

SESSION OF 2012

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 145**

As Recommended by House Committee on
Elections

Brief*

House Sub. for SB 145 would change the current statutory requirement, that a petition circulator must be a Kansas resident, to permit both residents and non-residents to be petition circulators. The bill would define a petition circulator as a resident or non-resident who is a United States citizen, is at least 18 years old, and has not been convicted of a felony or, if convicted, has been pardoned or had his or her civil rights restored.

The bill also would require all petition circulators agree to submit to the jurisdiction of the state, including its agencies, political subdivisions, and election officials, for subpoena enforcement regarding the integrity and reliability of the petition process.

The bill would make technical amendments in the sections being otherwise amended.

The bill would be in effect upon publication in the *Kansas Register*.

Background

As it left the Senate, Sub. SB 145 would have added to the Campaign Finance Act requirements for a disclosure statement in any radio or television ad that clearly expresses

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

the nomination, election, or defeat of a clearly identified candidate for state or local office. The House Committee on Elections deleted these contents and adopted a substitute bill with the contents of Sub. for SB 333, with additional changes. The Committee removed the requirement that a petition circulator possess a photo identification which satisfies the requirements of KSA 25-2908. The Committee also included the language allowing a felon who received a pardon or had his or her civil rights restored within the definition of "petition circulator" to comply with the *Kansas Constitution*, Article 5 § 2.

Testifying in support of the original bill before the Senate Committee on Ethics and Elections was a representative from the Secretary of State's office. A representative from the Attorney General's office submitted written testimony in support of the bill. There was no opposition testimony. The representatives from the Secretary of State's office and the Attorney General's office requested several amendments to the original bill.

Currently, only Kansas residents are permitted to be petition circulators. This statutory requirement became unenforceable following the stipulated order in the case *Constitution Party of Kan. v. Biggs*, No. 10-4043-SAC, 2010 WL 3237293 (D. Kan. Aug. 13, 2010). The court found this requirement to be unconstitutional as it violates the First Amendment of the *U.S. Constitution* according to *Yes on Term Limits, Inc. v. Savage*, 550 F.3d 1023 (10th Cir. 2008).

Initially, the Senate Committee on Ethics and Elections recommended a substitute bill that would amend the contents of the original bill to define a petition circulator as a resident or non-resident of Kansas as long as the individual is a United States citizen, is at least 18 years of age, has not been convicted of a felony, and possesses a photo identification meeting the requirements of KSA 25-2908 (voting at the polls). Additionally, the substitute bill would require the affidavit that all petition circulators are statutorily required to sign, whether residents or non-residents, to state

that the petition circulator agrees to submit to the jurisdiction of the state.

According to the fiscal note on SB 333, as introduced, the Secretary of State indicated that any fiscal effect would be negligible.