, unless such matter is preceded by a statement that
29 states: "Paid for" or "Sponsored by" followed by the name of the
30 sponsoring organization and the name of the chairperson or treasurer of the
31 political or other organization sponsoring the same or the name of the
32 individual who is responsible therefor;

33 (D) publishing or causing to be published any brochure, flier or other
34 political fact sheet that expressly advocates the nomination, election or
35 defeat of a clearly identified candidate for a state or local office, unless
36 such matter is followed by a statement that states: "Paid for" or
37 "Sponsored by" followed by the name of the chairperson or treasurer of the
38 political or other organization sponsoring the same or the name of the
39 individual who is responsible therefor.

40 The provisions of this subparagraph~~(D)~~ requiring the disclosure of the
41 name of an individual shall not apply to individuals making expenditures
42 in an aggregate amount of less than \$2,500 within a calendar year; or

43 (E) making or causing to be made any website, ~~e-mail~~ email or other

1 type of internet communication that expressly advocates the nomination,
2 election or defeat of a clearly identified candidate for a state or local
3 office, unless the matter ~~is followed by~~ *includes* a statement that *is clear*
4 *and conspicuous* and states: "Paid for" or "Sponsored by" followed by the
5 name of the chairperson or treasurer of the political or other organization
6 sponsoring the same or the name of the individual who is responsible
7 therefor.

8 The provisions of this subparagraph ~~(E)~~ requiring the disclosure of the
9 name of an individual shall apply only to any website, email or other type
10 of internet communication that is made by the candidate, the candidate's
11 candidate committee, a political committee or a party committee and the
12 website, email or other internet communication viewed by or disseminated
13 to at least 25 individuals. For the purposes of this subparagraph, the terms
14 "candidate," "candidate committee," "party committee" and "political
15 committee" shall ~~have the meanings ascribed to them~~ *mean the same as*
16 *defined* in K.S.A. 25-4143, and amendments thereto.

17 (2) The provisions of subsections (b)(1)(C) and (E) shall not apply to
18 the publication of any communication that expressly advocates the
19 nomination, election or defeat of a clearly identified candidate for state or
20 local office, if such communication is made over any social media
21 provider ~~which~~ *that* has a character limit of 280 characters or fewer.

22 (3) Corrupt political advertising of a state or local office is a class C
23 misdemeanor.

24 (c) If any provision of this section or application thereof to any
25 person or circumstance is held invalid, such invalidity does not affect other
26 provisions or applications of this section that can be given effect without
27 the invalid application or provision, and to this end the provisions of this
28 section are declared to be severable.

29 Sec. 3. K.S.A. 25-4161 is hereby amended to read as follows: 25-
30 4161. (a) If a complaint is filed and the commission determines that such
31 verified complaint does not allege facts, directly or upon information and
32 belief, sufficient to constitute a violation of any provision of the campaign
33 finance act, it shall dismiss the complaint and notify the complainant and
34 respondent thereof.

35 (b) Whenever a complaint is filed with the commission alleging a
36 violation of a provision of the campaign finance act, such filing and the
37 allegations therein shall be confidential and shall not be disclosed except
38 as provided in the campaign finance act.

39 (c) If a complaint is filed and the commission determines that such
40 verified complaint does allege facts, directly or upon information and
41 belief, sufficient to constitute a violation of any of the provisions of the
42 campaign finance act, the commission shall promptly investigate the
43 alleged violation.

1 (d) The commission shall notify the attorney general of any apparent
2 violation of criminal law or other laws not administered by the
3 commission, which is discovered during the course of any such
4 investigation.

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

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

18 Sec. 4. K.S.A. 25-4174 is hereby amended to read as follows: 25-
19 4174. Any candidate who has signed an affidavit pursuant to K.S.A. 25-
20 4173, and amendments thereto, and who incurs expenses in excess of or
21 receives contributions in excess of ~~\$500~~ \$1,000, exclusive of such
22 candidate's filing fee, for either the primary or the general election shall,
23 within three days of the date when expenditures or contributions exceed
24 such amount, file all past due reports and shall be required to file all future
25 reports on the dates required by K.S.A. 25-4148, and amendments thereto.

26 Sec. 5. K.S.A. 46-255 is hereby amended to read as follows: 46-255.
27 Any individual, including any member of the commission, may file with
28 the commission a verified complaint in writing stating the name of any
29 person to whom ~~or which~~ this act applies alleged to have violated any
30 provision of this act, and which shall set forth the particulars thereof. If a
31 member of the commission files a complaint, he must disqualify himself
32 from the commission consideration of that complaint. Whenever a
33 complaint is filed with the commission, the commission shall promptly
34 send a copy thereof to the person complained of, who shall thereafter be
35 designated as the respondent. ~~No complaint alleging a violation of K.S.A.~~
36 ~~46-245 may be filed with the commission after the expiration of thirty (30)~~
37 ~~days from the date upon which the alleged violation occurred.~~

38 Sec. 6. K.S.A. 46-256 is hereby amended to read as follows: 46-256.

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

43 (b) Whenever a complaint is filed with the commission alleging a

1 violation of any provision of this act, such filing and the allegations therein
2 shall be confidential and shall not be disclosed except as provided in this
3 act.

