

SESSION OF 2012

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2425

As Amended by House Committee of the Whole

Brief*

HB 2425 would make a number of changes to election and campaign finance law.

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

School Districts -- Placement Under Campaign Finance Act

The bill would place candidates for 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. Conforming and corrective changes to related statutes would be made.

Local Campaign Expenditure and Contribution Reporting Ceiling Increase

The bill would increase, from \$500 to \$1,000, the amount below which candidates for certain local offices are not required to report expenses or contributions. Under current law unchanged in the bill, the reporting exemption applies only if the candidate files an affidavit with the county

*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>

election office of intent to raise and spend less than that ceiling and if expenses or contributions do not exceed the ceiling. This exemption applies to any candidate for election to any city of the second and third class, unified school district, community college or township office.

Ballot Language Statements for Issue Elections

Finally, the bill would establish a process by which ballot language statements could be developed for certain ballot questions at the request of the county election officer. The ballot language statements must:

- Fairly and accurately explain what a vote for and a vote against the measure represents and must be true and impartial statements;
- Be posted in each polling place but *not* on the ballot;
- Be provided to advance voters (again, *not* on the ballot); and
- Be made available for public inspection in the county election office. The ballot language statement also may be posted on the county official website.

The bill would require either the relevant county or district attorney or counselor, or the Secretary of State, to create the ballot language statement, as follows:

- The county attorney, district attorney, or county counselor would be required to prepare the statements, upon request, if the ballot question derived from a petition submitted to the relevant office pursuant to KSA 25-3601 (requiring the relevant office to issue an opinion as to the legality of the actual ballot language contained in the petition).

- The Secretary of State would be required to prepare the statements, upon request, if the actual ballot language did not derive from such a petition.

The bill would establish deadlines for the submittal of these requested ballot language statements, as well as for their review. The bill also would state there could be no cause of action at law or in equity challenging the validity of the form of a ballot language statement; there could be no liability on the part of and no cause of action against any in an itemized list of officials as a result of the preparation of such a ballot language statement; and the ballot language statement could not form any basis for an election contest or result in the waiver of any immunity by the state or its subdivisions.

Background

The bill originally dealt only with placing all school district candidates under the Campaign Finance Act. Currently, candidates only in 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 district candidates 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 district, 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.

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.

The House Committee of the Whole amended the bill to:

- Change the reporting-related ceiling from \$500 to \$1,000 for certain local office candidates; and
- Add the contents of HB 2780, related to ballot language statements, with minor amendments.

With respect to HB 2780, the bill was requested by Representative Howell, who testified stating a recent Wichita special election was the impetus of the bill. In that election, the actual ballot language was noted to be extremely confusing, to the point that a voter would not know what a "Yes" or "No" vote meant. Representatives of the Secretary of State's Office and the Sedgwick County Election Office also testified favorably. Representative Howell and the Sedgwick County Election Office representative stated staff were unable to interpret the Wichita election's actual ballot language, because it had been determined that Article 12, Section 5 of the *Kansas Constitution* authorized only the actual ballot language, and neither the *Constitution* nor the statutes allowed for an interpretive statement to be supplied to voters. No opponents testified.

According to a revised fiscal note on HB 2425, 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 \$26,487 in Fiscal Year 2013, which includes \$3,759 for one-

time expenditures for computer equipment and office furniture. The amount for fiscal years thereafter would be \$22,728, according to a missive from the Governmental Ethics Commission. The Commission indicated it is impossible to determine the costs associated with the reporting of question-submitted elections. The Secretary of State's Office indicated any fiscal effect on the Office would be negligible and could be absorbed within existing resources. Any fiscal effect associated with the bill is not reflected in the *FY 2013 Governor's Budget Report*.

According to the fiscal note for HB 2780, the Secretary of State estimated that the costs associated with the bill would be negligible and could be absorbed within existing resources. However, agency indicated the bill could result in expenses related to the addition of one part-time legal staff if the number of special elections exceeds expectations.