

Approved: 3-31-95
Date

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS, CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT & GOVERNMENTAL STANDARDS .

The meeting was called to order by Chairperson Sen. Janice Hardenburger at 1:30 p.m. on March 15, 1995 in Room 529-S of the Capitol.

All members were present except: Senator Martin, Excused
Senator Parkinson, Excused

Committee staff present: Dennis Hodgins, Legislative Research Department
Arden Ensley, Revisor of Statutes
Stacey Soldan, Committee Secretary

Conferees appearing before the committee: Rep. Tom Sawyer
Rep. Britt Nichols
Carol Williams, Kansas Commission Governmental Standards & Conduct
Karen Lowery, Kansas Association of School Boards

Others attending: See attached list

Senator Hardenburger requested approval of minutes from March 9 and 13, 1995 meetings.

Senator Brady made a motion to approve the minutes and was seconded by Senator Sallee. The motion carried.

HB 2020--an act relating to election campaign finance; concerning the use of moneys received by candidates as contributions

Rep. Sawyer appeared before the committee to testify in support of **HB 2020**. (attachment 1) He stated that **HB 2020** would make it possible for candidates or candidate committees to contribute to the party committees of the political party of which the candidate is a member. The Kansas Commission on Governmental Standards and Conduct had issued two opinions stating that candidates are barred from making donations to party committees under current law; Rep Sawyer stated this was not the intention of the Campaign Finance Act when it was rewritten in 1991. He also testified the legislature passed a bill similar to **HB 2020** to rectify the situation in 1993, but that bill was vetoed due to another amendment added on to the bill.

HB 2123--relates to elections; concerning political advertising and election financing

Rep. Britt Nichols appeared before the committee to testify in support of **HB 2123**. (attachment 2) Rep. Nichols gave an overview of amended **HB 2123** and stated that the amendments to **HB 2123** would create the "Election Finance Act" which would bring election reporting requirements for issue elections which deals with the use of public money to influence an election in line with what Kansas now requires for candidate elections, under the Campaign Finance Act, without increasing administrative costs or burdens and would close loopholes in the law. He requested support for amended **HB 2123**. Discussion followed concerning section 18.

Carol Williams, Kansas Commission on Governmental Standards and Conduct, appeared before the committee to testify on behalf of **HB 2123** as amended by the House Committee on Governmental Organization and Elections. (attachment 3) She recommended brochures and pamphlets not on behalf of the candidate, be amended to include disclaimers. She urged support of Section one and stated opposition to Section 19 of the amended version of **HB 2123**.

Karen Lowery, Kansas Association of School Boards, appeared before the committee to testify on HB 2123. (attachment 4) She testified the Kansas Association of School Boards opposes the amended version by the House Committee of the Whole HB 2123. She stated Kansas law already prohibits school boards and their employees from using public resources to attempt to influence issue or candidate elections. She also stated that additional reporting requirements would add paperwork and additional red tape. She also noted that KASB Delegate Assembly has adopted a position in favor of bringing all school boards under the State Campaign Finance Act.

The hearings on HB 2123 were closed.

Senator Ranson made a motion and was seconded by Senator Clark to move HB 2020 favorably out of committee. The Motion carried.

The meeting adjourned at 2:25 p.m.

The next meeting is scheduled for March 16, 1995.

TESTIMONY ON HOUSE BILL 2020
Before the Senate Elections Committee

Submitted by Representative Sawyer

H.B. 2020 would make it possible for candidates or candidate committees to contribute to the party committees of the political party of which the candidate is a member.

In two opinions issued by the Kansas Commission on Governmental Standards and Conduct, the Commission has held that current law does not permit a candidate or candidate committee to use campaign funds to make donations to state or county central party committees. It was not our intention when we re-wrote the Campaign Finance Act in 1991 to bar candidates from making donations to party committees.

In 1993 the Legislature passed a bill similar to H.B. 2020 to rectify the situation. Unfortunately, that bill was vetoed by Governor Finney because of another amendment that was added to the bill.

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Attachment 1

HB2011 co-sponsored by:

DAVID ADKINS
CLAY AURAND
JOHN BALLOU
CAROL BEGGS
GARRY BOSTON
TOM BRADLEY
TIM CARMODY
ROCHELLE CHRONISTER
DARLENE CORNFIELD
LES DONOVAN
JOHN EDMONDS
CINDY EMPSON
MIKE FARMER
JOANN FLOWER
CLIFF FRANKLIN
JOANN FREEBORN
FRED GATLIN
GERALD GERINGER
PHYLLIS GILMORE
KENT GLASSCOCK
CLYDE GRAEBER
JILL GRANT
DEENA HORST
ANDREW HOWELL
BECKY HUTCHINS
ROBIN JENNISON
JOE KEJR
KENNETH KING
PHILL KLINE
BRENDA LANDWEHR
DOUG LAWRENCE
STEVE LLOYD
WILLIAM MASON
CARLOS MAYANS
DOUG MAYS
GARY MERRITT
JIM MORRISON
DON MYERS
BRITT NICHOLS
KAY O'CONNOR
MIKE O'NEAL
GREG PACKER
TONY POWELL
TED POWERS
ED PUGH
TIM SHALLENBERGER
TOM SLOAN
VINCE SNOWBARGER
DALE SWENSON
RALPH TANNER
BOB TOMLINSON
JOHN TOPLIKAR
JENE VICKERY
SUSAN WAGLE
SHERI WEBER
KENNY WILK
DENNIS WILSON
DEE YOH

