

SESSION OF 2007

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2081**

As Agreed to March 30, 2007

Brief*

Senate Sub. for HB 2081 would make a number of changes in campaign finance and elections statutes.

Telephone Campaign Advertisements

The bill would define as a class C misdemeanor crime any paid campaign advertisement made by telephonic means which expressly advocates the nomination, election or defeat of a clearly identified candidate for state or local office when the advertisement is not followed by a statement indicating who paid for or sponsored the ad.

Solicitation of Contributions During Legislative Session

The bill would amend current law, which prohibits legislators and others from soliciting contributions during the Legislative Session, by limiting the prohibition to “knowingly” soliciting such contributions.

Petitions

Regarding various election petitions required or authorized as part of a procedure applicable to the state, any legislative

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

district, or any of several local governments, the bill would change the time frame for the county counselor, county attorney, or district attorney to furnish a written opinion regarding a petition from five *calendar* days to five *business* days.

The bill also would amend the recall law applying to elected officials to clarify the time frame when mandamus or injunction proceedings must be brought to “within” 30 days of the completion of the review of the adequacy of the recall petition by the Secretary of State in regard to state elected officials or by the county or district attorney in regard to local elected officials. The bill also would require notice of this recall petition decision be delivered to the officer who is the subject of the recall.

Election Staff Allocation

The bill would change current law regarding poll workers and election boards by permitting a county election officer, at his discretion, to allocate staffing resources. Poll workers could be utilized for partial shifts and not be required to work the entire time the polls are open; however, at least two workers, including the supervising judge, would need to be on duty the entire time the polls are open. Those workers on duty at the time the polls close would be required to certify the ballots at that polling place.

The Secretary of State would be authorized to adopt rules and regulations for the implementation of this portion of the bill.

Campaign Finance Reports

The bill also would amend the campaign finance laws by:

- Clarifying that the Kansas Governmental Ethics Commission (KGEC) is required to prescribe and provide forms for all reports required to be filed under the Campaign

Finance Act. The bill would allow any information filed in accordance with this requirement after January 10, 2008, to be filed electronically with the Secretary of State in a method authorized by the Secretary of State.

- Allowing the candidate to sign a campaign finance report, in lieu of the treasurer.

Threshold for In-Kind Contributions

The bill would increase the threshold amount from \$50 to \$100 for reporting in-kind contributions, or instances when an individual has paid for personal services provided without charge to a candidate, a candidate committee, party committee, or political committee.

Optical Scanning Voting System Updates

The bill would update statutes governing the requirements and certification of optical scanning voting systems. A partial list of provisions follows:

- Delete a provision authorizing a county's voters to petition and vote on whether to adopt a system using optical scanning equipment in the county. Elimination of this provision would leave the decision to the board of county commissioners and the county election officer.
- Revise and update language addressing the public testing of voting equipment before and after each election.
- Require the supervising judge either to ensure that the number of ballots equals the number of voters shown on the poll book or to report in writing a discrepancy to the county election officer. (Current law requires an election judge to ensure the number of ballots does not exceed the number of voters shown or report excess numbers to the county election officer.)

- Update language regarding the crime of optical scanning equipment fraud.
- Require that optical scanning equipment and related systems approved by the Secretary of State: (a) provide notification when the voter has cast more votes than authorized, and (b) meet the requirements of the federal Help America Vote Act of 2002 (HAVA) and other related federal laws and regulations.

Direct Recording Electronic Voting System Updates

The bill would update the laws dealing with direct recording electronic (DRE) voting systems and repeal laws that provided for lever machines and punch card ballots. A partial list follows:

- Delete a provision authorizing a county's voters to petition and vote on whether to adopt a system using electronic or electromechanical voting systems in the county. Elimination of this provision would leave the decision to the board of county commissioners and county election officer.
- Clarify that the Secretary of State's examination of electronic voting systems is to include operating systems, firmware and software, and that the Secretary of State must certify such a system before it is used at any election.
- Clarify the exception to the requirement that voting in absolute secrecy be provided, in relation to such voting systems, to indicate the exception applies to persons who request assistance due to temporary illness or disability or a lack of proficiency in reading the English language.
- Require that electronic or electromechanical voting systems approved by the Secretary of State comply with the federal Help America Vote Act of 2002 (HAVA) and other related federal law.

- Authorize the Secretary of State to acquire electronic voting systems only to assist counties in meeting the HAVA requirement that each polling place have at least one voting device accessible to individuals with disabilities.
- Update the definition of “electronic or electromechanical voting system fraud.”
- Repeal Chapter 25, Article 13, which provides for lever machines and punch card ballots.

