

VOTER PHOTO IDENTIFICATION CASES IN TEXAS AND INDIANA

Comparison of Case Aspects

ASPECTS CONSIDERED		
<p>Subject to preclearance by U.S. Department of Justice? (If the state is a jurisdiction covered by section 5 of the Voting Rights Act of 1965, 28 C.F.R. pt. 51 App., the state may not implement any change in its voting procedures without first obtaining "preclearance" from either the U.S. Attorney General or a three-judge panel of the U.S. District Court, D.C. (42 U.S.C. §19733c(a))</p>	<p>TEXAS <i>Texas v. Holder</i>, 2012 WL 3743676. (Westlaw has only citation currently available)</p> <p>YES</p> <p>U.S. District Court, D.C., three-judge panel 5/27/11—SB 14 is approved by Governor 7/25/11—State files preclearance application 1/24/11—State files request for judicial preclearance 3/12/12—Attorney General denies state's application 8/30/12—Court panel rules against state "Undisputed record evidence demonstrates that racial minorities in Texas are disproportionately likely to live in poverty and, because SB 14 will weigh more heavily on the poor, the law will likely have retrogressive effect." (Decision, Page 9)</p>	<p>INDIANA <i>Crawford v. Marion County Election Board</i>, U.S. 181 (2008)</p> <p>NO</p> <p>U.S. Supreme Court 2005—SB 483 is enacted 2006—Indiana Democratic Party and Marion County Democratic Central Committee file suit in Federal District Court for the Southern District of Indiana; second suit is filed on behalf of a number of organizations representing groups of voters; cases are consolidated; State of Indiana intervenes to defend law's validity 2006—District Judge grants defendants' motion for summary judgment; Petitioners had "not introduced evidence of a single individual Indiana resident who will be unable to vote as a result of SEA 483 or have his or her right to vote unduly burdened by its requirements." (Decision, Page 4) 2007—Court of Appeals divided; panel affirms; four judges vote to grant petition for rehearing <i>en banc</i> 2007—U.S. Supreme Court grants certiorari 4/28/08—U.S. Supreme Court renders decision "State's interests identified as justifications for Indiana statute requiring government issued photo identification to vote were sufficiently weighty to justify any limitation imposed on voters." (Decision, Page 1)</p>

<p>Who had the burden of proof?</p>	<p>The State – “Only if a covered jurisdiction can demonstrate that a proposed change “neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race or color” will that change take effect.” (Summary, from Decision – Page 6 of 42 U.S.C. §1973o(a) in part). “This means that a covered jurisdiction must show by a preponderance of the evidence that a proposed voting change lacks both (1) discriminatory purpose and (2) retrogressive effect.” (From Decision, Page 6)</p>	<p>The Plaintiffs (questioning the law’s constitutionality)</p>
<p>The court considered the effect on which group(s) of voters?</p>	<p>Voters who are racial and language minorities.</p>	<p>All Indiana voters</p>
<p>Was the law upheld? Reasoning</p>	<p>NO – Law violates civil rights protections by placing an unfair burden on poor and minority voters. “To sum everything up, section 5 prohibits covered states from implementing voting laws that will have a retrogressive effect on racial minorities. See <i>Beer</i>, 429 U.S. at 141. Texas, seeking to implement its voter ID law, bears the burden of proof and must therefore show that SB 14 lacks retrogressive effect. Georgia, 117 U.S. at 538. But as we have found, everything Texas has submitted as affirmative evidence is unpersuasive, invalid, or both. Moreover, uncontested record evidence conclusively shows that the implicit costs of obtaining SB 14-qualifying ID will fall most heavily on the poor and that a disproportionately high percentage of African Americans and Hispanics in Texas live in poverty.” (Decision Page 21)</p>	<p>YES – “[The previous courts] correctly concluded that the evidence in the record is not sufficient to support a facial attack on the validity of the entire statute.” (Decision, Pages 4-5)</p>