HB 2123
"ELECTION FINANCE ACT"

March 15, 1995

Testimony presented to the
KANSAS SENATE

Elections, Congressional & Legislative Apportionment and
Governmental Standards Committee

State Representative Britt Nichols

*Madame Chairman, Committee Members: Thank you for the opportunity to appear before this committee as a **proponent** of the amended HB2123.*

BACKGROUND: *Before turning to a description of what the amendments to HB2123 are designed to accomplish, I would like to provide the committee with a little background on the source of the sections which were amended into HB2123 by the House Committee of the Whole. The two amendments added into HB2123 came from HB2011 - a bill which was co-sponsored by 58 members of the House. That bill received a hearing from the House GO & Elections Committee. On the last day for committee action by House committees, a motion to report HB2011 favorable for passage was pending at the ten o'clock deadline for committee action. With the House moments from entering session, the chair of the Committee adjourned the committee meeting. No vote was taken in committee but I can inform you that a majority of the committee members were co-sponsors of the bill. Since all but one of the members of that committee later voted in favor of the amendments when placed before the House as HB2123, I am confident that the bill would have cleared the committee with a favorable recommendation if the committee meeting had not been adjourned in order to permit committee members to make the House session on time. Following the adjournment of the committee, the amendments which you have before you were offered to the House Committee of the Whole where they were adopted. HB2123, with the amendments included, was passed on final action by a 113-11 margin. I believe that the amendments contain many features which should recommend themselves to you and I ask for your favorable consideration and, hopefully, for your favorable action on HB2123.*

As I indicated above, I appear before you as a proponent of this much needed legislation. The substantial number of co-sponsors of HB2011 from large and small communities all across Kansas indicate the wide-spread desire for legislation to address election finance reform in issue elections. The fact that the amended HB2123 passed

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by a 113-11 margin suggests that almost all of the House saw the need to address the problems answered by the HB2123 amendments.

ISSUE ELECTION CHANGES: New sections 2 through 17 of HB2123 form the "Election Finance Act." HB2123 creates a locally administered and virtually self-enforcing, first amendment neutral and free speech neutral, pre-election campaign contribution and expenditure reporting system for all participants in all issue elections (excluding state constitutional amendment elections). These sections generally parallel the structure of the Campaign Finance Act that covers candidate elections such as state representative elections.

- ◆ With the exception of individuals spending less than \$250 (who are exempt from all compliance and reporting requirements) and groups who file an affidavit that they intend to spend less than \$500 (similar to campaign finance spending reporting threshold), all persons, groups or entities who engage in election activity, are required to appoint a treasurer for keeping contribution and expenditure reporting records and for filing required reports.
- ◆ The reports required by the act must contain the same type of contribution and expenditure information that is required for candidate elections.
- ◆ The reports required of the treasurer are to be filed 8 days prior to the election covered by the report for the period ending 10 days before the election together with a follow-up report which would be due on or before January 10 for the period from the preceding report to December 31.
- ◆ The reports are to be filed in the local election officer's office not in either the Secretary of State's office nor in the Commission on Government Standards and Conduct. There is no requirement placed on any agency to obtain or track the reports.
- ◆ If reports are not filed as required, any person, the county or district attorney or the attorney general may seek an order directing the report be filed. Failure to report is a misdemeanor and may subject the person failing to file to a civil penalty and to disqualification from seeking public office until the penalty is satisfied.
- ◆ There was no fiscal note on HB2011 and should be no fiscal note on the amendments to HB2123. The election finance creates no additional duties on any public office other than County Election Officers are will receive additional informational but will have no duty to go out and retrieve filings not made.
- ◆ The act expressly permits public agencies to permit use of public buildings and facilities on an equal basis as to time and cost to interested parties.

To contrast the proposed Election Finance Act with current law, I would point out that under current election law, only some (but not all) of the participants in issue elections are required to report under any circumstance and those very few who actually bother to comply with current law are not required to file any informational report until December 31 following the election. From my research, most participants thumb their noses at current law by not reporting and none of those, as far as I have been able to determine, have been prosecuted for violating current reporting requirements. Additionally, by the simple expedient of claiming to run an "informational" campaign, without regard to whether the information disseminated is even true or accurate, anyone can avoid any reporting requirement under current law. As a result, issue elections are run against a murky backdrop where the sources, amounts and implied motives of the many people and entities that spend hundreds of thousand of dollars to influence local elections are rarely disclosed because those participants have no reporting obligation whatsoever (if they play by currently available rules) and have no campaign contribution or expenditure limitations of any kind - not even the court of public opinion.

