

SESSION OF 2015

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2215**

As Amended by House Committee on Elections

**Brief\***

HB 2215 would modify the Kansas Campaign Finance Act to authorize the transfer of campaign funds to a new candidacy for any other office established by the same candidate, provided all debt has been retired in the original candidacy.

The bill would do the following:

- Permit a candidate or candidate committee to transfer campaign funds to a *bona fide* successor committee or candidacy for public office established by the candidate, but only after all debts, liabilities, and expenses are satisfied in the original candidacy;
- Define “*bona fide* successor committee or candidacy” as either of the following:
  - The candidate’s campaign committee or candidacy initiated at the termination of the original candidacy; or
  - The candidate’s campaign committee or candidacy initiated at the time of the transfer of money to a new committee or candidacy after all debt or other liability has been satisfied;

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\*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>

- Define “public office” as any state or local office. (Current law defines “state office” to include state officers elected on a statewide basis, members of the house of representatives and state senators, members of the state board of education, district judges, district magistrate judges, and district attorneys. Current law defines “local office” to be a member of the governing body of a city of the first class, unified school district with a population of 35,000 or more pupils, a county, or the Kansas City Board of Public Utilities.);
- Modify the definition of “contribution” to exclude the transfer of campaign funds to a *bona fide* successor committee or candidacy;
- Subject the transfer of residual funds raised during the current election cycle to a *bona fide* successor committee or candidacy to the contribution limits set forth in KSA 2014 Supp. 25-4153; and
- Enact new law to deem all campaign transfers occurring between January 1, 1976 and the day before the effective date of this act to be in compliance with the Campaign Finance Act in existence at the time of the transfer, regardless of when the original campaign fund is closed after the transfer is made.

## **Background**

### ***Cole v. Mayans: Kansas Supreme Court Overturns Kansas Governmental Ethics Commission Interpretation of the Law***

On December 15, 2003, the Kansas Supreme Court ruled that the Campaign Finance Act (Act) prohibited former State Representative Carlos Mayans from transferring unused legislative campaign funds to his campaign for

election to be mayor of Wichita. This ruling came after the Kansas Governmental Ethics Commission (KGEC) had issued several opinions, over a number of years, stating such transfers were permitted under the Act. Former Representative Mayans had sought and received such an opinion. He also received an opinion from the Wichita city attorney that the transfer would not violate a Wichita ordinance dealing with campaign finance.

The Supreme Court, in *Cole v. Mayans and Kenton*, Kansas Supreme Court Case No. 89,715, disagreed with the KGEC's interpretation and overruled the trial court and the Court of Appeals, stating:

We hold that the Campaign Finance Act and the related regulations, when coupled with the purpose for the Campaign Finance Act, must be construed to limit the transfer of campaign contributions from a candidate's campaign account for a specific office to the same candidate's campaign account for election to that same office. Thus, there are only two situations in which the transfer can be made. The first is when an incumbent runs for reelection to the same office. The second is when a candidate loses an election for a specific office but seeks reelection to the same office in a subsequent election. (Opinion Pg. 16)

The Supreme Court further suggested the Legislature (a) define the term "*bona fide* successor candidacy," which, currently, is contained (but not defined) in KGEC administrative rules and regulations; and (b) require the KGEC to promulgate rules and regulations for the "orderly return of contributions to donors who have contributed to a candidate for a specific office but do not want to contribute to the same candidate if he or she decides to run for a different office."

### ***Legislative History***

Beginning with the 2004 Legislative Session, 11 bills addressing this issue have been considered. Two of the bills passed both chambers and were vetoed: 2004 House Sub. for SB 376 and 2006 SB 142. Both of these bills contained other provisions. The 11 bills have differed in their detail.

### ***The Current Bill***

The bill was introduced by the House Committee on Elections. The KGEC Executive Director was the sole conferee, testifying neutrally about the history behind the bill.

The House Committee on Elections passed the bill as introduced on February 19, 2015. On February 26, the bill was assigned to the House Committee on Appropriations, and the bill was re-referred to House Elections on March 18. Upon further discussion on March 18, the House Committee on Elections amended the bill to subject the transfer of residual funds raised during the current election cycle to the contribution limits for the current election cycle. Upon questioning, the KGEC Executive Director indicated the bill, as amended, would bring the law into conformity with the KGEC interpretation prior to the Supreme Court ruling in *Cole v. Mayans*.

The fiscal note prepared by the Division of the Budget, on the bill, as introduced, indicates the bill would have no fiscal effect on the KGEC.