

MINUTES OF THE Senate COMMITTEE ON Elections

The meeting was called to order by Senator Ronald R. Hein at
Chairperson

1:30 ~~xxx~~p.m. on March 15, 1983 in room 522-S of the Capitol.

All members were present except:

Senator Edward F. Reilly, Jr.

Committee staff present:

Myrta Anderson, Legislative Research Dept.
Arden Ensley, Revisor of Statutes' Office
Sharon Green, Committee Secretary

Conferees appearing before the committee:

The Chairman called the meeting to order.

Hearing was held on HB 2400. There were no conferees. The Committee members discussed the bill, and the Chairman pointed out that this measure accomplishes the same thing as SB 116, but indicated that the Senate bill approach appears to be the more viable of the two approaches.

A hearing was held on HB 2406. There were no conferees. The Chairman pointed out that this measure is the same bill as SB 117, other than for the presence of a clean-up amendment in HB 2406 that did not exist in SB 117.

A motion was made by Senator Meyers, seconded by Senator Norvell to introduce a bill draft proposed by the Attorney General's Office relating to local campaign finance. (Attachment 1) The motion was adopted.

The Chairman adjourned the meeting.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

March 8, 1983

The Honorable Ronald R. Hein
State Senator, Twentieth District
Room 120-S, Statehouse
Topeka, Kansas 66612

Dear Senator Hein:

In accordance with our telephone conversation last week, I am enclosing a draft of a local campaign finance reporting act. As we discussed, our office is requesting introduction of this bill by the Senate Committee on Elections primarily as a vehicle for interim study of this proposition. Although Attorney General Stephan strongly endorses the need for local campaign finance reporting legislation, there does not appear to be a need to enact such legislation this session, since the next election to be affected thereby would occur in August of 1984.

I want to emphasize that the enclosed draft is conceptual in nature. We recognize that its provisions reflect some unanswered questions. Most of these require policy decisions by the legislature, although there are a few "mechanical" problems that must be resolved, as well.

Attorney General Stephan and I want to express our appreciation for your continued cooperation in matters of mutual concern. If we can be of further assistance, please let us know.

Very truly yours,

OFFICE OF THE ATTORNEY GENERAL
ROBERT T. STEPHAN

W. Robert Alderson
First Deputy Attorney General

WRA:hle

Enc.

Attch. 1

SENATE BILL NO. _____

By Committee on Elections

AN ACT enacting the local campaign finance reporting act; defining certain terms; prescribing duties and obligations of candidates for local offices, candidate committees, party committees and political committees; declaring violations thereof to be crimes; and repealing K.S.A. 25-901, 25-902, 25-904 and 25-905.

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

Section 1. This act shall be known and may be cited as the "local campaign finance reporting act."

Sec. 2. As used in this act:

(a) "Candidate" means an individual who: (1) Appoints a treasurer or a candidate committee;

(2) makes a public announcement of intention to seek nomination or election to local office;

(3) makes any expenditure or accepts any contribution for the purpose of influencing such person's nomination or election to any local office; or

(4) files a declaration or petition to become a candidate for local office.

(b) "Candidate committee" means a committee appointed by a candidate to receive contributions and make expenditures for the candidate.

(c) "Commission" means the Kansas public disclosure commission created by K.S.A. 25-4119a, and amendments thereto.

(d) (1) "Contribution" means: (A) Any advance, conveyance, deposit, distribution, gift, loan or payment of money or any other thing of value made for the purpose of influencing the nomination or election of any individual to local office;

(B) a transfer of funds between any two or more candidate committees, party committees or political committees;

(C) the payment, by any person other than a candidate, candidate committee, party committee or political committee, of compensation to an individual for the personal services rendered without charge to or for a candidate's campaign or to or for any such committee;

(D) the purchase of tickets or admissions to, or advertisements in journals or programs for, testimonial events.

(2) "Contribution" does not include:

(A) The value of volunteer services provided without compensation;

(B) costs to a volunteer related to the rendering of volunteer services not exceeding a fair market value of \$50 during an allocable election period as provided in section 8 of this act;

(C) payment by a candidate or candidate's spouse for personal meals, lodging and travel by personal automobile of the candidate or candidate's spouse while campaigning;

(D) the value of goods donated to events such as testimonial events, bake sales, garage sales and auctions by any person not exceeding a fair market value of \$50 per event.

(e) "County election officer" means the county clerk, except in counties in which there is an election commissioner it means the election commissioner.

