

HOUSE BILL No. 2206

By Committee on Elections

1-27

1 AN ACT concerning elections; relating to campaign finance; amending the
2 definition of express advocacy; amending K.S.A. 25-4143 and
3 repealing the existing section.
4

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

6 Section 1. K.S.A. 25-4143 is hereby amended to read as follows: 25-
7 4143. As used in the campaign finance act, unless the context otherwise
8 requires:

9 (a) "Candidate" means an individual who:

- 10 (1) Appoints a treasurer or a candidate committee;
11 (2) makes a public announcement of intention to seek nomination or
12 election to state or local office;
13 (3) makes any expenditure or accepts any contribution for such
14 person's nomination or election to any state or local office; or
15 (4) files a declaration or petition to become a candidate for state or
16 local office.

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

20 (c) "Clearly identified candidate" means a candidate who has been
21 identified by the:

- 22 (1) Use of the name of the candidate;
23 (2) use of a photograph or drawing of the candidate; or
24 (3) unambiguous reference to the candidate whether or not the name,
25 photograph or drawing of such candidate is used.

26 (d) "Commission" means the governmental ethics commission.

27 (e) (1) "Contribution" means:

28 (A) Any advance, conveyance, deposit, distribution, gift, loan or
29 payment of money or any other thing of value given to a candidate,
30 candidate committee, party committee or political committee for the
31 express purpose of nominating, electing or defeating a clearly identified
32 candidate for a state or local office.;

33 (B) any advance, conveyance, deposit, distribution, gift, loan or
34 payment of money or any other thing of value made to expressly advocate
35 the nomination, election or defeat of a clearly identified candidate for a
36 state or local office;

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

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

7 (E) the purchase of tickets or admissions to, or advertisements in
8 journals or programs for, testimonial events; *or*

9 (F) a mailing of materials designed to expressly advocate the
10 nomination, election or defeat of a clearly identified candidate, which is
11 made and paid for by a party committee with the consent of such
12 candidate.

13 (2) "Contribution" does not include:

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

15 (B) costs to a volunteer related to the rendering of volunteer services
16 not exceeding a fair market value of \$50 during an allocable election
17 period as provided in K.S.A. 25-4149, and amendments thereto;

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

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

24 (f) "Election" means:

25 (1) A primary or general election for state or local office; and

26 (2) a convention or caucus of a political party held to nominate a
27 candidate for state or local office.

28 (g) (1) "Expenditure" means:

29 (A) Any purchase, payment, distribution, loan, advance, deposit or
30 gift of money or any other thing of value made by a candidate, candidate
31 committee, party committee or political committee for the express purpose
32 of nominating, electing or defeating a clearly identified candidate for a
33 state or local office-;

34 (B) any purchase, payment, distribution, loan, advance, deposit or gift
35 of money or any other thing of value made to expressly advocate the
36 nomination, election or defeat of a clearly identified candidate for a state
37 or local office;

38 (C) any contract to make an expenditure;

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

41 (E) payment of a candidate's filing fees.

42 (2) "Expenditure" does not include:

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

1 (B) costs to a volunteer incidental to the rendering of volunteer
 2 services not exceeding a fair market value of \$50 during an allocable
 3 election period as provided in K.S.A. 25-4149, and amendments thereto;

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

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

11 (E) any communication by an incumbent elected state or local officer
 12 with one or more individuals unless the primary purpose thereof is to
 13 expressly advocate the nomination, election or defeat of a clearly
 14 identified candidate.

15 (h) "Expressly advocate the nomination, election or defeat of a clearly
 16 identified candidate" means any communication which uses phrases
 17 including, but not limited to:

- 18 (1) "Vote for the secretary of state";
- 19 (2) "re-elect your senator";
- 20 (3) "support the democratic nominee";
- 21 (4) "cast your ballot for the republican challenger for governor";
- 22 (5) "Smith for senate";
- 23 (6) "Bob Jones in '98";
- 24 (7) "vote against Old Hickory";
- 25 (8) "defeat" accompanied by a picture of one or more candidates;~~or~~
- 26 (9) "Smith's the one-"; or

27 (10) *other phrases, images or graphics, when taken as a whole and*
 28 *with limited reference to external events, such as the proximity to the*
 29 *election, could only be interpreted by a reasonable person as containing*
 30 *advocacy of the election or defeat of one or more clearly identified*
 31 *candidate or candidates because:*

32 (A) *The electoral portion of the communication is unmistakable,*
 33 *unambiguous and suggestive of only one meaning; and*

34 (B) *reasonable minds could not differ as to whether such phrases,*
 35 *images or graphics encourages actions to elect or defeat one or more*
 36 *clearly identified candidate or candidates or encourages some other kind*
 37 *of action.*

38 (i) "Party committee" means:

39 (1) The state committee of a political party regulated by article 3 of
 40 chapter 25 of the Kansas Statutes Annotated, and amendments thereto;

41 (2) the county central committee or the state committee of a political
 42 party regulated under article 38 of chapter 25 of the Kansas Statutes
 43 Annotated, and amendments thereto;

1 (3) the bona fide national organization or committee of those political
 2 parties regulated by the Kansas Statutes Annotated;

3 (4) not more than one political committee established by the state
 4 committee of any such political party and designated as a recognized
 5 political committee for the senate;

6 (5) not more than one political committee established by the state
 7 committee of any such political party and designated as a recognized
 8 political committee for the house of representatives; or

9 (6) not more than one political committee per congressional district
 10 established by the state committee of a political party regulated under
 11 article 38 of chapter 25 of the Kansas Statutes Annotated, and amendments
 12 thereto, and designated as a congressional district party committee.

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

15 (k) (1) "Political committee" means any combination of two or more
 16 individuals or any person other than an individual, a major purpose of
 17 which is to expressly advocate the nomination, election or defeat of a
 18 clearly identified candidate for state or local office or make contributions
 19 to or expenditures for the nomination, election or defeat of a clearly
 20 identified candidate for state or local office.

21 (2) "Political committee" shall not include a candidate committee or a
 22 party committee.

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

26 (m) "State office" means any state office as defined in K.S.A. 25-
 27 2505, and amendments thereto.

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

32 (o) "Treasurer" means a treasurer of a candidate or of a candidate
 33 committee, a party committee or a political committee appointed under the
 34 campaign finance act or a treasurer of a combination of individuals or a
 35 person other than an individual which is subject to ~~paragraph (2) of~~
 36 ~~subsection (a) of K.S.A. 25-4172(a)(2), and amendments thereto.~~

37 (p) "Local office" means a member of the governing body of a city of
 38 the first class, any elected office of a unified school district having 35,000
 39 or more pupils regularly enrolled in the preceding school year, a county or
 40 of the board of public utilities.

41 Sec. 2. K.S.A. 25-4143 is hereby repealed.

42 Sec. 3. This act shall take effect and be in force from and after its
 43 publication in the statute book.