

MINUTES OF THE SENATE ETHICS AND ELECTIONS COMMITTEE

The meeting was called to order by Vice-Chairman Pat Apple at 9:30 a.m. on February 5, 2009, in Room 446-N of the Capitol.

All members were present.

Committee staff present:

Mike Heim, Office of the Revisor of Statutes
Ken Wilke, Office of the Revisor of Statutes
Reed Holwegner, Kansas Legislative Research Department
Carolyn Long, Committee Assistant

Conferees appearing before the committee:

Carol Williams, Director, Governmental Ethics Commission
Bryan Caskey, Administrative Assistant, Election Division, Secretary of State

Others attending:

See attached list.

Vice-Chair Apple began the meeting and opened the hearing on **SB 118—Campaign finance; state-wide offices; electronic filing required**, welcoming Carol Williams. Ms. Williams said the bill would require state-wide electronic filing, allowing the media and voting public to have a searchable database on-line by 2010 (Attachment 1)

Senator Wagle voiced opposition to requiring this for lower level candidates and Ms Williams responded that this was not the intent of the bill at this time.

Brian Caskey, speaking in favor of the bill, stated that currently the electronic filing is optional and that his office supports and encourages passage as it reduces paperwork and staff (Attachment 2).

There being no further discussion, the hearing on **SB 118** was closed.

Chairwoman Schmidt introduced **SB 117—Elections; certain political advertising; disclosure requirements**. Carol Williams asked for a substitute for this bill amending Supp. 25-4156 (Attachment 3). It would require “paid for” or “sponsored by”, followed by the name of the sponsor if attribute expressly advocates the nomination, election or defeat of a clearly identified candidate in an e-mail, website, or other type of internet communication as these types of communication fall under the category of being published. This does not apply to any communication of less than 25 individuals. Staff recommended clarifying wording in the law.

Senator Pyle requested that the Commission provide examples of complaints received which may have generated the need for this legislation and what it would change.

The language is currently in a rule and regulation but not in statute.

The hearing on **SB 117** was closed following encouragement for the amendment.

Chairman Schmidt called for final action on **SB 55—Concerning ballots by uniformed and overseas citizens and federal services voters and SB 57—Campaign finance; requiring electronic filing of certain reports**. The Chair recommended combining these bills by adding a section to amend **SB 55**, by amending **SB 57** and inserting it into **SB 55**. Senator Apple made a motion and Senator Reitz seconded.

Senator Brungardt offered an amendment allowing portability of funds raised. Senator Pyle would like a dollar amount cap inserted to make the transfer more applicable to all members. **Senator Brungardt moved the amendment, Senator Reitz seconded. Motion carried on a voice vote.**

The Chair referred back to the bill. **Senator Reitz moved, Senator Brungardt seconded that SB 55, as amended, be moved out favorably. The motion carried**

CONTINUATION SHEET

Minutes of the Senate Ethics And Elections Committee at 9:30 a.m. on February 5, 2009, in Room 446-N of the Capitol.

The Chair then referred to **SB 56—Elections; security of advance voting ballots** and opened the floor for discussion, noting that this was about the security of the ballot and nothing more.

Senator Faust-Goudeau noted that the face of the advance voting envelope contained a place for the voter's signature and the inclusion of additional language for the carrier of the ballot could be incorporated.

Senator Wagle moved for a conceptual amendment to SB 56 regarding Senator Faust-Goudeau's suggestion. Senator Apple asked when the third party signs the ballot. It was noted that the voter designated the carrier on the envelope when the voter releases the ballot to the individual to turn it in and the carrier has a two-day window in which to turn in the ballot. This would be a state-wide requirement.

Senator Reitz moved, Senator Brungardt seconded that SB 56 be moved as amended. Time having expired, this bill, as amended, will be acted on at the next meeting.

The meeting was adjourned at 10:30 a.m. The next meeting is scheduled for February 11, 2009.



GOVERNMENTAL ETHICS COMMISSION

www.kansas.gov/ethics
 Testimony before Senate Committee on Elections
 in Support of Senate Bill 118
 by Carol Williams, Executive Director
 February 5, 2009

Senate Bill 118 amends K.S.A. 2008 Supp. 25-4148, which is a provision of the Campaign Finance Act. This bill is a recommendation made by the Governmental Ethics Commission.

The Campaign Finance Act currently permits a candidate for statewide office to file his or her receipts and expenditures reports electronically. The Commission believes statewide candidates should be required to file these reports electronically.

The reports of statewide candidates receive the most scrutiny from not only the media, but also the voting public. Electronic reports would provide a standardized format for viewing which would assist the public in reviewing reports. Currently, some candidates use their own software to generate reports, while others type or hand write their reports on the Commission's reporting form. Some reports are filed in a portrait format, while others are filed in a landscape format. Some reports are filed with a font size almost too small to read. Electronic reporting would create uniformity for all statewide candidate reports.