**Comparison of Voter Identification Requirements:
CURRENT KANSAS LAW (HB 2067), TEXAS SB 14, AND INDIANA SB 483**

PROVISION	CURRENT KANSAS LAW (2011 HB 2067 unless otherwise specified)	TEXAS LAW (2011 SB 14*) <small>*Blocked by Federal Court under preclearance review (All statute references are to TX Election Code)</small>	INDIANA LAW (2005 SB 483-Effective 2005**) <small>**Upheld by U.S. Supreme Court</small>
Advance Voting in Person ID first time/every time Photo ID required	KSA 25-1122(b) Every time (at every election) Yes (with clarification that those without required ID, or name/address don't match registration book information, may vote a provisional ballot)	N/A (no changes to current law)	IC 3-11-10-22 Not required at all No
Acceptable ID forms Signature verification required	Same as for voting at polls (see below) No		N/A In case of doubt concerning a voter's identity
Ballot transmittal by another	KSA 25-1128 Designated in writing by voter; affidavit regarding undue influence		Not covered in bill
Advance Voting by Mail ID first time/every time Photo ID required	KSA 25-1122(c) Every time (at every election) Yes (or number thereof) (with clarification that those without required ID, or name/address don't match registration book information, may vote a provisional ballot)	N/A (no changes to current law)	IC 3-11010-1.2; 3-11-5-4-16 Not required No
Acceptable ID forms Signature verification required	Full KS DL number, KS nondriver's ID card number, or a copy of one of the forms of ID required for voting at the polls (see below) Yes		N/A In case of doubt concerning a voter's identity
Ballot transmittal by another	Designated in writing by voter; affidavit regarding undue influence		Not covered in bill
Voting at the Polls ID first time/every time Photo ID required	KSA 25-2908(h) Every time (at every election) Yes (1) with clarification that those without required ID, or name/address don't match registration book information, may vote a provisional ballot; and (2) with exemptions (See below)	63.0101, 521A.001 (SB14-Sec. 12.20) Every time (at every election) Yes (1) with clarification that those without required ID, or name/address don't match registration book information, may vote a provisional ballot; and (2) with exemptions (See below)	IC 3-5-2-40.5; 3-10-1-7.2; 3-11-8-25.1 Every time (at every election) Yes

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Acceptable ID forms	<p>VALID IF CONTAINS NAME AND PHOTO AND HAS NOT EXPIRED (if the voter is 65+, the document may be expired):</p> <ol style="list-style-type: none"> 1. Driver's license issued by any U.S. state or district; 2. State ID card issued by any state/district; 3. Concealed carry license from any state/district; 4. U.S. passport; 5. Local/state/federal employee badge or ID document; 6. U.S. military ID; 7. KS student ID from an accredited postsecondary education institution; or 8. Local/state/federal public assistance ID card; 9. ID card issued by an Indian tribe (added by 2012 SB 129) 	<p>VALID IF CONTAINS NAME AND PHOTO AND HAS NOT EXPIRED</p> <ol style="list-style-type: none"> 1. Texas driver's license that has not expired; 2. U.S. passport that has not expired; 3. U.S. military ID card with photo that has not expired; 4. U.S. citizenship certification that contains photo; or 5. Election Identification Certificate (EIC – see below) 	<p>A document that satisfies all the following:</p> <ol style="list-style-type: none"> 1. Shows the name of the individual to whom it was issued, and the name conforms to the name in the individual's voter registration record. 2. Shows a photo of the individual. 3. Includes an expiration date and either (a) is not expired, or (b) expired after the date of the most recent general election. 4. Was issued by the U.S. or the state of Indiana.
Exceptions to ID requirement	<p>KSA 25-2908(i)</p> <ol style="list-style-type: none"> 1. Those with a permanent physical disability that makes it impossible to travel to obtain a qualifying ID for and are qualified for permanent advance voting status; 2. Members of the uniformed service on active duty who, because of that are absent from the county on election day; 	<p>13.002 (SB14-Sec. 1)</p> <ol style="list-style-type: none"> 1. Written evidence of disability from U.S. Social Security Administration; <u>or</u> 2. Written evidence of at least 50% disability rating from U.S. Department of Veterans' Affairs; <u>and</u> 3. Statement that applicant does not have prescribed ID 	<p>IC 3-10-1-7.2; 3-11-8-25; 3-11-8-25.1</p> <p>A voter who votes in person at a polling place located at a state licensed care facility where the voter resides.</p>

