

SESSION OF 2008

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 196**

As Agreed to April 2, 2008

Brief*

SB 196 addresses the campaign finance and election topics of reporting on various contributions and expenditures, use of contribution money, and use of public resources for express advocacy. Details of the bill follow.

Reporting Campaign Contributions and Independent Expenditures during the 11 Days before an Election

This portion of the bill concerns reports of campaign contributions and independent expenditures in elections for state and local office. The bill would:

- Require that the treasurer for a candidate for a state or local office file a campaign contribution report listing 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 ending just before the Wednesday preceding the date of the election. The report must be made on or before the close of business on the Thursday preceding the election.
 - The information required to be placed in the report is:
 - The name and address of each person contributing an aggregate amount of at least \$300;
 - The amount and date of the contribution, including

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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 could be filed by hand delivery, express delivery service, fax, or any electronic method authorized by the Secretary of State.
- Require that the treasurer for a party committee or political committee file reports of (1) independent expenditures made and (2) contributions received totaling more than \$300 during the period that begins 11 days before a state or local primary or general election and ending just before the Wednesday preceding the date of the election. The report must be made on or before the close of business on the Thursday before the election. For the Thursday, Friday, Saturday, and Sunday preceding the election, reports must be submitted daily by the close of business on the following day.
 - The information required to be placed in the report is:
 - The amount, date and purpose of each such independent expenditure or contribution.
 - For independent expenditures, the name of the candidate whose nomination, election or defeat is expressly advocated.
 - For independent expenditures made as payment to an advertising agency, public relations firm or political consultant to be disbursed to vendors - the name of each vendor and the amount, date and purpose of the payments, also accompanied by the name of the candidate whose nomination, election or defeat is expressly advocated.
 - The required reports could be filed by hand delivery, express delivery service, fax, or any electronic method authorized by the Secretary of State.

- “Independent expenditure” would be defined as one made without the cooperation or consent of the candidate or the agent of the candidate intended to be benefitted.

Use of Contribution Funds for Membership Dues or Donations

The bill would clarify the circumstances under which a candidate is permitted to use contribution funds for membership dues or donations paid to a community service or civic organization. The bill would:

- Clarify that only membership dues related to a candidate’s campaign are permitted to be paid from contribution funds; and
- Clarify that donations are permitted to be paid from contribution funds only if the candidate receives no goods or services unrelated to a candidate’s campaign as a result of the payment of such dues or donations.

More Detailed Information on Certain Campaign Finance Reports

The bill would amend existing law related to campaign finance to require that a political committee or a party committee provide more detailed information on certain expenditures than currently required. The requirements would apply to the following types of expenditures:

- An expenditure for an in-kind contribution to a candidate in an aggregate amount of \$300 or more, and
- An aggregate expenditure of \$300 or more made without the consent or cooperation of the candidate, and which expressly advocates the nomination, election or defeat of that candidate.

The bill would require those committees to report the name and address of the candidate; the amount, date, and purpose of each expenditure; and the specific service or product provided.

In addition, the bill would make several technical corrections.

Reporting of Contributions by an Individual

The bill would amend existing law related to campaign finance to require that mandated reports of contributions by an individual of more than \$150 include the type of industry in which the individual works. This would be in addition to the current requirement to report the name and occupation of those contributors.

Use of Public Resources for Express Advocacy

The bill addresses the use of public money and property to expressly advocate the nomination, election or defeat of a clearly identified candidate. The bill would:

- Expand the current restriction on the use of public funds, vehicles, machinery, equipment or supplies by a public officer or employee to all municipalities, in addition to the state of Kansas and the specific municipalities currently covered by the law.
 - The current restriction applies to the state of Kansas, counties, cities of the first class, any unified school district with an enrollment of 35,000 or more, and the Board of Public Utilities of Kansas City, Kansas. The bill would retain the restriction for these entities and add a number of others, subsumed under the term “municipalities.”

- The bill would use the definition of “municipalities” contained in another statute that covers all of the following: “county, township, city, school district of whatever name or nature, community junior college, municipal university, city, county or district hospital, drainage district, cemetery district, fire district, and other political subdivision or taxing unit, and including their boards, bureaus, commissions, committees and other agencies, such as, but not limited to, library board, park board, recreation commission, hospital board of trustees having power to create indebtedness and make payment of the same independently of the parent unit.”
- Add a further restriction, prohibiting any municipality from allowing any person to distribute express advocacy political brochures or other documents in any structure owned by the municipality, unless each candidate for the office concerned is provided the same opportunity.

