

Approved: 2-12-98
Date

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE.

The meeting was called to order by Chairman Janice Hardenburger at 1:30 p.m. on February 10, 1998 in Room 529-S of the Capitol.

All members were present:

Committee staff present: Dennis Hodgins, Legislative Research Department
Mike Heim, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Graceanna Wood, Committee Secretary

Conferee appearing before the committee: Charlie Smithson, Legal Counsel, KCGSC

Others attending: See attached list

Chairman Hardenburger resumed discussion on **SB 430**. A balloon was distributed which would raise the in-kind contribution to \$100 and also included the definition of "clearly identified". (Attachment #1)

The Committee discussed how the \$100 would be reported if more than one candidate was mentioned on a political flyer. The Committee further discussed what in-kind contribution would mean on **SB 430**.

Senator Huelskamp made a motion to delete "independent expenditure" from SB 430. In addition he made a motion to pass bill out as amended and seconded by Senator Becker. Motion carried.

Chairman Hardenburger advised the Committee that **SB 454** and **SB 455** could be combined in **SB 452** and **SB 453** if the Committee wanted to proceed in that direction. Charlie Smithson, Legal Counsel of the KCGSC gave testimony in favor of **SB 454**. The bill makes it a violation of the Campaign Finance Act for a person to intentionally aid, abet, advise, hire, counsel or procure another person to commit a violation of the Act. (Attachment #2)

Chairman Hardenburger closed the hearing on **SB 454** and opened the hearing on **SB 455**, advising these bill are exactly the same except that one applies to governmental ethics and the other to Campaign Finance Act. Charlie Smithson provided testimony in favor of **SB 455**. (Attachment #3)

The Committee discussed combining the bills.

Chairman Hardenburger closed the hearing on **SB 455**.

Senator Lawrence made motion that SB 455 be passed out favorably, seconded by Senator Vidricksen. Motion carried. Senator Lawrence made motion that SB 454 be passed out favorably, seconded by Senator Becker. Motion carried.

Meeting was adjourned at 2:15 p.m.

Next meeting will be at 1:30 p.m. February 11, 1998.

(8) the name and address of each candidate, clearly identified, for state or local office for whom an expenditure in the form of an in-kind contribution ~~or independent expenditure~~ has been made in an aggregate amount or value in excess of \$100 with the amount date and purpose of each. The provisions of this subsection shall apply only to political committees and party committees.

(9) 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, candidate committee, party committee or political committee, if the contribution is in excess of \$100 and is not otherwise reported under subsection (b) (7), and the amount, date and purpose of the contribution.

*“Clearly identified” means that - (A) the name of the candidate involved appears, or
(B) a photograph or drawing of the candidate appears; or
(C) the identity of the candidate is apparent by unambiguous
reference.*



KANSAS COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT

TESTIMONY BEFORE SENATE ELECTIONS & LOCAL GOVERNMENT IN SUPPORT OF SB 454

By W. Charles Smithson, Legal Counsel

SB 454, which is before you this afternoon, amends the Kansas Campaign Finance Act and is a recommendation by the Commission.

Section 1 is a cleanup of K.S.A. 25-4142, which is the citation statute of the Campaign Finance Act.

Section 2 subsection (a) makes it a violation of the Campaign Finance Act for any person to **intentionally** aid, abet, advise, hire, counsel or procure another person to commit a violation of the Act. Note that this action must be done intentionally.

Therefore, for this section to be triggered, both persons must commit some act in furtherance of violating the campaign finance laws. Aiding and abetting requires actual participation in the act constituting the offense.

Subsection (b) also makes the aider and abetter liable for any other violations of the campaign finance laws that are reasonably foreseeable by such person as a probable consequence of committing the act. For example, a money laundering scheme (contributions in the name of another), currently a violation of the campaign laws, would necessarily lead to contributions in excess of the limits. The excessive contributions would be a reasonably foreseeable consequence of a money laundering scheme.

Subsection (c) is a restatement of current criminal law and makes the aiding and abetting a violation even if the person being aided is not found "guilty". The reason for this is that to be a violation, the person aiding and abetting must have done some participatory act in furthering the violation.

Subsection (d) is the penalty section. The aider and abetter is subject to the same penalties as for the underlying violation. Subsection (e) makes this section part of the Campaign Finance Act.

The language of this bill was taken from current criminal law (K.S.A. 21-3205). It allows the Commission to fully investigate violations of law under its jurisdiction.

Elec. & Local Gov.

Date: 2-10-98

Attachment: # 2



KANSAS COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT

TESTIMONY BEFORE SENATE ELECTIONS & LOCAL GOVERNMENT IN SUPPORT OF SB 455

By W. Charles Smithson, Legal Counsel

SB 454, which is before you this afternoon, amends the Kansas Campaign Finance Act and is a recommendation by the Commission.

Section 1 is a cleanup of K.S.A. 25-4142, which is the citation statute of the governmental ethics laws.

Section 2 subsection (a) makes it a violation of the governmental ethics laws for any person to **intentionally** aid, abet, advise, hire, counsel or procure another person to commit a violation of the Act. Note that this action must be done intentionally.

Therefore, for this section to be triggered, both persons must commit some act in furtherance of violating the ethics laws. Aiding and abetting requires actual participation in the act constituting the offense.

Subsection (b) also makes the aider and abetter liable for any other violations of the ethics laws that are reasonably foreseeable by such person as a probable consequence of committing the act.

Subsection (c) is a restatement of current criminal law and makes the aiding and abetting a violation even if the person being aided is not found "guilty". The reason for this is that to be a violation, the person aiding and abetting must have done some participatory act in furthering the violation.

Subsection (d) is the penalty section. The aider and abetter is subject to the same penalties as for the underlying violation. Subsection (e) makes this section part of the ethics laws.

The language of this bill was taken from current criminal law (K.S.A. 21-3205). It allows the Commission to fully investigate violations of law under its jurisdiction.

Elec. & Local Gov.

Date: 2-10-98

Attachment: #3