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<p>PROVISION</p>	<p>CURRENT KANSAS LAW (2011 HB 2067 unless otherwise specified)</p>	<p>TEXAS LAW (2011 SB 14*) <i>*Blocked by Federal Court under preclearance review (All statute references are to TX Election Code).</i></p>	<p>INDIANA LAW (2005 SB 483-Effective 2005**) <i>**Upheld by U.S. Supreme Court</i></p>
<p>Signature verification required</p>	<p>No</p> <p>3. Members of the merchant marine who for service reasons are absent from the county on election day; 4. Spouse or dependent of member listed under #2 or #3 (above); 5. Any voter whose religious beliefs prohibit photographic identification. Any such person must complete a declaration form.</p>	<p>No</p>	<p>IC 3-11-8-25; 3-11-8-25.1 In case of doubt concerning a voter's identity</p>
<p>Free Document Copies</p>	<p>Free Nondriver's ID</p> <ul style="list-style-type: none"> Requires DMV to issue free nondriver's ID to anyone 17 or older for purposes of meeting voter ID requirement. Individual must sign affidavit stating he/she plans to vote and that he/she does not have any of the acceptable ID forms. <p>Free birth certificate (KSA 65-2418(a)(3)) (added by 2012 SB 129)</p> <ul style="list-style-type: none"> Requires KDHE to issue free birth certificate to anyone 17 or older for purposes of voting if the person lacks the ID required in 25-2908(h). 	<p>521A.001 (SB14-Sec. 20)</p> <p>Election Identification Certificate (EIC)</p> <ul style="list-style-type: none"> Issued by TX Department of Public Safety to a person who states the person is obtaining the EIC for the purpose of fulfilling photo voter ID requirement. Prohibits DPS from collecting a fee for an EIC or a duplicate copy of one. Prohibits an election officer from denying holder of EIC the ability to vote because holder has EIC rather than DL or personal ID certificate. 	<p>IC 9-24-16-10</p> <p>Free (nondriver's) ID</p> <ul style="list-style-type: none"> Requires Bureau of Motor Vehicles to issue to anyone who will be at least 18 at next election and who does not have a valid Indiana DL.

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{As Amended by House Committee of the Whole}

As Amended by House Committee

Session of 2012

HOUSE BILL No. 2425

By Representatives Goodman and O'Brien

1-3

1 AN ACT concerning ~~campaign finance; relating to schools; also relating to~~
2 ~~question submitted elections {and campaign finance}~~; amending
3 K.S.A. 25-901{, 25-904} and 25-905 and K.S.A. 2011 Supp. 25-4143
4 and repealing the existing sections.
5

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

7 Section 1. K.S.A. 25-901 is hereby amended to read as follows: 25-
8 901. Every committee, club, organization, municipality or association
9 designed to promote or ~~engage~~*engage* in promoting the success or defeat
10 of any party or the election or defeat of any candidate or candidates for
11 any city of the second and third class, ~~unified school district, except~~
12 ~~unified school districts having 35,000 or more pupils regularly enrolled in~~
13 ~~the preceding school year~~ and any community college or township office,
14 or the adoption or defeat of any question submitted at any city, unified
15 school district, community college, township or county election, shall have
16 a treasurer, and shall cause to be kept a detailed account of all moneys or
17 property or other thing of value received by it, and of the manner in which
18 the same shall be expended; and shall file annually with the county
19 election officer of the county in which such committee, club, organization
20 or association has its headquarters a statement of all its receipts and
21 expenditures, showing in detail from whom such moneys or property or
22 other thing of value were received, to whom such moneys or property or
23 other thing of value were paid, for what specific purposes each payment
24 was made, and the exact nature of the service rendered in consideration
25 thereof.

