

HOUSE BILL No. 2642

AN ACT concerning elections; relating to corrupt political advertising; campaign finance reports; publishing of election results; amending K.S.A. 25-3205 and 25-3206 and K.S.A. 2017 Supp. 25-4152, 25-4156, 46-268 and 46-280 and repealing the existing sections.

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

Section 1. K.S.A. 2017 Supp. 25-4156 is hereby amended to read as follows: 25-4156. (a) (1) Whenever any person sells space in any newspaper, magazine or other periodical to a candidate or to a candidate committee, party committee or political committee, the charge made for the use of such space shall not exceed the charges made for comparable use of such space for other purposes.

(2) Intentionally charging an excessive amount for political advertising is a class A misdemeanor.

(b) (1) Except as provided in ~~subsection paragraph~~ (2), corrupt political advertising of a state or local office is:

(A) Publishing or causing to be published in a newspaper or other periodical any paid matter ~~which that~~ expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by the word “advertisement” or the abbreviation “adv.” in a separate line together with the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor;

(B) broadcasting or causing to be broadcast by any radio or television station any paid matter ~~which that~~ expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by a statement ~~which that~~ states: “Paid for” or “Sponsored by” followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor;

(C) telephoning or causing to be contacted by any telephonic means including, but not limited to, any device using a voice over internet protocol or wireless telephone, any paid matter ~~which that~~ expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is preceded by a statement ~~which that~~ states: “Paid for” or “Sponsored by” followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor;

(D) publishing or causing to be published any brochure, flier or other political fact sheet ~~which that~~ expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by a statement ~~which that~~ states: “Paid for” or “Sponsored by” followed by the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor.

The provisions of this subparagraph (D) requiring the disclosure of the name of an individual shall not apply to individuals making expenditures in an aggregate amount of less than \$2,500 within a calendar year; or

(E) making or causing to be made any website, e-mail or other type of internet communication ~~which that~~ expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless ~~such the~~ matter is followed by a statement ~~which that~~ states: “Paid for” or “Sponsored by” followed by the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor.

The provisions of this subparagraph (E) requiring the disclosure of the name of an individual shall apply only to any website, email or other type of internet communication ~~which that~~ is made by the candidate, the candidate’s candidate committee, a political committee or a party committee and ~~such the~~ website, email or other internet communication viewed by or disseminated to at least 25 individuals. For the purposes of this subparagraph, the terms “candidate,” “candidate committee,” “party committee” and “political committee” shall have the meanings ascribed to them in K.S.A. 25-4143, and amendments thereto.

(2) The provisions of subsections (b)(1)(C) and (E) shall not apply to the publication of any communication ~~which that~~ expressly advocates the nomination, election or defeat of a clearly identified candidate for state

or local office, if such communication is made over any social media provider which has a character limit of ~~200~~ 280 characters or fewer.

(3) Corrupt political advertising of a state or local office is a class C misdemeanor.

(c) If any provision of this section or application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of this section ~~which~~ that can be given effect without the invalid application or provision, and to this end the provisions of this section are declared to be severable.

Sec. 2. K.S.A. 2017 Supp. 25-4152 is hereby amended to read as follows: 25-4152. (a) *Except as provided in subsection (b)*, the commission shall send a notice by registered or certified mail to any person failing to file any report or statement required by K.S.A. 25-4144, 25-4145 or 25-4148, and amendments thereto, and to the candidate appointing any treasurer failing to file any such report, within the time period prescribed therefor. The notice shall state that the required report or statement has not been filed with either the office of secretary of state or county election officer or both. The person failing to file any report or statement, and the candidate appointing any such person, shall be responsible for the filing of such report or statement. The notice also shall state that such person shall have 15 days from the date such notice is deposited in the mail to comply with the registration and reporting requirements before a civil penalty shall be imposed for each day that the required documents remain unfiled. If such person fails to comply within the prescribed period, such person shall pay to the state a civil penalty of \$10 per day for each day that such report or statement remains unfiled, except that no such civil penalty shall exceed \$300. The commission may waive, for good cause, payment of any civil penalty imposed by this section.