(f) "Election" means: (1) A primary or general election for local office.

(g) (1) "Expenditure" means: (A) Any purchase, payment, distribution, loan, advance, deposit or gift of money or any other thing of value made for the purpose of influencing the nomination or election of any individual to local office;

(B) any contract to make an expenditure;

(C) a transfer of funds between any two or more candidate committees, party committees or political committees;

(D) payment of a candidate's filing fees.

(2) "Expenditure" does not include:

(A) the value of volunteer services provided without compensation;

(B) costs to a volunteer incidental to the rendering of volunteer services not exceeding a fair market value of \$50 during an allocable election period as provided in section 8;

(C) payment by a candidate or candidate's spouse for personal meals, lodging and travel by personal automobile of the candidate or candidate's spouse while campaigning or payment of such costs by the treasurer of a candidate or candidate committee;

(D) the value of goods donated to events such as testimonial events, bake sales, garage sales and auctions by any person not exceeding fair market value of \$50 per event; or

(E) any communication by an incumbent elected officer with one or more individuals unless the primary purpose thereof is to influence the nomination or election of a candidate.

(h) "Local office" means any elective office of a municipality.

(i) "Municipality" means a city, county, township, school district or community college district.

(j) "Party committee" means the county central committee of a political party regulated under article 38 of chapter 25 of the Kansas Statutes Annotated.

(k) "Person" means any individual, committee, corporation, partnership, trust, organization or association.

(l) "Political committee" means any combination of two or more individuals or any person other than an individual, a major purpose of which is to support or oppose any candidate for local office, but not including any candidate committee or party committee.

(m) "Receipt" means a contribution or any other money or thing of value, but not including volunteer services provided without compensation, received by a treasurer in the treasurer's official capacity.

(n) "Testimonial event" means an event held for the benefit of an individual who is a candidate to raise funds for such candidate's campaign. Testimonial events include but are not limited to dinners, luncheons, rallies, barbecues and picnics.

(o) "Treasurer" means a treasurer of a candidate or of a candidate committee, a party committee or a political committee appointed under the local campaign finance reporting act.

Sec. 3. Not later than 10 days after becoming a candidate, every candidate shall appoint a treasurer or in lieu thereof shall appoint a candidate committee. A candidate may appoint the person who is such candidate as treasurer. No candidate shall appoint more than one candidate committee to exist at the same time. If a candidate appoints a candidate committee, such candidate shall appoint a chairperson and a treasurer thereof, and the treasurer so appointed may be the candidate. The name and address of each treasurer and chairperson appointed under this section shall be reported by the candidate, not later than 10 days after appointment, to the county election officer of each county in which there is located any part of the municipality wherein the candidate seeks local office.

Sec. 4. (a) Each party committee and each political committee which anticipates receiving contributions or making expenditures shall appoint a chairperson and a treasurer. The chairperson of each such committee shall make a statement of organization and file it with the county election officer not later than July 1, 1984, or not later than 10 days after establishment of such committee, whichever occurs later.

(b) Every statement of organization shall include: (1) The name and address of the committee;

(2) the names and addresses of the chairperson and treasurer of the committee; and

(3) the names and addresses of affiliated or connected organizations.

(c) Any change in information previously reported in a statement of organization shall be reported on a supplemental statement of organization and filed not later than 10 days following the change.

Sec. 5. (a) A candidate may remove any treasurer or chairperson that such candidate has appointed, and a party committee or political committee may remove its chairperson or treasurer. In case of a vacancy in the position of treasurer of a candidate before all of the obligations of the treasurer have been performed, such candidate shall be such candidate's own treasurer from the date of such vacancy, until such time as the candidate appoints a successor and reports the name and address of the treasurer to the county election officer. In case of a vacancy in the position of treasurer of a candidate committee, the candidate shall be treasurer from the date of vacancy or removal, until such time as the candidate appoints a successor and reports the name and address of the treasurer to the county election officer. In case of a vacancy in the position of treasurer of a party committee or political committee, such committee chairperson shall be treasurer from the date of vacancy or removal, until such time as the committee appoints a successor and reports the name and address of the treasurer to the county election officer. An individual who vacates the position of treasurer by reason of removal or resignation shall substantiate the accuracy of such person's records to the succeeding treasurer. No resignation of a treasurer shall be effective until a written statement of resignation of such treasurer has been filed with the county election officer. No removal of a treasurer of a candidate or candidate committee shall be effective until a written statement of such removal from the candidate has been filed with the county election officer. No removal of a treasurer of a party committee or political committee shall be effective until a written statement of such removal from the party committee or political committee

has been filed with the county election officer. The succeeding treasurer shall not be held responsible for the accuracy of the predecessor treasurer's records.