26 The annual statement herein required shall be filed on or before
27 December 31, such statement shall cover the period ending on December 1
28 immediately preceding. The accounts of the state committee of each
29 political party shall be audited annually by a certified public accountant
30 and a copy of the audit filed with the secretary of state.

31 This section and K.S.A. 25-905, and amendments thereto, shall not be
32 construed to require any committee, club, organization, municipality or
33 association which is subject to the campaign finance act (K.S.A. 25-4101
34 et seq.) to file reports required by this act.

1 Sec. 2. K.S.A. 25-905 is hereby amended to read as follows: 25-905.
2 Every person who shall violate any of the provisions of K.S.A. 25-903 or
3 25-904, ~~as amended and amendments thereto~~, or who shall fail, neglect or
4 refuse to comply with any of the provisions thereof, shall be deemed guilty
5 of a misdemeanor, and upon conviction thereof shall be fined in any sum
6 not exceeding ~~one thousand dollars (\$1,000)~~ \$1,000. The conviction of any
7 person of a violation of any of the provisions of K.S.A. 25-903, ~~as~~
8 ~~amended and amendments thereto~~, shall at once vacate any office held by
9 ~~him~~ *such person*, and such person shall be disqualified from holding any
10 public office for a period of two (2) years: ~~Provided, That~~ The penalties
11 and forfeitures herein imposed shall not apply to candidates for city of the
12 third class or township offices.

13 Upon the failure of any candidate for nomination or election to any city
14 of the ~~first or second~~ *second or third* class, ~~school district~~, community
15 junior college, county or state office, to file ~~his~~ *such candidate's* statement
16 of expenses as provided in K.S.A. 25-904, ~~as amended and amendments~~
17 ~~thereto~~, it shall be the duty of the officer with whom such statement should
18 be filed, within ~~ten (10)~~ 10 days from the expiration of the time for filing
19 such statement and before any action is brought to enforce the penalties
20 above provided, to notify such candidate that ~~he~~ *such candidate* has failed
21 to file such statement, and in case such candidate files such statement
22 within ~~ten (10)~~ 10 days from the time of receiving such notice, and such
23 statement shows that ~~he~~ *such candidate* has not expended a sum greater
24 than permitted by law, then the penalties and forfeitures herein provided
25 shall not be imposed upon such ~~candidate~~ *candidate* unless such statement
26 is shown to be untrue.

27 Sec. 3. K.S.A. 2011 Supp. 25-4143 is hereby amended to read as
28 follows: 25-4143. As used in the campaign finance act, unless the context
29 otherwise requires:

30 (a) "Candidate" means an individual who: (1) Appoints a treasurer or
31 a candidate committee;

32 (2) makes a public announcement of *an* intention to seek nomination
33 or election to state or local office;

34 (3) makes any expenditure or accepts any contribution for such
35 ~~person's~~ *individual's* nomination or election to any state or local office; or

36 (4) files a declaration or petition to become a candidate for state or
37 local office.

38 (b) "Candidate committee" means a committee appointed by a
39 candidate to receive contributions and make expenditures for the
40 candidate.

