

SESSION OF 2005

SUPPLEMENTAL NOTE ON SENATE BILL NO. 65

As Amended by Senate Committee of the Whole

Brief*

SB 65, as amended by the Senate Committee of the Whole, would: (1) require the second-day filing of \$300-plus campaign contribution reports for the 11-day period preceding the actual day of an election; (2) authorize the transfer of campaign funds in certain circumstances; (3) require reporting of express advocacy contributions of \$100 or more for precinct committeemen or committeewomen; (4) allow a candidate to sign regular treasurer's reports in lieu of the treasurer; and (5) require the Kansas Governmental Ethics Commission (KSEC) to develop and implement forms for Campaign Finance Act reports to be completed on-line and transmitted by e-mail or over the internet.

Additional detail about several of the bill's provisions is provided below.

**Filing of Campaign Contribution Reports
Immediately Prior to Elections**

The bill would:

- Require every treasurer for state or local office file campaign contribution reports on a second-day basis as needed, *i.e.*, by the close of the second business day following the day on which any contribution is received.
 - For candidates for state office, including those elected on a statewide basis, the reports would be filed in the Secretary of State's Office.

*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>

- For local office candidates, the reports would be filed with the county election officer of the county in which the candidate's name is on the ballot.
- Require the report contain:
 - The name and address of each person who has made one or more contributions with an aggregate value of at least \$300, during the period beginning 11 days before a primary or general election for state or local officers and ending on the day before the election.
 - The amount and date of the contribution.
 - The name and address of every lender, guarantor, and endorser when the contribution is in the form of an advance or loan.

Transfer of Campaign Funds between Campaigns

The bill would:

- Permit a candidate or candidate committee to transfer campaign funds to a bona fide successor committee or candidacy established by the candidate, provided all money is transferred to the bona fide successor committee or candidacy.
- Define the term "Bona fide successor committee or candidacy" to allow for either (1) the termination of the original candidacy; or (2) the existence of both candidacies simultaneously, if debt exists in the original candidacy and all money is transferred to the new candidacy.
- Clarify that the transfer of funds to a bona fide successor committee or candidacy is not considered a contribution.
- Permit the transfer of residual funds for the purpose of retiring the remaining debt to the original committee or candidacy from which funds were transferred (when they were transferred to the bona fide successor committee or candidacy). In this instance, the candidate may only accept contributions to the original candidacy sufficient to retire the debt, and the contributions are subject to the original contribution limits.

- Define "public office" to include both local and state offices. (**Note:** Local offices to which the Campaign Finance Act applies include governing body members of cities of the first class, and elected offices of counties, school districts with more than 35,000 students, and the Kansas City Board of Public Utilities. Applicable state offices include those elected on a statewide basis, state senators and representatives, members of the State Board of Education, district judges, district magistrate judges, and district attorneys.)
- Deem all campaign transfers occurring between January 1, 1976 and 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

With respect to the bill as passed by the Senate Committee, KSA 25-4148 requires candidates' treasurers to submit periodic receipts and expenditures reports. The timing of these reports is described in the table that follows.

Current Reporting Requirements Pursuant to KSA 25-4148

Deadline	Period Covered by Report
8 th day preceding the primary election	Beginning January 1 of the election year and ending 12 days before the primary election, inclusive
8 th day preceding a general election	Beginning 11 days before the primary election and ending 12 days before the general election, inclusive
January 10 of the year after an election	Beginning 11 days before the general election and ending on December 31, inclusive
For any year when no election is held, the next January 10 For the preceding calendar year

For any year when the candidate is not participating in a primary or general election, the next January 10 For the preceding calendar year
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As illustrated by the table above, the statutorily prescribed deadlines leave a period of several days, prior to both primary and general elections, for which campaign receipt and expenditure information is not available to the public until *after* the election in question.

An official from the KGEC testified in favor of the original bill, noting it was one of the KGEC's legislative recommendations for the 2005 Session. In her testimony, the KGEC official explained that any contribution received during the time periods referred to in the preceding paragraph cannot be disclosed to Kansas citizens in time to assist them in their voting decisions. The KGEC official reported that, in the 2004 primary, Senate candidates received 304 contributions in the amount of \$300 or more the last 11 days before the primary, for a total of approximately \$236,000. In the 2002 election, she said, statewide candidates received 825 such contributions totaling approximately \$932,500, which went unreported until after the primary and general elections. According to her testimony, 35 states currently require the reporting of last-minute contributions, as does the Federal Election Commission.

A representative of an ad hoc group of individual lobbyists also testified in favor of the bill. The representative indicated his group intended to provide their testimony as private citizens.

The Senate Committee amended the bill to: (1) remove the requirement that state-office candidate reports (other than for statewide offices) also be filed in the office of the county election officer; (2) exclude the actual day of the election from the period covered by the bill's reporting requirements; and (3) require the reports filed with the Secretary of State be provided on the Secretary of State's website and in any other manner the Secretary of State deems appropriate.

The Senate Committee of the Whole amended the bill to:

- Eliminate the next-day filing requirement related to contributions received during the 11 days prior to an election and replace it with

a requirement to file on the second business day following receipt of the contribution.

- Add the portions of 2004 House Substitute for SB 376 authorizing the transfer of campaign funds in certain circumstances. (Note: In 2004, House Substitute for SB 376, which broadened authority to transfer campaign funds, was vetoed by the Governor. In the Governor's veto message, she indicated the bill was vetoed because of changes the bill also made regarding lobbyist reporting requirements.)
- Require reporting of express advocacy contributions of \$100 or more for precinct committeemen or committeewomen.
- Allow a candidate to sign regular treasurer's reports in lieu of the treasurer. (Note: This provision also was contained in 2004 House Sub SB 376, which was vetoed by the Governor.)
- Require the Kansas Governmental Ethics Commission to develop and implement forms for Campaign Finance Act reports to be completed on-line and transmitted by e-mail or over the internet.

A fiscal note on the original bill indicated the fiscal effect of the bill would be negligible, and both the KGEC and the Office of the Secretary of State could implement it within budgeted staffing and operating expenditures for FY 2006. No fiscal note is available on the bill as amended.