

SESSION OF 2015

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2183**

As Agreed to May 27, 2015

Brief*

HB 2183 would make a number of changes to ethics and elections law. The bill would amend statutes concerning campaign communications *via* social media, use of state or municipal internet connectivity in government buildings, allowable uses and disposition of campaign funds, lobbyist and candidate reporting requirements, and disclosure requirements for certain contributions. The bill also would create law regarding political sign placement. Finally, the bill would increase fee amounts credited to the Kansas Governmental Ethics Commission (KGEC) Fee Fund.

Social Media and Campaign Contributions

Regarding these communications, the bill would:

- Allow a general public solicitation for campaign contributions during legislative session not targeted toward a specific individual and distributed *via* social media. This would be accomplished by providing an exception to the prohibition against soliciting any contribution from specified individuals and groups from January 2 through *sine die* adjournment of the Legislature. Individuals and entities otherwise prohibited from soliciting contributions during this time would be any

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legislator, legislative candidate, statewide-elected officer or candidate for statewide-elected office, candidate committee for any of these, or political committee established by a state party committee and designated as a recognized political committee for the Senate or House of Representatives (Section 6);

- Make an exemption from the definition of “corrupt political advertising of a state or local office.” The crime, as defined in current law, includes publishing, broadcasting, telephoning, or otherwise advertising any paid matter expressly advocating for or against a clearly identified candidate for state or local office, unless the matter includes information as to who paid for or sponsored the advertisement. The bill would exempt the publication of any such communication made over any social media provider that has a character limit of 200 characters (Section 7); and
- Define “social media” for the purposes of this act as an electronic medium allowing users to create and view user-generated content, with some content examples given in the definition (Section 6).

Use of State or Municipal Internet Connectivity

Current law prohibits officers or employees of the state or any municipality from using any public money, equipment, supplies, or employee work time to expressly advocate for or against a clearly identified candidate. The bill would create an exemption allowing the use of Internet connectivity provided by the State of Kansas or any municipality to any candidate or elected official. (Section 10)

Allowable Uses and Disposition of Campaign Funds

The bill would amend the Campaign Finance Act to explicitly authorize campaign funds to be used for donations to any 501(c)(3) tax exempt or any religious organization. The change would expand current law, which allows use of campaign funds for donations to a community service or civic organization. (Section 9)

The bill also would specify if a candidate dies with an open candidate committee account containing campaign funds, the executor or administrator of the candidate's estate would be responsible for terminating the committee and disposing of the remaining funds. (Section 8)

Definition of "Lobbying"; Who Must Register

The bill would increase the threshold, from \$100 to \$1,000 in any calendar year, below which a person spending money on activity that meets the definition of lobbying would not be required to register as a lobbyist. The current exemption of personal travel and subsistence expenses from this threshold amount would remain intact. (Section 12)

Lobbyist Reporting Requirements

The bill would delete the requirement that a lobbyist file a year-end summary report when the lobbyist has spent an aggregate amount of less than \$100 for lobbying in any reporting period during that year. (Section 14)

The bill would require every person registered as a lobbyist to file, beginning January 10, 2017, with the Secretary of State a detailed report listing the amount of public funds paid to hire or contract for the lobbying services on behalf of a governmental entity or any association of governmental entities that receives public funds (association). The bill would require the following with respect to this report:

- The report must include a listing of which association hired the lobbyist;
- The report form would be prescribed by the KGEC;
- The report would be a public record, open to public inspection upon request;
- The deadline for filing the report would be January 10 for the previous calendar year; and
- The Secretary of State would be required to make the reports available on a publicly searchable website. (Section 1)

Candidate Reporting Requirements

The bill would increase the amount that triggers whether the candidate may file an affidavit instead of a detailed reporting of campaign contributions or expenditures. Under the bill, if a candidate intends to spend less than \$1,000 (instead of the current amount of \$500) and receive less than \$1,000 (instead of the current amount of \$500) for either the primary or general election, the candidate would be required to file an affidavit of such intent with the county election officer. By revising both KSA 25-904 and KSA 25-4173, this change would affect every candidate for election to any state office or office of the following local governments: cities of the first, second, or third class; unified school districts; counties; community colleges; townships; and the Board of Public Utilities. (Sections 2 and 11)

The bill also would remove a requirement a campaign report the industry of an individual contributor of more than \$150. (Section 3)

Political Sign Placement

The bill would prohibit any city or county from regulating or prohibiting the placement of or the number of political signs on private property or on unpaved right-of-way for city streets or county roads on the private property during the 45 days prior to, and the 2 days following, any election. Cities and counties would be able to regulate the size and a set-back distance for the placement of signs so as to not impede sight lines or sight distance for safety reasons. (Section 15)

KGEC Fees

The bill would increase certain fees credited to the KGEC Fee Fund.