41 (c) "Clearly identified candidate" means a candidate who has been
42 identified by the:

43 (1) Use of the name of the candidate;

- 1 (2) use of a photograph or drawing of the candidate; or
2 (3) unambiguous reference to the candidate whether or not the name,
3 photograph or drawing of such candidate is used.
- 4 (d) "Commission" means the governmental ethics commission.
- 5 (e)(1) "Contribution" means:
- 6 (A) Any advance, conveyance, deposit, distribution, gift, loan or
7 payment of money or any other thing of value given to a candidate,
8 candidate committee, party committee or political committee for the
9 express purpose of nominating, electing or defeating a clearly identified
10 candidate for a state or local office.
- 11 (B) Any advance, conveyance, deposit, distribution, gift, loan or
12 payment of money or any other thing of value made to expressly advocate
13 the nomination, election or defeat of a clearly identified candidate for a
14 state or local office;
- 15 (C) a transfer of funds between any two or more candidate
16 committees, party committees or political committees;
- 17 (D) the payment, by any person other than a candidate, candidate
18 committee, party committee or political committee, of compensation to an
19 individual for the personal services rendered without charge to or for a
20 candidate's campaign or to or for any such committee;
- 21 (E) the purchase of tickets or admissions to, or advertisements in
22 journals or programs for, testimonial events;
- 23 (F) a mailing of materials designed to expressly advocate the
24 nomination, election or defeat of a clearly identified candidate, which is
25 made and paid for by a party committee with the consent of such
26 candidate.
- 27 (2) "Contribution" does not include:
- 28 (A) The value of volunteer services provided without compensation;
- 29 (B) costs to a volunteer related to the rendering of volunteer services
30 not exceeding a fair market value of \$50 during an allocable election
31 period as provided in K.S.A. 25-4149, and amendments thereto;
- 32 (C) payment by a candidate or candidate's spouse for personal meals,
33 lodging and travel by personal automobile of the candidate or candidate's
34 spouse while campaigning;
- 35 (D) the value of goods donated to events such as testimonial events,
36 bake sales, garage sales and auctions by any person not exceeding a fair
37 market value of \$50 per event.
- 38 (f) "Election" means:
- 39 (1) A primary or general election for state or local office; and
40 (2) a convention or caucus of a political party held to nominate a
41 candidate for state or local office.
- 42 (g)(1) "Expenditure" means:
- 43 (A) Any purchase, payment, distribution, loan, advance, deposit or

- 1 gift of money or any other thing of value made by a candidate, candidate
2 committee, party committee or political committee for the express purpose
3 of nominating, electing or defeating a clearly identified candidate for a
4 state or local office.
- 5 (B) Any purchase, payment, distribution, loan, advance, deposit or
6 gift of money or any other thing of value made to expressly advocate the
7 nomination, election or defeat of a clearly identified candidate for a state
8 or local office;
- 9 (C) any contract to make an expenditure;
- 10 (D) a transfer of funds between any two or more candidate
11 committees, party committees or political committees; or
- 12 (E) payment of a candidate's filing fees.
- 13 (2) "Expenditure" does not include:
- 14 (A) The value of volunteer services provided without compensation;
- 15 (B) costs to a volunteer incidental to the rendering of volunteer
16 services not exceeding a fair market value of \$50 during an allocable
17 election 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 payment of such costs by the treasurer of a
21 candidate or candidate committee;
- 22 (D) the value of goods donated to events such as testimonial events,
23 bake sales, garage sales and auctions by any person not exceeding fair
24 market value of \$50 per event; or
- 25 (E) any communication by an incumbent elected state or local officer
26 with one or more individuals unless the primary purpose thereof is to
27 expressly advocate the nomination, election or defeat of a clearly
28 identified candidate.
- 29 (h) "Expressly advocate the nomination, election or defeat of a clearly
30 identified candidate" means any communication which uses phrases
31 including, but not limited to:
- 32 (1) "Vote for the secretary of state";
- 33 (2) "re-elect your senator";
- 34 (3) "support the democratic nominee";
- 35 (4) "cast your ballot for the republican challenger for governor";
- 36 (5) "Smith for senate";
- 37 (6) "Bob Jones in '98";
- 38 (7) "vote against Old Hickory";
- 39 (8) "defeat" accompanied by a picture of one or more candidates; or
- 40 (9) "Smith's the one."
- 41 (i) *"Local office" means a member of the governing body of a city of*
42 *the first class, any elected office of a unified school district, a county or of*
43 *the board of public utilities.*

