

SESSION OF 2009

**SECOND CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2158**

As Agreed to May 1, 2009

Brief*

HB 2158 addresses the elections and ethics issues of Kansas Highway Patrol members' service on governing bodies of municipalities, corrupt political advertising, electronic filing of certain campaign finance reports, election method for the Sherman County Board of County Commissioners, and substantial interests statements of certain faculty members. Details of the bill follow.

Kansas Highway Patrol Member
Service on Governing Bodies

The bill would allow a member of the Kansas Highway Patrol to serve on the governing body of a municipality if the position is appointed or elected on a nonpartisan basis. It also would allow a member of the Patrol to serve on an appointed task force the Patrol superintendent deems necessary as part of the member's duties.

It would forbid any member of the Patrol from accepting any reward or gift pertaining to the performance of the member's duties.

This portion of the bill would become effective upon publication in the *Kansas Register*.

*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/klrd>

Additions to “Corrupt Political Advertising” Statute

The bill would make additions to the statute relating to the crime of corrupt political advertising of a state or local office, as follows:

- Prohibit the making of any website, e-mail, or other Internet communication expressly advocating the nomination, election, or defeat of a clearly identified candidate for state or local office, which is disseminated to 25 or more individuals by a candidate, candidate committee, party committee, or political committee, unless the information disseminated is followed by a statement which indicates who paid for or sponsored the communication.
- Blend two versions of the existing statute, which resulted from the statute being amended twice in 2007. The new language shown in subsection (b)(1)(C) was enacted by the Legislature in one of the 2007 amendments to that statute.

E-Filing of Campaign Finance Reports by Statewide Candidates

The bill would require the electronic filing of regular campaign finance reports by candidates for offices elected on a statewide basis.

Election of Sherman County Board of County Commissioners

Effective upon publication in the *Kansas Register*, this portion of the bill would allow the Board of County Commissioners of Sherman County (Board) to provide for the at-large election of its members if the voters of Sherman County approve the proposal.

The Board would be required to adopt a resolution that provided for the following:

- Each county commissioner would run at large, and each candidate would be permitted to reside anywhere in Sherman County.
- All qualified electors residing in Sherman County would be permitted to vote in both the primary and general election for each county commissioner being elected.
- Primary elections would be conducted on a partisan basis. Primary election voters would be permitted to vote for the same number of candidates as the number of commissioners being elected. The candidate receiving the highest number of votes would appear on the general election ballot, for each county commissioner being elected. No person would be permitted to cast more than one vote for any specific candidate.
- General election voters would be allowed to vote for the same number of candidates as the number of county commissioners being elected. The candidate receiving the highest number of votes for each commissioner office being elected would be deemed to have been elected.
- Unless the Sherman County voters elect to adopt this at-large election method, the statute allowing it would expire on December 31, 2010.
- The bill would make conforming changes to other sections of law.

Substantial Interests Statements of Certain Faculty Members

At the option of the employing educational institution, the bill would create the following temporary alternative to the currently required statement of substantial interests (SSI), which would expire on July 1, 2010:

- The alternative form would be permitted in lieu of the SSI required by law to be sent by each faculty member who receives an annual salary of \$50,000 or more, other than an adjunct faculty member, who is employed by a state education institution governed by the Kansas Board of Regents (KBOR) to the Secretary of State (and maintained by the Kansas Governmental Ethics Commission [KGEC]).
- The alternative form must contain the same information required in the SSI that is filed with the Office of Secretary of State, will be considered an open public record, and it must be filed annually as part of the educational institution's appointment or salary notification process. Any additional conflict of interest information required by the KBOR or the employing institution may be placed in the faculty member's personnel file and may be considered confidential.
- The executive officer of any KBOR institution must notify the KGEC in writing if that institution's faculty will be using the alternative form in lieu of the regular SSI.

Conference Committee Action

The Conference Committee acceded to the Senate amendments. The Conference Committee further amended the bill by adding the contents of the following:

- SB 117, as amended by Senate Committee on Ethics and Elections, and further revised, adding to the statute on corrupt political advertising. The revision would limit the restriction on Internet communications to those made by candidates, candidate committees, party committees, and political committees;
- SB 118, as recommended by Senate Committee on Ethics and Elections, requiring the electronic filing of campaign

finance reports by candidates for office elected on a statewide basis;

- SB 171, as amended by House Committee on Elections, allowing for the at-large election of the Sherman County Board of County Commissioners if approved by the county's voters; and
- SB 297, as amended by Senate Committee on Ethics and Elections, relating to statements of substantial interests filed by certain faculty members, but with the following changes:
 - The alternative statement, to be filed with the state educational institution, would be optional. The institution would be required to notify the KGEC if it opts to use the alternative statement.
 - The provision allowing the alternative statement would expire in one year, on July 1, 2010.

