

SESSION OF 2007

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2083**

As Recommended by House Committee on  
Elections and Governmental Organization

**Brief\***

HB 2083 would authorize the transfer of campaign funds in certain circumstances. The bill would permit a candidate or candidate committee to transfer campaign funds to a bona fide successor committee or candidacy established by the candidate. The transfer could be either to:

- The candidate's new campaign committee or candidacy (initiated at the termination of the original candidacy); or
- The new committee (initiated with the transfer of all money from the original campaign, when the original campaign holds debt and the candidate does not terminate the original campaign committee or candidacy).

A transfer to the new campaign would not constitute a contribution as defined by the Campaign Finance Act and therefore would not be subject to the Act's contribution limits.

HB 2083 also would permit a candidate to transfer funds to the candidate's original campaign for the purpose of retiring any remaining debt to an original campaign. Under this scenario, the candidate may then only accept contributions to the original candidacy sufficient to retire the debt. These contributions would be subject to the Campaign Finance Act debt limits. Once the debt is retired, the candidate must terminate the candidacy.

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Finally, the bill would deem all campaign transfers occurring between January 1, 1976 and the day before the bill's effective date to be in compliance with the Campaign Finance Act in existence at the time of the transfer, regardless of when the original campaign fund was closed after the transfer was made.

## **Background**

On December 12, 2003, the Kansas Supreme Court ruled that the Campaign Finance Act (Act) prohibited former State Representative Carlos Mayans from transferring unused legislative campaign funds to his campaign for election to be mayor of Wichita. This ruling came after the Kansas Governmental Ethics Commission (KGEC) had issued several opinions, over a number of years, stating that such transfers were permitted under the Act. Former Representative Mayans had sought and received such an opinion. He also received an opinion from the Wichita city attorney that the transfer would not violate a Wichita ordinance dealing with campaign finance.

The Supreme Court, in *Cole v. Mayans and Kenton*, *Kansas Supreme Court Case No. 89,715*, disagreed with the KGEC's interpretation and overruled the trial court and the Court of Appeals, stating:

We hold that the Campaign Finance Act and the related regulations, when coupled with the purpose for the Campaign Finance Act, must be construed to limit the transfer of campaign contributions from a candidate's campaign account for a specific office to the same candidate's campaign account for election to that same office. Thus, there are only two situations in which the transfer can be made. The first is when an incumbent runs for reelection to the same office. The second is when a candidate loses an election for a specific office but seeks reelection to the same office in a subsequent election. (Opinion pg. 16) (Emphasis added)

The Supreme Court further suggested the Legislature (a) define the term “bona fide successor candidacy,” which currently is contained (but not defined) in KGEC administrative rules and regulations, and (b) require the KGEC to promulgate rules and regulations for the “orderly return of contributions to donors who have contributed to a candidate for a specific office but do not want to contribute to the same candidate if he or she decides to run for a different office.”

Representative Steven Brunk testified in support of the bill. A representative of the Kansas Governmental Ethics Commission testified neutrally. There were no opponents.

The fiscal note indicated passage of HB 2083 would not have a fiscal effect.