- 1 (j) "Party committee" means:
- 2 (1) The state committee of a political party regulated by article 3 of
- 3 chapter 25 of the Kansas Statutes Annotated, and amendments thereto;
- 4 (2) the county central committee or the state committee of a political
- 5 party regulated under article 38 of chapter 25 of the Kansas Statutes
- 6 Annotated, and amendments thereto;
- 7 (3) the bona fide national organization or committee of those political
- 8 parties regulated by the Kansas Statutes Annotated;
- 9 (4) not more than one political committee established by the state
- 10 committee of any such political party and designated as a recognized
- 11 political committee for the senate;
- 12 (5) not more than one political committee established by the state
- 13 committee of any such political party and designated as a recognized
- 14 political committee for the house of representatives; or
- 15 (6) not more than one political committee per congressional district
- 16 established by the state committee of a political party regulated under
- 17 article 38 of chapter 25 of the Kansas Statutes Annotated, and amendments
- 18 thereto, and designated as a congressional district party committee.
- 19 (⊕) (k) "Person" means any individual, committee, corporation,
- 20 partnership, trust, organization or association.
- 21 (⊖) (l) (1) "Political committee" means any combination of two or
- 22 more individuals or any person other than an individual, a major purpose
- 23 of which is to expressly advocate the nomination, election or defeat of a
- 24 clearly identified candidate for state or local office or make contributions
- 25 to or expenditures for the nomination, election or defeat of a clearly
- 26 identified candidate for state or local office.
- 27 (2) "Political committee" shall not include a candidate committee or a
- 28 party committee.
- 29 (⊕) (m) "*Question submitted election*" means *question submitted*
- 30 *election as defined in K.S.A. 25-2104, and amendments thereto.*
- 31 (n) "Receipt" means a contribution or any other money or thing of
- 32 value, but not including volunteer services provided without
- 33 compensation, received by a treasurer in the treasurer's official capacity.
- 34 (⊖) (o) "State office" means any state office as defined in K.S.A. 25-
- 35 2505, and amendments thereto.
- 36 (⊖) (p) "Testimonial event" means an event held for the benefit of an
- 37 individual who is a candidate to raise contributions for such candidate's
- 38 campaign. Testimonial events include but are not limited to dinners,
- 39 luncheons, rallies, barbecues and picnics.
- 40 (⊕) (q) "Treasurer" means a treasurer of a candidate or of a candidate
- 41 committee, a party committee or a political committee appointed under the
- 42 campaign finance act or a treasurer of a combination of individuals or a
- 43 person other than an individual ~~which~~ who is subject to paragraph (2) of

1 subsection (a) of K.S.A. 25-4172, and amendments thereto.

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

6 New Sec. 4. (a) Every committee, club, organization, municipality
7 or association designed to promote or engage in promoting the success or
8 defeat of any question submitted at any city, unified school district,
9 community college, township or county election, shall have a treasurer,
10 and shall cause to be kept a detailed account of all moneys or property or
11 other thing of value received by it, and of the manner in which the same
12 shall be expended; and shall file reports ~~in compliance with~~ of such
13 receipts and expenditures no later than eight days prior to the election
14 at which such question is submitted and follow the reporting
15 requirements in K.S.A. 25-4148, and amendments thereto. Reports shall
16 be filed in ~~both the office of the secretary of state and in~~ the county
17 election office of the county in which the question submitted election is
18 held.

