

SESSION OF 2023

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2166**

As Amended by House Committee on Elections

**Brief\***

HB 2166, as amended, would update the definition of “corrupt political advertising” in statutes defining election crimes to match the language in the Campaign Finance Act.

***Expressly Advocating the Nomination, Election, or Defeat of a Candidate***

The bill would expand the definition of corrupt political advertising to include the following, when not followed by a “Paid for” or “Sponsored by” statement followed by the name of the chairperson or treasurer of the political or other organization responsible:

- Telephoning an individual or causing an individual to be contacted by any telephonic means that expressly advocates the nomination, election, or defeat of any clearly identified candidate;
- Publishing or causing to be published any brochure, flier or other political fact sheet that expressly advocates the nomination, election, or defeat of any clearly identified candidate; and
- Making or causing to be made any website, email, or other type of internet communication that expressly advocates the nomination, election, or defeat of any clearly identified candidate.

---

\*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>

### ***Influencing Votes in a Question Election***

The bill would also add, if not followed by a “Paid for” or “Sponsored by” statement followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization responsible, to the definition of corrupt political advertising:

- Telephoning an individual or causing an individual to be contacted by any telephonic means that is intended to influence the vote of any person or persons for or against any question submitted for a proposition to amend the *Kansas Constitution* or to authorize the issuance of bonds or any other question submitted for an election; and
- Making or causing to be made any website, email, or other type of internet communication that is intended to influence the vote of any person or persons for or against any question submitted for a proposition to amend the *Kansas Constitution* or to authorize the issuance of bonds or any other question submitted at an election.

### ***Disclosure Exceptions***

The bill would state the requirements to disclose the name of an individual sponsoring the advertising would not apply to:

- Any individual whose aggregate expenditures for publishing or causing to be published any brochure, flier, or other political fact sheet in a calendar year is less than \$2,500; and
- Websites, emails, or other types of internet communication regarding a candidate or question submitted to voters that is disseminated to fewer than 25 individuals and not made by the candidate,

the candidate's candidate committee, a political committee, or a party committee.

These exemptions also would mirror provisions in the Campaign Finance Act.

### ***Definitions***

The bill would add two definitions to the statute defining the crime of corrupt political advertising:

- “Candidate,” defined as a candidate for elected office who is not subject to the provisions of the Campaign Finance Act; and
- “Clearly identified candidate,” defined as a candidate for elected office who has been identified by name; a photograph, drawing, or video; or an unambiguous reference regardless of whether a photograph, drawing, or video image of the candidate is used.

### **Background**

HB 2166 was introduced by the House Committee on Elections at the request of Representative Waggoner on behalf of the Kansas Governmental Ethics Commission (KGEC).

### ***House Committee on Elections***

During the hearing on February 2, 2023, a representative of the KGEC gave **proponent** testimony, explaining the bill would align the definitions in election crimes statutes with definitions in the Campaign Finance Act; he noted the KGEC does not directly enforce the statute that would be amended.

No other testimony was provided.

The House Committee made a technical amendment to the bill to eliminate a redundancy in the definitions.

***Fiscal Information***

According to the fiscal note provided by the Division of the Budget, the Secretary of State indicates it would use existing resources to provide training and updates that the bill would require to ensure knowledge of the updated definition of the crime of corrupt political advertising. The KGEC states the enactment of the bill would have no fiscal effect on that agency. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Campaign Finance Act; express advocacy; corrupt political advertising; election question; election crimes code