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CANDIDATE ELECTION CHANGES: New section 18 in HB2123 addresses candidate election issues. Defining public agency to include any entity that uses public moneys and resources as a part of its budget, this section prohibits the use of public funds, vehicles, machinery, inventory, equipment, resources, information, supplies or public records for the purpose of influencing the nomination or election of any candidate to public office. The loophole in current law that needs to be closed is that for many public agencies, the only prohibition placed upon their participation in candidate elections is via spending authority limitations that are easily ignored. And, if violated, are not prosecuted.

CONCLUSION: The amendments to HB2123 that would create the "Election Finance Act" would bring issue election reporting requirements in line with what Kansas now requires for candidate elections without increasing administrative costs or burdens and would also close loopholes that permit public moneys and resources to be used in candidate elections. I hope that you can support adoption of HB2123.

THANK YOU FOR YOUR TIME AND ATTENTION. I will be pleased to make myself available to answer the committee's questions.


Britt Nichols



KANSAS COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT

Testimony before Senate Elections, Congressional and Legislative
Apportionment and Governmental Standards
House Bill 2123
By Carol E. Williams
March 14, 1995

As originally drafted, House Bill 2123, which is before you this afternoon, would amend K.S.A. 25-4156, a provision of the Campaign Finance Act. Section one is the recommendation made by the Kansas Commission on Governmental Standards and Conduct.

K.S.A. 25-4156 currently requires any paid advertisement which is placed in a newspaper or other periodical or aired on radio or television to include a disclaimer which states who has paid for the political advertisement. The Commission recommends that this section be amended to include a similar disclaimer for brochures, flyers or other political fact sheets which are disseminated to the public.

During the 1992 and 1994 election cycles, the Commission received many calls from candidates and other individuals who were wondering who had paid for publications that were mailed or distributed door to door that either supported or opposed specific candidates for state or local office. Since this information is not currently required by K.S.A. 25-4156, we were unable to provide this information. The Commission believes that this information should be available to the public.

Under K.S.A. 25-4150, any person who expends more than \$100 in a calendar year supporting or opposing a candidate for state or local office must file a report with the Secretary of State and/or the county election officer on the same dates that candidates and political committees file reports. It is impossible for the Commission to determine who has actually paid for brochures and flyers which are distributed in an election year. Individuals who expend funds supporting or opposing candidates for state or local office should be disclosing this information just as candidates and political committees are required to do. Requiring a "Paid for by" disclaimer on brochures, flyers and political fact sheets would help the Commission obtain compliance with K.S.A. 25-4150.

Sections 2-19 were amended into HB 2123 on the floor of the House. The Commission does not take a position on sections 2-18.

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However, the Commission opposes Section 19, which repeals a provision in the Campaign Finance Act, K.S.A. 25-4169a. This section prohibits the use of public funds, vehicles, machinery, equipment, supplies and time of certain officers and employees to influence the nomination or election of any candidate under the purview of the Act. The Commission believes this provision should remain in the Campaign Finance Act under the purview of the Kansas Commission on Governmental Standards and Conduct.

The Commission urges your support of Section One and opposition to Section 19 of HB 2123.

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Testimony on H.B. 2123
before the
Senate Committee on Elections, Congressional &
Legislative Apportionment and Governmental Standards

by

Karen Lowery
Coordinator of Governmental Relations
Kansas Association of School Boards
March 15, 1994

Madam Chair, Members of the Committee:

Thank you for the opportunity to appear before you today to speak on H.B. 2123. As amended by the House Committee of the Whole, this bill now contains sections of H.B. 2011. The Kansas Association of School Boards appeared in opposition to H.B. 2011 before the House Committee and now appear before you in opposition to H.B. 2123 for the following reasons:

1. Kansas law already prohibits school boards and their employees from using public resources to attempt to influence issue or candidate elections. We do not believe that further statutory language is necessary.
2. We believe that school boards have a positive duty to inform patrons about issue elections such as local option budgets and bond issues. Patrons already have access to information about public expenditures in this regard through the Kansas Open Records Act. Additional reporting requirements would simply add paperwork and red tape at a time when most people seem frustrated about the amount of paperwork that confronts educators.
3. Beyond these laws already imposed by the state, we believe that the democratic process at the local level is the best mechanism to address concerns about school district activities. The voters in every school district in Kansas have the opportunity to place a new majority on the board on April 4. Just as the state legislature has sought to reduce the scope of federal entanglement in state affairs, we believe the legislature should resist the temptation to expand its control over local decisions.

KASB would note that our Delegate Assembly has adopted a position in favor of bringing all school boards under the state campaign finance act. Currently, only candidates in U.S.D. 259 (Wichita) are subject to that act. Our only condition for supporting this change is that candidates who spend under a certain threshold can continue to file an affidavit and avoid the more extensive reporting requirements for candidates who spend above that amount.

Thank you for your consideration.

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