19 The provisions of this section shall be part of and supplemental to the
20 campaign finance act.

21 {Sec. 5. K.S.A. 25-904 is hereby amended to read as follows: 25-
22 904. (a) Every candidate for election to any city of the second and
23 third class, unified school district, community college or township
24 office subject to this act who intends to expend or have expended on
25 such person's behalf an aggregate amount or value of less than \$500
26 \$1,000, exclusive of such candidate's filing fee, and who intends to
27 receive or have received on such person's behalf contributions in an
28 aggregate amount or value of less than \$500 \$1,000 in each the
29 primary and the general election shall file, not later than the ninth day
30 preceding the primary election, an affidavit of such intent with the
31 county election officer of the county of residence of the candidate. No
32 report required by subsection (b) shall be required to be filed by or for
33 such candidate.

34 (b) Except as provided in subsection (a), it shall be the duty of
35 every candidate for nomination or for election to any city of the
36 second and third class, unified school district, community college or
37 township office subject to this act, within 30 days after each primary,
38 general or special election, to file with the county election officer an
39 itemized statement under oath stating the name and address of each
40 person who has made any contribution in excess of \$50 during the
41 election period together with the amount and date of such
42 contributions and an itemized statement of all expenditures made by
43 such candidate or obligations contracted or incurred by such

- 1 candidate in connection with each primary, general or special election.
- 2 (c) No candidate which is subject to the provisions of the
3 campaign finance act (K.S.A. 25-4142 et seq., and amendments
4 thereto) shall be required to file any report required by this section.
- 5 (d) Any candidate who has signed an affidavit pursuant to
6 subsection (a) and who incurs expenses in excess of or receives
7 contributions in excess of ~~\$500~~ \$1,000, exclusive of such candidate's
8 filing fee for either the primary or the general election, shall file the
9 report required by subsection (b). }
- 10 {New Sec. 6. (a) A county election officer may request the
11 preparation of a ballot language statement for the purposes of
12 explaining the language of a ballot question of any municipality as
13 defined by K.S.A. 75-6102, and amendments thereto.
- 14 (1) If the ballot question language was derived from a petition
15 submitted to the office of the county attorney, district attorney or
16 county counselor pursuant to K.S.A. 25-3601, and amendments
17 thereto, such county election officer shall request the office of the
18 county attorney, district attorney or county attorney, as applicable, to
19 prepare the ballot language statement in compliance with the
20 requirements of subsection (a)(3).
- 21 (2) If the ballot question language did not derive from a petition
22 submitted to the office of the county attorney, district attorney or
23 county counselor pursuant to K.S.A. 25-3601, and amendments
24 thereto, such county election officer shall request the office of
25 secretary of state to prepare the ballot language statement in
26 compliance with the requirements of subsection (a)(3).
- 27 (3) A ballot language statement shall fairly and accurately explain
28 what a vote for and what a vote against the measure represents. Such
29 ballot language statements shall be true and impartial statements of
30 the effect of a vote for and against the measure in language neither
31 intentionally argumentative nor likely to create prejudice for or
32 against the proposed measure. A ballot language statement shall be
33 prepared and transmitted in good faith and without malice.
- 34 (b) (1) Within 15 days of a request by a county election officer to
35 prepare a ballot language statement pursuant to subsection (a)(1), the
36 office of the county attorney, district attorney or county counselor, as
37 applicable, shall prepare and forward such ballot language statement
38 to the office of secretary of state for approval by the secretary of state
39 or the secretary of state's designee that such ballot language statement
40 complies with the requirements of subsection (a)(3). Within five days
41 following receipt of the ballot language statement, the office of
42 secretary of state shall furnish the county election officer the ballot
43 language statement as approved by the office of secretary of state as in

1 compliance with the requirements of subsection (a)(3).

