



GOVERNMENTAL ETHICS COMMISSION

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Proponent Testimony for HB 2559
Mark Skoglund, Executive Director

Thank you for the opportunity to provide testimony in favor of HB 2559.

The Commission is a proponent of legislation that addresses a specific legislative recommendation from its Annual Report and is neutral to most other initiatives. This bill would ease enforcement of timely lobbyist reporting and resolve an underlying statutory conflict.

CURRENT LAW

Civil penalties are automatically assessed for late filing of reports, whether they are campaign finance reports, lobbyist reports, or statements of substantial interest. These penalties may be waived or reduced by the Commission for good cause shown.

For lobbyist civil penalties, a two day grace period occurs before penalties are assessed. The penalty increases each day to a maximum of \$1000, which would be reached once a report is 22 days late, accounting for the grace period.

When a report is not filed timely, the Commission mails a certified Failure to File Notice to the individual.

STATUTORY CONFLICT

Before 2018 HB 2642 which increased civil penalties, the two-day grace period did not begin running until receipt of the Failure to File Notice could be confirmed. The amended K.S.A. 46-280(b) provides:

Subject to the notice provisions...reports required for lobbyists...that are late more than 48 hours shall be subject to civil penalties...

The statute is clear regarding when civil penalties should begin, but there is potential room for a dispute regarding whether the "notice provisions" include that the grace period shall not begin until receipt of the Failure to File Notice. HB 2559 would unambiguously resolve this potential dispute.

DIFFICULTY IN ENFORCEMENT

In practice, confirmation of certified mail may take months to be received in the office. While awaiting confirmation of receipt, a lobbyist may have multiple other reports come due. A receipt requirement sizably decreases any civil penalty deterrent for filing of lobbyist reports. Additionally, individuals can knowingly attempt to evade service of certified mail, which increases costs to the Commission and prevents effective enforcement of lobbyist reporting laws.

CONSISTENCY

HB 2559 would create consistency in enforcement between lobbyist reporting laws and the Campaign Finance Act. The grace period for campaign finance civil penalties begin when the Failure to File Notice is mailed, typically the day following the reporting deadline. The rationale for beginning the grace period on that day is that people running for office are aware of the deadlines, as they have received numerous notifications of their reporting obligations. The same rationale applies to registered lobbyists, as they are also aware of the deadlines that are consistent each year.