

SESSION OF 2007

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2197

As Amended by House Committee of the Whole

Brief*

HB 2197 proposes the following changes to the Campaign Finance Act.

Addition to Definition of “Corrupt Political Advertising”

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.

Electioneering Communication

The bill would require any person spending or contracting to spend \$500 or more per calendar year for any electioneering communication to submit a report. The report must contain:

- The name of the clearly identified candidate in the electioneering communication.
- The name and address of each individual or other entity contributing more than \$50 per year to the person for an electioneering communication, and the occupation of any individual contributing \$150 or more.

*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>

- The name and address of the vendor to whom a payment of more than \$50 was made for the electioneering communication.
- The amount spent on the electioneering communication.
- If the person making the electioneering communication is an individual, the occupation and employer of the individual.

The bill would set as the deadlines for submitting the report the same deadlines for filing regular campaign finance reports, unless the electioneering communication occurs during the 11 days preceding the election. During this period the report would have to be filed on or before the close of the second business day following the day the funds are spent or contracted to be spent for the electioneering communication.

The bill would define “electioneering communication” to mean any communication (TV or radio, newspaper or billboard, directly mailed or delivered by hand to personal residences, or otherwise distributed) that:

- Unambiguously refers to any clearly identified candidate, ***or***
- Is broadcast, printed, mailed, delivered, or distributed
 - within 30 days before a primary, or
 - within 60 days before a general, ***and***
- Is delivered to an audience that includes members of the electorate for the public office.
- “Electioneering communication” would not include:
 - news articles, editorials, other opinion writings printed in a periodical not owned or controlled by a candidate or political party;

- editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate or political party;
- communication by persons made in regular course or scope of their business;
- communication made by membership organization solely to members and families;
- communication that refers to any candidate only as part of the popular name of a bill or statute;
- communication made solely to promote a candidate debate or forum made by or on behalf of the person sponsoring the debate or forum;
- communication made as part of a nonpartisan activity designed to encourage individuals to vote or register.

Reporting Immediately Prior to an Election

The bill would require that the treasurer for a candidate for a state or local office file campaign contribution reports, containing specified information, for each person who has made one or more contributions totaling \$300 or more during the period that begins 11 days before a primary or general election and ends on the day of the election.

- The report would have to be made on or before the close of the next business day after the day on which a contribution is received.
- The information required to be placed in the report would be:
 - The name and address of each person contributing an aggregate amount of at least \$300;

- The amount and date of the contribution, including the name and address of every lender, guarantor and endorser if the contribution is in the form of an advance or loan.
- The required reports would have to be filed by e-mail, fax telegram or express delivery service.

Additional Reporting Law Changes

The bill would extend the length of the reporting period for which a committee's or candidate's treasurer must submit a report on the eighth day preceding a general election. The new ending day for the reporting period would be 4 days before the general election. Current law sets the ending day at 12 days before the general election.

The bill also would require political committees and party committees to report the following:

- The name and address of each candidate for state or local office for whom an in-kind contribution worth in the aggregate more than \$300 has been made, together with the amount, date and purpose of each.
- The name and address of each candidate for state or local office who is the subject of an expenditure, worth in the aggregate more than \$300, which is made without the cooperation or consent of a candidate or candidate committee and which expressly advocates the nomination, election or defeat of the candidate.

Background

Current law defines "corrupt political advertising" to include a number of political advertisements expressly advocating the nomination, election or defeat of a clearly identified candidate,

if the advertisement does not contain certain information on the ad's sponsor.

Representatives of the Kansas Governmental Ethics Commission and the Direct Marketing Association testified in favor of the bill. A representative of the Kansas Broadcasters Association testified neutrally, asking for an amendment.

The House Committee amended the bill to:

- Require the telephone calls be “preceded” (instead of “followed”) by the sponsor information, and make another clarifying change.
- Eliminate the requirement that a vendor of any political advertisement services maintain information regarding the requestor of the services. The penalty for violation was eliminated as well.

The House Committee of the Whole amended the bill to add the contents of:

- HB 2218, dealing with electioneering communication;
- SB 343, dealing with reporting immediately prior to an election; and
- HB 2408, relating to additional reporting requirements.

The fiscal note indicated passage of HB 2197, as introduced, could have a small fiscal effect on county jails, community corrections departments, and legal service providers.