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

8 (d) The commission shall notify the attorney general of any apparent
9 violation of criminal law or other laws not administered by the
10 commission, which is discovered during the course of any such
11 investigation.

12 (e) If, after the investigation, the commission finds that probable
13 cause does not exist for believing the allegations of the complaint, the
14 commission shall dismiss the complaint. If after such preliminary
15 investigation, the commission finds that probable cause exists for
16 believing the allegations of the complaint, such complaint shall no longer
17 be confidential and may be disclosed. Upon making any such finding, the
18 commission shall fix a time for a hearing in the matter, ~~which shall be~~
19 more than ~~30~~ 90 days after such finding. In either event the commission
20 shall notify the complainant and respondent of its determination.

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

25 Sec. 7. K.S.A. 46-265 is hereby amended to read as follows: 46-265.

26 (a) Every lobbyist shall register *electronically* with the secretary of state
27 by completing and signing a registration form prescribed and provided by
28 the commission. The registration shall show the name and address of the
29 lobbyist, the name and address of the person compensating the lobbyist for
30 lobbying, the purpose of the employment, the name of each state agency or
31 state office and any agency, division or unit thereof and each judicial
32 department, institution, office, commission, board or bureau and any
33 agency, division or unit thereof and whether the lobbyist will lobby the
34 legislative branch and the method of determining and computing the
35 compensation of the lobbyist. If the lobbyist is compensated or to be
36 compensated for lobbying by more than one employer or is to be engaged
37 in more than one employment, the relevant facts listed above shall be
38 stated separately for each employer and each employment. Whenever any
39 new lobbying employment or lobbying position is accepted by a lobbyist
40 already registered as provided in this section, the lobbyist shall report the
41 same on forms prescribed and provided by the commission before
42 engaging in any lobbying activity related to the new employment or
43 position, and the report shall be filed with the secretary of state. When a

1 lobbyist is an employee of a lobbying group or firm which contracts to
2 lobby and not an owner or partner of the lobbying group or firm, the
3 lobbyist shall report each client of the group, firm or entity whose interest
4 the lobbyist represents. Whenever the lobbying of a lobbyist concerns a
5 legislative matter, the secretary of state promptly shall transmit copies of
6 each registration and each report filed under this act to the secretary of the
7 senate and the chief clerk of the house of representatives.

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

34 (c) Any person who has registered as a lobbyist pursuant to this act
35 may file, upon termination of the person's lobbying activities, a statement
36 terminating the person's registration as a lobbyist. The statement shall be
37 on a form prescribed by the commission and shall state the name and
38 address of the lobbyist, the name and address of the person compensating
39 the lobbyist for lobbying and the date of the termination of the lobbyist's
40 lobbying activities.

41 (d) No person who has failed or refused to pay any civil penalty
42 imposed pursuant to K.S.A. 46-280, and amendments thereto, shall be
43 authorized or permitted to register as a lobbyist in accordance with this

1 section until the penalty has been paid in full.

2 Sec. 8. K.S.A. 46-280 is hereby amended to read as follows: 46-280.

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

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

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

27 (c) Whenever the commission shall determine that any report filed by
28 a lobbyist as required by K.S.A. 46-269, and amendments thereto, is
29 incorrect, incomplete or fails to provide the information required by such
30 section, the commission shall notify such lobbyist by registered or certified
31 mail, specifying the deficiency. Such notice shall state that the lobbyist
32 shall have 30 days from the date ~~of the receipt~~ of such notice *is deposited*
33 *in the mail* to file an amended report correcting such deficiency before a
34 civil penalty will be imposed and the registration of such lobbyist revoked
35 and the badge be required to be returned to the office of the secretary of
36 state. A copy of such notice shall be sent to the office of the secretary of
37 state. If such lobbyist fails to file an amended report within the time
38 specified, such lobbyist shall pay to the commission a civil penalty of \$10
39 per day for each day that such person fails to file such report except that no
40 such civil penalty shall exceed \$300. On the 31st day following the ~~receipt~~
41 ~~of date~~ such notice *is deposited in the mail*, the registration of any lobbyist
42 failing to file such amended report shall be revoked.

43 (d) Civil penalties provided for by this section shall be remitted to the

1 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
2 amendments thereto. Upon receipt of each such remittance, the state
3 treasurer shall deposit the entire amount in the state treasury to the credit
4 of the governmental ethics commission fee fund.

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

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

13 Sec. 9. K.S.A. 25-4148, 25-4156, 25-4161, 25-4174, 46-255, 46-256,
14 46-265 and 46-280 are hereby repealed.

15 Sec. 10. This act shall take effect and be in force from and after its
16 publication in the statute book.