

Prohibiting Foreign National Contributions and Expenditures for Constitutional Amendment Campaigns; HB 2106

HB 2106 amends the Campaign Finance Act to add additional reporting and certification requirements to persons promoting or opposing the adoption or repeal of any provision of the *Kansas Constitution*. The bill also prohibits any person that engages in activity promoting or opposing the adoption or repeal of any provision of the *Kansas Constitution* from accepting contributions or expenditures from a foreign national.

Prohibition on Foreign National Contributions and Expenditures

The bill prohibits any person from directly or indirectly accepting any contribution or expenditure from a foreign national made for any activity promoting or opposing a constitutional amendment.

Violations

The bill authorizes the Kansas Attorney General to prosecute any person who violates this provision. Any person who believes the prohibition on foreign national contributions and expenditures has been violated is allowed to file a complaint with the Attorney General.

The bill provides that, in any civil action brought by the Governmental Ethics Commission (Commission) or the Attorney General for a violation of the prohibition on foreign national contributions and expenditures, the court may award injunctive relief sufficient to prevent any subsequent violations and statutory damages in an amount up to twice the amount of the prohibited contribution or expenditure.

Reporting to Secretary of State

Continuing law requires every person who accepts money or property for the purpose of promoting or opposing the adoption or repeal of any provision of the *Kansas Constitution* to annually report all individual contributions and in-kind contributions for such purposes in excess of \$50 during the preceding calendar year to the Secretary of State. The report must include each contributor's name and address and the amount of their contribution, the total value of all contributions received, and the total value of all expenditures made. The bill requires each person who submits a report to certify that:

- Such person has not knowingly accepted contributions or expenditures either directly or indirectly from a foreign national; and
- Certify each donor named in the report is not a foreign national and has not knowingly accepted contributions, either directly or indirectly, from any foreign national that in the aggregate exceed \$100,000 within the four-year period immediately preceding the date of the donor's contribution or expenditure.

The bill directs each person who accepts contributions or expenditures to require each donor to certify that such donor is not a foreign national and has not knowingly accepted contributions or expenditures as described above.

Certification to Governmental Ethics Commission

The bill requires each person making an independent expenditure for any activity promoting or opposing a constitutional amendment, within 48 hours of making such expenditure, to certify to the Commission that such person:

- Has not knowingly accepted any moneys, either directly or indirectly, from a foreign national that in the aggregate exceed \$100,000 within the four-year period immediately preceding the date of the expenditure; and
- Will not accept any such moneys from a foreign national for the remainder of the calendar year in which the question of amending the *Kansas Constitution* is on the ballot.

Definition of “Foreign National”

The bill defines “foreign national” as:

- An individual who is not a citizen or lawful permanent resident of the United States;
- A government or subdivision of a foreign country or municipality thereof;
- A foreign political party;
- Any entity such as a partnership, association, corporation, organization, or other combination of persons that is organized under the laws of, or has its principal place of business in, a foreign country; or
- Any U.S. entity, such as a partnership, association, corporation, or organization, that is wholly or majority-owned by any foreign national, unless:
 - Any contribution or expenditure that such entity makes is derived entirely from funds generated by such U.S. entity’s U.S. operations; and
 - All decisions concerning the contribution or expenditure are made by individuals who are U.S. citizens or permanent residents, except for setting overall budget amounts.