

SENATE BILL No. 290

By Senators Hensley, Barone, Downey, Feleciano, Gilstrap and Gooch

2-7

AN ACT concerning campaign finance; relating to indirect expenditures; amending K.S.A. 25-4156 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 25-4156 is hereby amended to read as follows: 25-4156. (a) (1) Whenever any person sells space in any newspaper, magazine or other periodical to a candidate or to a candidate committee, party committee or political committee, the charge made for the use of such space shall not exceed the charges made for comparable use of such space for other purposes.

(2) Intentionally charging an excessive amount for political advertising is a class A misdemeanor.

(b) (1) Corrupt political advertising of a state or local office is:

(A) Publishing or causing to be published in a newspaper or other periodical any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by the word "advertisement" or the abbreviation "adv." in a separate line together with the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor;

(B) broadcasting or causing to be broadcast by any radio or television station any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by a statement which states: "Paid for" or "Sponsored by" followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor; or

(C) publishing or causing to be published any brochure, flier or other political fact sheet which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor.

The provisions of this ~~subsection~~ *subparagraph* (C) requiring the dis-

1 closure of the name of an individual shall not apply to individuals making
2 expenditures in an aggregate amount of less than \$2,500 within a calendar
3 year.

4 *(D) (i) Publishing or causing to be published any paid matter in a*
5 *newspaper or other periodical, any paid matter on radio or television, or*
6 *any brochure, flier or other political fact sheet which includes:*

7 *(a) Any false statement of material fact, or implication that leaves a*
8 *false impression, including but not limited to:*

9 *(1) The education or training of the candidate;*

10 *(2) the profession or occupation of the candidate;*

11 *(3) whether another person or entity endorses or opposes the*
12 *candidate;*

13 *(4) the voting record of a candidate if the candidate formerly served*
14 *or currently serves as a public officer;*

15 *(5) whether the candidate committed, was charged with committing*
16 *or was convicted of committing a crime;*

17 *(6) whether the candidate has received treatment for a mental illness;*

18 *(7) whether the candidate was disciplined within such candidate's*
19 *profession or while serving in the military or was dishonorably discharged*
20 *from service in the military.*

21 *(b) Any statement using the term "reelect" or any statement that im-*
22 *plies that the candidate is the incumbent in the office sought, unless:*

23 *(1) The candidate was elected to the identical office with the same*
24 *district number, if any, in the most recent election to fill that office, and*
25 *is serving and has served continuously in that office from the beginning*
26 *of the term to which the candidate was elected; or*

27 *(2) the candidate was appointed to the identical office with the same*
28 *district number, if any, after the most recent election to fill that office,*
29 *and is serving and has served continuously in that office since the date of*
30 *appointment.*

31 *(ii) The responsibility for compliance with subparagraph (D) of par-*
32 *agraph (1) of subsection (b) shall not rest with the entity paid to publish,*
33 *broadcast or print any paid matter covered in this subsection, unless such*
34 *entity is responsible for the content of the paid matter.*

35 *(iii) Any person who is the subject of any corrupt political advertising*
36 *as defined in subparagraph (D), may request that the commission deter-*
37 *mine the validity of the statement in question and, if verified to be false,*
38 *take corrective measures as detailed in clause (vi) of subparagraph (D) of*
39 *paragraph (1) of subsection (b). Such person shall file a bond in the*
40 *amount of \$500 with the commission at the time the request is made. The*
41 *request shall:*

42 *(1) Be made in writing;*

43 *(2) filed with the commission no later than 10 calendar days after the*

1 *date on which the false statement of material fact is alleged to have been*
2 *made;*

3 (3) *quote the statement of material fact which is alleged to be false;*

4 (4) *cite the time, place and manner of publication;*

5 (5) *provide the full name and contact information of the person re-*
6 *sponsible for the statement of material fact which is alleged to be false, if*
7 *known.*

8 (iv) *The commission may assess a civil fine, after proper notice and*
9 *an opportunity to be heard, against any person violating the provisions*
10 *of this subsection. Such fine shall be not less than \$1,000 nor more than*
11 *\$5,000 for each violation. If the commission determines a violation of this*
12 *section has occurred, the commission shall refund the bond required to*
13 *be filed by clause (iii) of subparagraph (D) of paragraph (1) of subsection*
14 *(b). If the commission determines that there has been no violation of this*
15 *section, such bond shall be forfeited. All fines assessed and collected and*
16 *all bonds forfeited under this subsection shall be remitted promptly to the*
17 *state treasurer. Upon receipt thereof, the state treasurer shall deposit the*
18 *entire amount in the state treasury and credit it to the Kansas govern-*
19 *mental ethics commission fee fund.*

20 (v) *No person violating this section shall be sworn into office from the*
21 *current election or be eligible to become a candidate for another state or*
22 *local election until all fines have been paid in full.*

23 (vi) *In addition to any fines assessed against a person or entity for*
24 *violations of this subsection, the commission shall place ads in all local*
25 *daily and weekly newspapers and appropriate broadcast media in the*
26 *candidate's district informing the public of the facts correcting the false*
27 *information originally published and the identity of the violator if known.*
28 *The person violating the provisions of this section shall reimburse the*
29 *commission for such expenses in addition to any civil fine assessed.*

30 (2) *The term "publishing or causing to be published" as used in this*
31 *section means printing, posting, broadcasting, mailing or otherwise dis-*
32 *seminating material or information.*

33 ~~(2)~~ (3) *Corrupt political advertising of a state or local office is a class*
34 *C misdemeanor.*

35 (c) *If any provision of this section or application thereof to any person*
36 *or circumstance is held invalid, such invalidity does not affect other pro-*
37 *visions or applications of this section which can be given effect without*
38 *the invalid application or provision, and to this end the provisions of this*
39 *section are declared to be severable.*

40 *Sec. 2. K.S.A. 25-4156 is hereby repealed.*

41 *Sec. 3. This act shall take effect and be in force from and after its*
42 *publication in the statute book.*

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