Conference Committee Action

The Conference Committee accepted the House amendments and further amended the bill to:

- Change the amount triggering the “blackout period” reporting of independent expenditures by party or political committees from \$50 to \$300, and require daily reporting of independent expenditures for the Thursday, Friday, Saturday and Sunday preceding the election.
- Require party and political committees to report “blackout period” contributions in the manner prescribed for reporting of independent expenditures.
- Add the contents of HB 2308 as amended by the House Committee on Elections and Governmental Organization, related to the use of contribution funds for membership dues or donations.

- Add the contents of HB 2408 as amended by the House Committee of the Whole, requiring the reporting on in-kind contributions and independent expenditures by party or political committees.
- Add the contents of HB 2697 as amended by the House Committee on Elections and Governmental Organization, regarding the reporting of contributions by individuals.
- Add the contents of SB 575 as amended by the Senate Committee on Elections and Local Government, regarding the use of public resources for express advocacy.

Background

Senator Roger Reitz testified in support of the bill. The Executive Director of the Kansas Governmental Ethics Commission testified that reports that are made 11 days before the general election through the date of the general election are not disclosed until the January 10 Receipts and Expenditures Report; therefore, the public would not know who made expenditures 11 days prior to an election. A representative of the Office of Secretary of State testified neutrally on the bill, requesting an amendment.

The Senate Committee amended the bill to:

- Conform the methods of filing the expenditures in the two sections of the bill; and
- Change the definition of “independent expenditure.”

The House Committee amended the bill to:

- Change the deadlines for collecting and reporting the contributions and independent expenditures (from Thursday and Friday to Wednesday and Thursday); and
- Clarify the definition of “independent expenditures.”

The fiscal note indicated passage of SB 196 would have a negligible fiscal effect on the Office of Secretary of State for the establishment of e-mail accounts to accept reports sent electronically.

With respect to **HB 2308**, Representative Kay Wolf and a representative of the Kansas Governmental Ethics Commission testified in favor of the bill. No opponents testified.

The House Committee amended the bill to further clarify which membership dues and which donations would be permitted to be paid from contribution funds.

Passage of HB 2308 would not have a fiscal effect, according to the fiscal note.

With respect to **HB 2408**, the bill was requested by the Governmental Ethics Commission. The Commission's Executive Director noted that under current law, political action committees and party committees do not have to report the name of any candidate they make expenditures on behalf of, although they must report the vendor to whom the expenditure was made. She stated the bill would provide the public with a better understanding of the money being spent to support or oppose Kansas candidates.

There was no testimony in opposition to the bill.

The House Committee on Elections and Governmental Organization amended the bill to incorporate changes that would improve clarity, as well as technical changes proposed by the Revisor's Office.

The House Committee of the Whole made a technical amendment to correct a statutory reference.

The fiscal note prepared by the Division of the Budget indicates that passage of the bill would have no fiscal effect.

With respect to **HB 2697**, the bill was requested by the Governmental Ethics Commission. The original bill required the name of the contributor's employer to be reported with other mandated information. The Commission's Executive Director testified that some occupations listed - such as businessman, consultant, or contractor - were too vague to meaningfully assist someone who might be trying to determine whether certain groups might be trying to influence the political process.

There was no testimony in opposition to the bill.

The House Committee on Elections and Governmental Organization amended the bill to require reporting of the industry in which the contributor works, rather than the employer.

The fiscal note prepared by the Division of the Budget indicates that passage of the bill would have no fiscal effect.

With respect to **SB 575**, Senator Tim Huelskamp and a representative of Americans for Prosperity testified in favor of the original bill. No opponents testified.

The Senate Committee amended the bill to prohibit any municipality from allowing anyone to distribute express advocacy materials unless each candidate for the office concerned is given the same opportunity. The Senate Committee also made technical changes to the bill.

According to the fiscal note, the Kansas Governmental Ethics Commission (KGEC) could not estimate the number of violations that would occur or the amount of time needed to devote to investigating those violations. It is believed any effect on KGEC's budget would be negligible, however, and could be handled within existing resources.

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