Filing fees for candidates for these offices would be increased (Section 4):

<u>Candidates Affected</u>	<u>Current Amount</u>	<u>Proposed Amount</u>
Governor and Lieutenant Governor	\$ 480	\$ 650
Other statewide offices	480	650
State senator, state representative, State Board of Education, district attorney, Board of Public Utilities of the City of Kansas City, and elected county offices	35	50
Members of boards of education of unified school districts having 35,000 or more pupils, members of governing bodies of cities of the first class, and elected district court judges	35	50

Fees for political committees that anticipate receiving these amounts in any calendar year would be increased (Section 5):

Political Committees Affected	Current Amount	Proposed Amount
\$2,501 or more	\$ 240	\$ 300
More than \$500 but less than \$2,501	35	50
\$500 or less	20	25
Filed anticipating less than \$2,500 but receipts exceed \$2,500	240 minus previous fee	300 minus previous fee
Filed anticipating less than \$500, but receipts exceed \$500 and are less than \$2,501	20	25

Fees paid by registered lobbyists would increase (Section 13):

Lobbyists Affected	Current Amount	Proposed Amount
Anticipated spending of \$1,000 or less on behalf of any one employer (per employer)	\$ 35	\$ 50
Anticipated spending of more than \$1,000 on behalf of any one employer (per employer)	300	350
Additional fee if anticipated spending on behalf of any one employer is less than \$1,000, but actual spending exceeds \$1,000	220	300
Employee of a lobbying group or firm (not an owner or partner)	360	450

Conference Committee Action

The Conference Committee agreed to accept the provisions of HB 2183, as amended by the Senate Committee of the Whole, with a revision to Section 10 of the bill regarding political sign placement. (A technical change

subsequently was made to the Conference Committee Report on May 30.) The Conference Committee also agreed to add the provisions of the following bills:

- SB 28, as amended by the Senate Committee on Ethics and Elections, addressing the definition of “lobbying”;
- SB 42, as amended by the Senate Committee on Ethics and Elections with additional changes; and
- SB 77, as amended by the House Committee on Elections, regarding fee increases to the KGEC.

Background

HB 2183, as agreed to by the Conference Committee, contains provisions from the bills described below.

HB 2183: Social Media and Internet Campaigning; Other Provisions

The bill was introduced by the House Committee on Elections. The sole conferee before the House Committee, the Executive Director of the KGEC testified she was not necessarily a proponent but KGEC was grateful the Legislature was examining the issue of social media and Internet campaign communications. The Director stated laws do not change as fast as technology, and this is concerning to KGEC, especially with respect to solicitation. Examples were discussed and questions were posed, such as whether a general posting on Facebook could or should be construed as an invitation.

Reference was made in the House Committee to a request by the Internet Coalition to amend the bill. The House Committee amended the bill to revise the definition of “social media” to comport with the recommendation of the Internet

Coalition. Also to incorporate a part of that request, the Committee amended the bill to increase the number of characters of communications exempted from the “paid for by” requirement, from 140 to 200. Finally, the Committee amended the bill to broaden the list of officials and candidates who would be exempt from the prohibition against use of Internet connectivity, and where these exemptions apply, and to make technical clarifications related to this provision.

The Senate Committee on Ethics and Elections received neutral testimony on the bill from the Executive Director of the KGEC. There was no other testimony. The Senate Committee amended the bill to add the contents of SB 27 as introduced.

SB 27. The bill, as introduced, contained most, but not all, provisions of 2014 HB 2296, as vetoed. It would not remove a requirement regarding reporting the industry of the individual contributor, in addition to the contributor’s occupation. (That provision was in 2015 HB 2083, which was stricken at turnaround.)

This bill was supported in the Senate Committee on Ethics and Elections by the Executive Director of the KGEC. Her testimony indicated staff resources and agency funds would be saved by eliminating the report required of lobbyists, which she said is redundant to other information lobbyists must provide to the KGEC. The Executive Director’s comments were in support of various of the bill’s components.

No neutral or opposing testimony was received.

The Senate Committee of the Whole amended the bill to (a) remove the requirement regarding reporting the industry of an individual contributor; and (b) add a provision regarding political signs.