(b) (1) *Subject to the notice provisions of subsection (a), reports that are due under the provisions of K.S.A. 25-4148(a)(1) and (2), and amendments thereto, for candidates that appear on the ballot for the then-current primary or general election ballot and are late more than 48 hours shall be subject to civil penalties as provided in subsection (b)(2).*

(2) *The candidate shall be liable for a civil penalty of \$100 for the first day the report is more than 48 hours late and \$50 for each subsequent day the report is late, but in no case shall the civil penalty exceed \$1,000. The commission may waive, for good cause, payment of any civil penalty imposed by this section.*

(c) (1) *Subject to the notice provisions of subsection (a), reports that are due under the provisions of K.S.A. 25-4145 and 25-4148, and amendments thereto, for each political committee that anticipates receiving \$2,501 or more in any calendar year and are late more than 48 hours shall be subject to civil penalties as provided in subsection (c)(2).*

(2) *The political committee shall be liable for a civil penalty of \$100 for the first day the report is more than 48 hours late and \$50 for each subsequent day the report is late, but in no case shall the civil penalty exceed \$1,000. The commission may waive, for good cause, payment of any civil penalty imposed by this section.*

(d) Civil penalties provided for by this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the governmental ethics commission fee fund.

~~(e)~~(e) If a person fails to pay a civil penalty provided for by this section, it shall be the duty of the commission to bring an action to recover such civil penalty in the district court of the county in which such person resides.

Sec. 3. K.S.A. 2017 Supp. 46-268 is hereby amended to read as follows: 46-268. (a) Except as otherwise provided in subsection (b), every lobbyist shall file *electronically* with the secretary of state a report of employment and expenditures on a form and in the manner prescribed and provided by the commission. A report shall be filed on or before the 10th day of the months of February, March, April, May, September and January. Reports shall include all expenditures which are required to be reported under K.S.A. 46-269, and amendments thereto, or a statement that no expenditures in excess of \$100 were made for such purposes,

during the preceding calendar month or months since the period for which the last report was filed.

(b) For any calendar year in which a lobbyist expects to expend an aggregate amount of less than \$100 for lobbying in each reporting period, a lobbyist shall file *electronically* an affidavit of such intent with the secretary of state. Such lobbyist shall not be required to file the reports required under subsection (a) for the year for which such affidavit is filed. If in any reporting period a lobbyist filing such affidavit expends in excess of \$100 in reportable expenses, a report shall be filed for such period in the manner prescribed by subsection (a).

Sec. 4. K.S.A. 2017 Supp. 46-280 is hereby amended to read as follows: 46-280. (a) *Except as provided in subsection (b)*, the commission shall send a notice by registered or certified mail to any person failing to register or to file any report or statement as required by K.S.A. 46-247; ~~or 46-265 or 46-268~~, and amendments thereto, within the time period prescribed therefor. The notice shall state that the required registration, report or statement had not been filed with the office of secretary of state. The notice also shall state that such person shall have five days from the date of receipt of such notice to comply with the registration and reporting requirements before a civil penalty shall be imposed for each day that the required documents remain unfiled. If such person fails to comply within such period, such person shall pay to the state a civil penalty of \$10 per day for each day that such person remains unregistered or that such report or statement remains unfiled, except that no such civil penalty shall exceed \$300. The commission may waive, for good cause, payment of any civil penalty imposed hereunder.

(b) *Subject to the notice provisions of subsection (a), reports required for lobbyists under K.S.A. 46-268, and amendments thereto, that are late more than 48 hours shall be subject to civil penalties as provided in subsection (b)(2).*

(2) *The lobbyist shall be liable for a civil penalty of \$100 for the first day the report is more than 48 hours late and \$50 for each subsequent day the report is late, but in no case shall the civil penalty exceed \$1,000. The commission may waive, for good cause, payment of any civil penalty imposed by this section.*

(c) Whenever the commission shall determine that any report filed by a lobbyist as required by K.S.A. 46-269, and amendments thereto, is incorrect, incomplete or fails to provide the information required by such section, the commission shall notify such lobbyist by registered or certified mail, specifying the deficiency. Such notice shall state that the lobbyist shall have 30 days from the date of the receipt of such notice to file an amended report correcting such deficiency before a civil penalty will be imposed and the registration of such lobbyist revoked and the badge be required to be returned to the office of the secretary of state. A copy of such notice shall be sent to the office of the secretary of state. If such lobbyist fails to file an amended report within the time specified, such lobbyist shall pay to the commission a civil penalty of \$10 per day for each day that such person fails to file such report except that no such civil penalty shall exceed \$300. On the 31st day following the receipt of such notice, the registration of any lobbyist failing to file such amended report shall be revoked.