Background

- **HB 2158**

The original bill dealt only with Kansas Highway Patrol members' service on governing bodies of municipalities.

Presenting testimony in favor of the bill were Representative Ann Mah and Steve Kearney, Kansas State Troopers Association. Both said troopers often are requested and should be allowed to serve their communities in nonpartisan positions. No other conferees presented testimony.

"Municipality" is defined in KSA 12-105a and includes county, township, city, and other political subdivisions or taxing units and their boards and commissions, such as a library board or park board.

The House Committee on Elections amended the bill to add “task force” to the organizations to which the Superintendent could assign a Patrol member and to specify that the gifts that could not be accepted except with the written permission of the Superintendent are those pertaining to the performance of such member’s or officer’s duties.

The Senate Committee on Ethics and Elections amended the bill’s effective date to be upon publication in the *Kansas Register*.

According to the fiscal note on the original bill, the bill’s fiscal effect would depend on the extent to which holding an elected or appointed position conflicted with the member’s regular duties. If it did not, there would be no fiscal effect. If it did, the Patrol indicated additional staff could be required to ensure all duties are performed.

- **SB 117**

The original bill related to disclosures on certain political advertisings by establishing a new section of law. The Executive Director of the Kansas Governmental Ethics Commission (KGEC) testified in favor of the bill as amended, indicating the bill is the result of a recommendation made by the KGEC in its 2008 Annual Report and Recommendations. No opposing testimony was received.

The Senate Committee on Ethics and Elections adopted a substitute bill which deleted the bill’s original contents and replaced them with the revised version.

The Senate Committee of the Whole amended the bill to add the requirement that vendors and others keep records of their political advertising services.

According to the fiscal note, passage of the bill would have no fiscal effect on the KGEC and could be implemented within current staffing and operating expenditures. The bill could increase costs for political promoters related to the new disclosure requirements.

- **SB 118**

The bill is the result of a recommendation made by the KGEC. The KGEC Executive Director and the Deputy Secretary of State testified in favor of the bill. No opposing testimony was received. According to testimony, the bill's passage would result in uniformity among all statewide candidate reports and would assist in expediting the effort by the Secretary of State's office to make such reports searchable.

According to the fiscal note, passage of the bill would save a negligible amount of expenditures in staff time and office supplies. The amount of savings is difficult to estimate, the fiscal note stated.

- **SB 171**

The Sherman County issue has been before the Legislature in the past two legislative sessions. Senator Ralph Ostmeyer testified in favor of the bill. Also providing supporting testimony were a representative of the Board, a former County Commissioner, the Commissioners of the City of Goodland, the Sherman County Election Officer, a citizen group and several residents of Sherman County. One resident provided testimony in opposition to the bill.

According to the fiscal note, passage of the bill would have no fiscal effect. However, an election would be required in Sherman County if the Board adopts the resolution referred to in the bill. Any such election cost would be borne by the county.

- **SB 297, As Revised**

Senator John Vratil and the Executive Director of the KGEC testified in favor of the bill, indicating the faculty the bill addresses must file two similar forms currently – one to the KGEC and one to their employing state institution. The added work for the KGEC, including the “failure to file” notices that have resulted, have created a significant increase in the agency’s workload.

Staff testified that the statutory language being deleted resulted from information that the similar form filed with the employing institution has been treated as a confidential document not subject to disclosure under the Kansas Open Records Act.

The Senate Committee on Ethics and Elections amended the bill to add the new statute requiring a publicly open statement of substantial interests be filed with the employing institution.

Note: The provisions contained in the Conference Committee Report represent a modification to the bill, making the alternative substantial interests statement optional and temporary.

According to the fiscal note on the original bill, passage of the bill would result in a FY 2010 savings of \$7,000, due to reduced KGEC expenditures.

Kansas Highway Patrol Member Service on Governing Bodies; Corrupt Political Advertising; E-filing of Campaign Finance Reports; Election of Sherman County Board of County Commissions;