Fiscal Note information. According to the fiscal note prepared by the Division of the Budget on the bill as introduced, HB 2183 would have no fiscal effect. According to the fiscal note prepared by the Division of the Budget on SB

27 as introduced, the KGEC indicates the bill would have no fiscal effect on that agency.

SB 28: Definition of “Lobbying”

SB 28, as introduced, would have made the same changes as 2014 SB 99, which was vetoed last year – an increase in the threshold from \$100 to \$500. According to the Executive Director of the KGEC in 2014, the bill was recommended by the KGEC in its 2012 Annual Report and Recommendations. The written testimony submitted by the KGEC Executive Director, both last year and this year, stated the recommendation was made due to inflation, because the threshold amount had not changed since the law’s inception in 1974. Orally, the Executive Director testified regarding a specific individual who spent an amount over \$200 on a single newspaper advertisement that met the definition of lobbying, but the individual had conducted no other lobbying activities; the individual had been required to register as a lobbyist. The Executive Director this year also testified the KGEC has no objection to further increasing the limit to \$1,000.

No other conferees testified.

The Senate Committee amended the bill to increase the limit from \$500 to \$1,000.

Fiscal Note information. No fiscal note was available at the time the bill, as amended, was recommended by the Senate Committee. The fiscal note for the 2014 bill indicated that similar bill would have had no fiscal effect on the KGEC.

SB 42: Reporting of Publicly Funded Lobbying

The bill was introduced by the Senate Committee on Assessment and Taxation. Proponents of the bill before the Senate Committee on Ethics and Elections were

representatives of Americans for Prosperity-Kansas and Kansas Policy Institute. The proponents indicated concern about the funding going to governmental entities that engage in lobbying, and concern that information regarding how much public money is spent on lobbying is not readily available for taxpayers to access.

A representative of the Kansas Association of Counties (KAC) testified neutrally on the bill as introduced, saying this bill was created as a compromise after the KAC strongly opposed the bill from last year, 2014 SB 343, and the KAC supports open government. That bill would have required governmental entities to submit detailed reports to the Secretary of State regarding publicly funded lobbying. A representative of the League of Kansas Municipalities also testified neutrally, saying the information referred to in the bill already is available *via* open records requests.

The Senate Committee on Ethics and Elections amended the bill to clarify the intent of the bill.

Further, informational meetings were held in the Senate Committee on Local Government on March 9, 10, and 16, 2015, on the topic of lobbying in any way supported by public funds. (The discussion during Senate Committee of the Whole debate on the bill referenced these informational meetings.)

The Senate Committee of the Whole adopted amendments to do the following:

- Clarify that lobbyists are to report all information to the Secretary of State;
- Add to lobbyists' reporting requirements that they report all public funds received from any association or organization receiving public funds; and

- Add requirements that local governments publish information on publicly funded lobbying *via* the municipal budget publication law.

Fiscal Note information. According to the fiscal note prepared by the Division of the Budget, the bill, as introduced, would have no fiscal effect on the Kansas Governmental Ethics Commission. The Secretary of State reported similarly.

SB 77: KGEC Fees

The Executive Director of the KGEC requested the bill and was the sole conferee before the Senate Committee on Ethics and Elections. She stated a fee increase has been recommended by the KGEC in its Annual Report and Recommendations since 2011, the KGEC became a fee agency in 1991, fees were last increased in 2000, approximately 39 percent of the KGEC's operations will be funded through the Fee Fund this year and, if fees are not increased, the KGEC Fee Fund will be depleted in FY 2018.

The Executive Director of the KGEC, a proponent, was the sole conferee before the House Committee on Elections. The House Committee amended the bill to increase from \$275 to \$300 the additional registration fee for a lobbyist who anticipated spending less than \$1,000 on behalf of any one employer, but later spent in excess of \$1,000. The change was described as necessary to correct a math error in the underlying bill. The amendment would result in a uniform registration fee of \$350 for any lobbyist who spent more than \$1,000 on behalf of any one employer.

Fiscal Note information. According to the fiscal note prepared by the Division of the Budget, enactment of SB 77, as introduced, would result in increased revenues of \$51,210 to the KGEC Fee Fund in FY 2016. Because the bill would not change the procedure for handling the amounts collected, it is expected the bill would have little or no fiscal effect on either the Secretary of State or the State Treasurer. Any fiscal

effect associated with the bill is not reflected in *The FY 2016 Governor's Budget Report*.

Campaigning; Internet; social media; campaign finance; lobbyists; lobbyist reporting; publicly funded lobbying; political signs; Kansas Governmental Ethics Commission fees

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