The Secretary of State's office is currently working on making the electronically filed reports searchable. The ability to search reports for statewide candidates would provide the public with timely information for purposes of making informed voting decisions. Although all reports are scanned onto the Commission's website the day reports are filed, reports are searchable only after Commission staff has manually entered the data from all reports into a database. It usually takes six-eight weeks after an election for this data to be available to the public.

Thirty states require statewide candidates to electronically file receipts and expenditures reports. The Commission believes Kansas should join the ranks of other states in requiring electronic filing of statewide candidate reports. The Commission urges you to pass SB 118 out of committee favorably.

Senate Ethics and Elections Cmte
Date 2-5-2009
Attachment 1

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STATE OF KANSAS

Senate Committee on Ethics and Elections

Testimony on Senate Bill 118

Bryan Caskey, Administrative Assistant
Division of Elections and Legislative Matters

February 5, 2009

Madam Chair and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 118. Although not proposed by the Secretary of State's office, this bill fits with our recent efforts and our goals for electronic filing of campaign finance reports. Senate Bill 118 would require candidates for offices elected on a statewide basis to file their regular campaign finance reports electronically.

We support this legislation because it will reduce the amount of paper handled by our office and the amount of staff time consumed in managing paper reports. Also, it will eliminate the need to make photocopies of these reports for the Governmental Ethics Commission.

In 2007, Senate Bill 100 was passed as part of the conference committee report on House Bill 2081. This legislation required the Secretary of State to build an electronic campaign finance reporting system, which was subsequently accomplished in a cooperative effort with the Governmental Ethics Commission. However, the law did not require anyone to file their reports electronically. It was an optional system. We believe that because we have an operational electronic system, we should encourage its use. Senate Bill 118 does that.

This effort fits with another bill proposed by the Secretary of State this year. Senate Bill 57 would require last-minute campaign finance reports during the eleven-day "blackout" period before each election to be filed by fax or electronically. Senate Bill 57 coupled with Senate Bill 118 represent a move toward more effective use of the electronic system.

We urge the committee to report Senate Bill 118 favorably for passage. Thank you for your consideration.

**GOVERNMENTAL ETHICS COMMISSION**

www.kansas.gov/ethics

Testimony before Senate Committee on Elections
in Support of Senate Bill 117
by Carol Williams, Executive Director
February 5, 2009

Senate Bill 117 amends K.S.A. 2008 Supp. 25-4156, which is a provision of the Campaign Finance Act. This bill is a recommendation made by the Governmental Ethics Commission in its 2008 Annual Report and Recommendations.

The Commission believes internet communications and websites which expressly advocate the election or defeat of a clearly identified candidate for state or local office should be required to display the "paid for or sponsored by" disclaimer on the communication. Since K.S.A. 25-4156 was enacted before the widespread use of political internet communications, this statute does not address websites and e-mail communications which expressly advocate. The Commission was asked in an advisory opinion request in 2004 whether a website required a "paid for by" disclaimer. In Advisory Opinion 2004-02, the Commission opined "information posted on a website has been brought to the public's attention and therefore, has been published. Consequently, such material requires a 'paid for by' disclaimer if the material expressly advocates the nomination, election, or defeat of a clearly identified candidate for state or local office".

In Advisory Opinion 2007-11, the Commission once again stated the same analysis used for communications written on paper and distributed by hand or through the postal service should be used for internet communications to determine whether they constitute political advertising subject to the disclosure requirements of K.S.A. 2008 Supp. 25-4156. The Commission opined "... an email or internet communication expressly advocating the nomination, election or defeat of a clearly identified candidate for a state or local office may be published political advertising depending on its breadth of distribution. If the email or other Internet communication is distributed so that it is brought to the public's

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Date 2-5-2009Attachment 3

attention, it will require a 'paid for' or 'sponsored by' disclosure statement".

Effective July 24, 2008, K.A.R. 19-20-4 includes Internet communication in the definition of "brochure, flier, or other political fact sheet". This regulation now clarifies which electronic communications are included as political advertising requiring an attribution statement.

Substitute for SB 117 would amend K.S.A. 2008 Supp. 25-4156 by inserting new language to subsection (b)(1)(D), This new language would require a website, e-mail or other type of internet communication that expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office to be followed by an attribution statement.

In listening to the committee's concerns during the request for bill introduction, it is suggested that an exception be made to the requirement of a disclaimer statement for political e-mails disseminated to less than 25 individuals. The language for this exception can also be found in subsection (b)(1)(D).

In the interest of an informed electorate, as well as for the benefit of those seeking office, K.S.A. 25-4156 should be amended to clearly state that Internet communications which expressly advocate the election or defeat of a candidate for state or local office include an attribution statement. The Commission urges you to pass SB 117 out of committee favorably.