(b) No contribution or other receipt shall be received or expenditure made, by or on behalf of a candidate, except receipt or payment of a filing fee:

(1) Until such candidate appoints a treasurer and makes the report required by section 3 of this act; and

(2) unless by or through such treasurer.

(c) No contribution or other receipt shall be received or expenditure made by or on behalf of a party committee or political committee:

(1) Until the chairperson of the party committee or a political committee has filed a statement of organization required by section 4 of this act; and

(2) unless by or through the treasurer of such committee.

Sec. 6. (a) Every treasurer shall keep detailed accounts of all contributions and other receipts received and all expenditures made by or on behalf of such treasurer's candidate or committee.

(b) Accounts of any treasurer may be inspected under conditions prescribed by rules and regulations of the commission, and shall be preserved for a period to be designated by the commission in said rules and regulations.

(c) An individual may serve as treasurer for a candidate or a candidate committee, party committee or political committee or of any two or more such committees or candidates.

(d) Every person who receives a contribution for a candidate or for a candidate committee, party committee or political committee more than five days prior to the ending date of any period for which a report is required by section 7 of this act shall, on demand of the treasurer, or in any event on or before the ending date of the reporting period, remit the same and render to the treasurer an account thereof, including the amount, the name and address of the person, if known, making the contribution and the date received.

(e) No contribution or other receipt received by a candidate or a candidate committee, party committee or political committee shall be commingled with personal funds of the candidate or the treasurer or other officers or members of such committee.

Sec. 7. (a) Every treasurer shall file a report prescribed by this section in the office of the county election officer so that it is received by such office on or before each of the following days: (1) The sixth day preceding the primary election, which report shall be for the period beginning on December 1 of the preceding election year for the office the candidate is seeking and ending 11 days before the primary election, inclusive;

(2) the sixth day preceding a general election, which report shall be for the period beginning 10 days before the primary election and ending 11 days before the general election, inclusive; and

(3) December 10 of an election year, which report shall be for the period beginning 10 days before the general election and ending on November 30, inclusive.

(b) Each report required by this section shall state:

(1) Cash on hand on the first day of the reporting period;

(2) the name and address of each person who has made one or more contributions in an aggregate amount or value in excess of \$50 during the election period together with the amount and date of such contributions, including the name and address of every lender, guarantor and endorser when a contribution is in the form of an advance or loan;

(3) the aggregate amount of all proceeds from bona fide sales of political materials such as, but not limited to, political campaign pins, buttons, badges, flags, emblems, hats, banners and literature;

(4) the aggregate amount of contributions for which the name and address of the contributor is not known;

(5) each contribution, rebate, refund or other receipt not otherwise listed;

(6) the total of all receipts;

(7) the name and address of each person to whom expenditures have been made in an aggregate amount or value in excess of \$50, with the amount, date and purpose of each and the names and addresses of all persons to whom any loan or advance has been made; when an expenditure is made by payment to an advertising agency, public relations firm or political consultants for disbursement to vendors, the report of such expenditure shall show in detail the name of each such vendor and the amount, date and purpose of the payments to each;

(8) the name and address of each person from whom an in-kind contribution was received or who has paid for personal services provided without charge to or for any candidate or to or for any candidate committee, party committee or political committee in excess of \$50 and which is not otherwise reported under paragraph (7), including the amount, date and purpose thereof;

(9) the aggregate of all expenditures not otherwise reported under this section; and

(10) the total of expenditures.

(c) Treasurers of candidates and of candidate committees shall be required to itemize, as provided in paragraph (2) of subsection (b), only the purchase of tickets or admissions to testimonial events by a person who purchases such tickets or admissions in an aggregate amount or value in excess of \$50 per event, or who purchases such a ticket or admission at a cost exceeding \$25 per ticket or admission. All other purchases of tickets or admissions to testimonial events shall be reported in an aggregate amount.

(d) The county election officer may require any treasurer to file an amended report for any period for which the original report filed by such treasurer contains material errors or omissions, and notice of such errors or omissions shall be part of the public record. Such amended report shall be filed within 30 days after notice by the county election officer.

(e) The county election officer may require any treasurer to file a report for any period for which the required report

is not on file and notice of the failure to file shall be part of the public record. Such report shall be filed within five days after notice by the county election officer.