~~(d)~~ (d) Civil penalties provided for by this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the governmental ethics commission fee fund.

~~(d)~~ (e) (1) Except as provided in ~~subsection~~ *paragraph* (2), if a person fails to pay a civil penalty provided for by this section, it shall be the duty of the commission to bring an action to recover such civil penalty in the district court of the county in which such person resides.

(2) If a person required to file under ~~subsection (f) of~~ K.S.A. 46-247(f), and amendments thereto, fails to pay a civil penalty provided for by this section, it shall be the duty of the commission to bring an action to recover ~~such~~ *the* civil penalty in the district court of Shawnee county, Kansas.

Sec. 5. K.S.A. 25-3205 is hereby amended to read as follows: 25-3205. (a) The state board of canvassers shall be the board of canvassers for the

final canvass of the primary election of national and state officers. Provisions of law relating to the canvass of the national and state general elections shall, as far as applicable, apply to the canvass and certification of the secretary of state of ~~such the~~ primary elections. The state board of canvassers shall meet at the office of the secretary of state on the call of the secretary of state as soon as convenient after the tabulation of the returns is made. The meeting shall be called not later than September 1 next following ~~such the~~ election, except when ~~such the~~ date falls on Sunday, then not later than the next following day which is not a legal holiday, and may recess from time to time until the final canvass is completed.

As soon as ~~such the~~ final canvass of the primary election shall be completed, the secretary of state shall publish in the Kansas register a certified statement of the candidates for the presidential electors, United States senator, representatives in congress and all state officers or so many of ~~such the~~ officers as may have been voted for at ~~such the~~ election. On the fourth day after the completion of such final canvass or as soon as practicable thereafter, the secretary of state shall mail to each candidate found by the state board of canvassers to be duly nominated a certificate of nomination, showing the name of the candidate, the party by whom nominated and the office for which the candidate is nominated as specified in the nomination papers and determined by the state board of canvassers.

(b) The secretary of state shall publish on the official secretary of state website results by precinct for all federal offices, statewide offices and for state legislative offices not later than 30 days after the final canvass of the primary election is complete.

Sec. 6. K.S.A. 25-3206 is hereby amended to read as follows: 25-3206.

(a) The state board of canvassers shall make the final canvass of national and state primary and general elections. ~~Such~~ The board shall also make the final canvass of elections upon constitutional amendments and all questions submitted to election on a statewide basis, including questions on retention in office of justices of the supreme court, judges of the court of appeals and judges of the district court.

(b) For the purpose of canvassing elections specified in subsection (a), the state board of canvassers shall meet on the call of the secretary of state, in the secretary's office, as soon as convenient after the tabulation of the returns is made. In the case of general elections, the meeting shall be called not later than December 1 next following ~~such the~~ election, except when ~~such the~~ date falls on Sunday, then not later than the following day, and may recess from time to time until the canvass is completed.

(c) The state board of canvassers shall, upon the abstracts on file in the office of secretary of state, proceed to make final canvass of any election for officers specified in subsection (a). The state board of canvassers shall certify a statement which shall show the names of the persons receiving votes for any of ~~such the~~ offices, and the whole number received by each, distinguishing the districts and counties in which they were voted.

(d) The state board of canvassers shall, upon the abstracts on file in the office of the secretary of state, proceed to make final canvass and determination of the result of statewide question submitted elections. The state board of canvassers shall certify a statement of the number of votes on each question and the result thereof.

(e) The state board of canvassers shall certify such statements to be correct, and the members shall subscribe their names thereto, and the board shall determine what persons have been elected to such offices and the members shall endorse and subscribe on the statement a certificate of ~~such the~~ determination and deliver them to the secretary of state.

(f) The secretary of state shall publish on the official secretary of state website election results by precinct for all federal offices, statewide offices and for legislative offices not later than 30 days after the final canvass of the general election results.

Sec. 7. K.S.A. 25-3205 and 25-3206 and K.S.A. 2017 Supp. 25-4152, 25-4156, 46-268 and 46-280 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.