→ 2 (b) (2) Within 15 days of a request by a county election officer to
3 prepare a ballot language statement pursuant to subsection (a)(2), the
4 secretary of state or the secretary's designee shall prepare and
5 forward such ballot language statement to the office of the attorney
6 general for approval by the attorney general, or any assistant attorney
7 general, that such ballot language statement complies with the
8 requirements of subsection (a)(3). Within five days following receipt of
9 the ballot language statement, the office of the attorney general shall
10 furnish the county election officer the ballot language statement as
11 approved by the office of the attorney general as in compliance with
12 the requirements of subsection (a)(3).

13 (c) A ballot language statement prepared under this section shall
14 be:

15 (1) Posted in each polling place, but shall not be placed on the
16 ballot;

17 (2) provided to registered voters voting by advance ballot. Such
18 ballot language statement shall not be placed on the ballot when
19 provided to a registered voter voting by advance ballot; and

20 (3) made available for public inspection in the office of the county
21 election officer. A ballot language statement prepared under this
22 section may be posted on the official website of the county.

23 (d) There shall be no cause of action at law or in equity
24 challenging the validity of the form of a ballot language statement
25 prepared under this section. There shall be no liability on the part of
26 and no cause of action of any nature shall arise against the attorney
27 general, any assistant attorney general, the secretary of state, the
28 secretary of state's employees, the county election officer, the county
29 attorney, the district attorney or the county counselor as a result of the
30 preparation of a ballot language statement under this section. The
31 preparation of a ballot language statement shall not form any basis for
32 an election contest or result in the waiver of any immunity by the state
33 or any of its subdivisions.}

34 ~~Sec.-5. {7.}~~ K.S.A. 25-901{, 25-904} and 25-905 and K.S.A. 2011
35 Supp. 25-4143 are hereby repealed.

36 ~~Sec.-6. {8.}~~ This act shall take effect and be in force from and after its
37 publication in the ~~statute book~~{Kansas register}.

38

SESSION OF 2012

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2425

As Amended by House Committee on Elections

Brief*

HB 2425, as amended, would place all school districts, in addition to the Wichita Unified District, under the reporting requirements of the Campaign Finance Act. This would be accomplished by revising the Campaign Finance Act definition of "local office" and by removing school districts from KSA Chapter 25, Article 9, governing campaign finance reporting for certain political subdivisions. The bill also would move campaign reporting requirements for question-submitted elections to the Campaign Finance Act. Finally, the bill would make conforming and corrective changes to related statutes.

Background

Currently, only school districts having 35,000 or more pupils (*i.e.*, the Wichita Unified District) are subject to the provisions of the Campaign Finance Act. All other school districts are subject to different reporting requirements as contained in KSA Chapter 25, Article 9, relating to campaign finance in certain political subdivisions. Article 9 also requires reporting regarding question-submitted elections. The bill would move all school districts, as well as question-submitted elections, under the Campaign Finance Act. The Act requires periodic, scheduled reporting of campaign expenditures both before and after elections, whereas KSA Chapter 25, Article 9 requires only an annual statement.

*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>

Representative Jana Goodman testified in favor of the bill. A representative of the Kansas Association of School Boards provided testimony in qualified support of the bill. The support was contingent upon setting a \$500 threshold on the aggregate amount a candidate intends to expend in the campaign. A Wichita citizen, who is also a Wichita school board member, provided testimony in support of moving question-submitted elections under the Campaign Finance Act.

The House Committee on Elections amended the bill to establish a deadline of no later than eight days prior to the election, by which reports of receipts and expenditures related to question-submitted elections must be filed.

According to a revised fiscal note, issued by the Division of the Budget in February 2012, the Governmental Ethics Commission estimates that passage of the original bill — specifically, the inclusion of reporting requirements for school districts — would increase expenditures from the State General Fund by a minimum of \$16, 487 in Fiscal Year 2013, which includes \$3,759 for one-time expenditures for computer equipment and office furniture. The Commission indicated it is impossible to determine the costs associated with the reporting of question-submitted elections. Any fiscal effect associated with the bill is not reflected in the *FY 2013 Governor's Budget Report*.