Conference Committee Action

The Conference Committee accepted the language in Senate Sub. for HB 2081 and inserted the following:

- The contents of HB 2128, relating to various election petitions.
- The contents of SB 283, dealing with election staff (poll worker and election board) allocation.
- The contents of House Sub. for SB 100, as recommended by House Committee on Elections and Governmental Organization, without the sections relating to the transfer of campaign funds.
 - Note: House Sub. for SB 100 essentially includes the contents of SB 101, as recommended by Senate Committee on Elections and Local Government. It also includes the contents of SB 158 and SB 160, both as amended by Senate Committee on Elections and Local Government, which deal with updates to laws relating to optical scanning equipment and direct recording electronic equipment, respectively.
 - Additional Note: **Not** included by the Conference Committee were the provisions dealing with the transfer of campaign funds. Those provisions

originated in HB 2083 but were added at one point to versions of both SB 100 and SB 101.

Background

HB 2081, as introduced, would have affected the removal of members of a recreation commission.

The Senate Committee on Elections and Local Government recommended passage of a substitute bill, which would remove the bill's original contents and replace them with:

- The content of SB 195, as adopted by the Senate Committee of the Whole, concerning campaign advertisements; and
- The revision to the prohibition against soliciting contributions during the Legislative Session.

The fiscal note on the original HB 2081 indicated fiscal impact on local governments, but that the amount could not be estimated. The fiscal note on the original SB 195 did not indicate a fiscal impact.

With respect to HB 2128, current law requires that the written opinion regarding the petition from the county attorney, county counselor, or district attorney be furnished within five calendar days following the submission of the petition. Testimony provided indicated this can cause problems in the event of three-day weekends or with counties having a small legal staff. Opinions requiring substantial legal research could require staff to work over weekends, and current law resulted in reduced time to review the opinion. No opponents appeared to testify on this bill.

The House Committee adopted a motion to place the original bill on the Consent Calendar. The Senate Committee on Elections and Local Government amended HB 2128 to include contents of SB 99 relating to when mandamus or

injunction proceedings regarding a recall petition must be brought.

The fiscal note on the original HB 2128 stated there would be no fiscal impact.

Regarding SB 283, under current law those persons working a voting place as a poll worker must be on duty for the entire day. Testimony was provided that this has contributed to difficulty of county election officers in securing adequate poll workers, since many people who would be willing to serve these positions cannot do so for day-long shifts that could be 12 to 14 hours. At least two members of the election board at each voting place would be required to be there for the entire day, but other workers could be assigned partial day shifts.

Proponents of the bill included Senator Marci Francisco and representatives of the League of Women Voters and the Secretary of State's Office. Testimony also was provided from several county clerks, who offered support of the bill. There were no opponents to the bill.

The Senate Elections and Local Government Committee amended the bill to clarify that only those poll workers working at the end of the day would need to certify the election results.

The fiscal note on the original SB 283 indicated local governments could see increase costs to train more poll workers, but an estimate of costs is unknown.

Regarding House Sub. for SB 100, KSA 25-4158 currently requires the Secretary of State to furnish forms prescribed and provided by the Kansas Governmental Ethics Commission for making reports and statements required to be filed with the Secretary of State by the Campaign Finance Act.

Appearing in support of the original bill were representatives of KGEC and the Secretary of State and Senator David Haley. No opponents testified.

The fiscal note on the original bill indicated KGEC expects the fiscal effect of implementing an electronic filing system for campaign finance reports to be no more than \$100,000. It is estimated that the bill could not be implemented within current budget resources, and it is unknown whether additional staff would be required.

The Senate Elections and Local Government Committee adopted a technical and clarifying amendment.

The House Committee on Elections and Governmental Organization amended SB 100 to:

- Specify the authorization to file campaign finance forms electronically pertains to forms filed after January 10, 2008.
- Add the contents of SB 101, as amended by the Senate Committee of the Whole, containing various campaign finance provisions. (Note: Campaign finance transfer provisions are **not** included in the Conference Committee Report for HB 2081.)
- Add the contents of SB 158, as amended by the Senate Committee on Elections and Local Government (with a technical change), dealing with optical scanning voting system updates.
- Add the contents of SB 160, as amended by the Senate Committee on Elections and Local Government, addressing direct recording electronic voting system updates.

campaign finance