(f) For the purpose of any report required to be filed pursuant to subsection (a) by the treasurer of any party committee or political committee of which the primary purpose is supporting or opposing the nomination of any such candidate, the date of such convention or caucus shall be considered the date of the primary election.

(g) If a report is sent to the office of the county election officer by certified or registered mail on or before the day it is due, such mailing shall constitute receipt by that office.

Sec. 8. (a) All contributions and other receipts received and expenditures made from and including the December 1 following one general election date until and including the next ensuing primary election date shall be allocated to the primary election on such date. All contributions and other receipts received and expenditures made from midnight on the date of a primary election through and including the November 30 following the date of the next ensuing general election shall be allocated to the general election on such date.

(b) For the purposes of allocating, pursuant to subsection (a), contributions to or expenditures by a candidate seeking nomination by convention or caucus or such candidate's candidate committee, the date of such convention or caucus shall be considered the primary election date.

Sec. 9. Every person, other than a candidate or a candidate committee, party committee or political committee, who makes contributions or expenditures, other than by contribution to a candidate or a candidate committee, party committee or political committee, in an aggregate amount of \$100 or more within a calendar year shall make statements containing the information required by section 7 of this act, and file them in the office of the county election officer so that each such statement is in such office on the day specified in section 7 of this act. Reports made under this section need not be cumulative.

Sec. 10. (a) Every report or statement made under the local campaign finance reporting act shall be made on forms prescribed by the commission, and contain substantially the following:

"I declare that this (report) (statement), including any accompanying schedules and statements, has been examined by me and to the best of my knowledge and belief is true, correct and complete. I understand that the intentional failure to file this document or intentionally filing a false document is a class A misdemeanor."

(Date)

(Signature)

Every report or statement shall be dated and signed by:

(1) The treasurer for any report required by section 7 of this act; (2) the candidate, for any report required by section 3 of this act; or (3) the chairperson of the committee, for any statement required by section 4 of this act. If the form is not available, the report or statement to which it relates shall be made as required, but in such form as the person signing such report or statement chooses, and the county election officer may require any such report or statement to be replaced after filing by a report or statement on the forms prescribed by the commission and provided by the county election officer.

(b) Records in support of every report or statement filed under the local campaign finance reporting act shall be maintained and preserved by the person who files it for a period of time to be designated in the rules and regulations of the commission.

(c) Delay in filing a report or statement beyond the time required by law shall not prevent the acceptance of the report or statement.

(d) No treasurer shall accept or permit to be accepted any contributions or make or permit to be made any expenditures unless all reports or statements required of such treasurer prior to the time of such contributions or expenditures have been filed.

Sec. 11. (a) The county election officer shall send a notice by registered or certified mail to any person failing to file any report or statement required by section 3, 4 or 7 of this act, within the time period prescribed therefor. The notice shall state that the required report or statement has not been filed with the county election officer. The notice also shall state that such person shall have five days from the date of receipt of such notice to comply with the registration and reporting requirements before a civil penalty shall be imposed for each day that the required documents remain unfiled. If such person fails to comply within the five-day period, such person shall pay to the state a civil penalty of \$10 per day for each day that such report or statement remains unfiled, except that no such civil penalty shall exceed \$300. The county election officer may waive, for good cause, payment of any civil penalty imposed by this section.

(b) Civil penalties provided for by this section shall be paid to the state treasurer, who shall deposit the same in the state treasury to the credit of the state general fund.

(c) If a person fails to pay a civil penalty provided for by this section, it shall be the duty of the county or district attorney to bring an action to recover such civil penalty in the district court of the county in which such person resides.

Sec. 12. Failure to file a local campaign finance report is the intentional failure of any person required to make any report, amended report or statement by the local campaign finance reporting act to file the same with the county election officer at the time specified in the local campaign finance reporting act.

Failure to file a local campaign finance report is a class A misdemeanor.

Sec. 13. Fraudulent local campaign finance reporting is intentionally making any false material statement in a report or statement made under the local campaign finance reporting act.

Fraudulent local campaign finance reporting is a class A misdemeanor.

Sec. 14. Intentional violation of section 3, 4 or 5 of this act is a class A misdemeanor.

Sec. 15. K.S.A. 25-901, 25-902, 25-904 and 25-905 are hereby repealed.

Sec. 16. This act shall take effect and be in force from and after its publication in the Kansas register.