

SESSION OF 2018

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR HOUSE
BILL NO. 2223**

As Amended by Senate Committee on Ethics,
Elections and Local Government

Brief*

Sub. for HB 2223, as amended, would establish new penalties for late-filed candidates' campaign finance reports that were due immediately prior to a primary or general election (Section 1). The bill would also require similar penalties for the late filing of certain political committees' reports (also Section 1). Finally, the bill would address lobbyists' reporting format and penalties (Sections 2 and 3).

Penalties for Late Filing of Candidates' Last-minute Reports

Under the bill, candidates' reports due the eighth day preceding a primary or general election and filed more than 48 hours late would be subject to a civil penalty. The bill would specify the candidate would be liable for a penalty of \$100 for the first day such report was more than 48 hours late and \$50 for each subsequent day the report was late. The civil penalty would be capped at \$1,000. Notice requirements regarding late reports in current law would be unchanged. The bill would authorize the Governmental Ethics Commission to waive these penalties for good cause.

Penalties for Late Filing of Certain Political Committees' Reports

The bill would apply the same civil penalty schedule for late filing of reports—\$100 for the first day and \$50 for each

*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>

subsequent day—to each political committee that anticipates receiving \$2,501 or more in any calendar year and is more than 48 hours late in submitting the reports required under KSA 2017 Supp. 25-4145 (reporting of organizational information and contribution receipts) and KSA 2017 Supp. 25-4148 (reporting of contributions made to candidates). The civil penalty would also be capped at \$1,000 for political committees. The bill would authorize the Governmental Ethics Commission to waive these penalties for good cause.

Changes Regarding Lobbyist Reporting

The bill would require every lobbyist electronically file the required reports of employment and expenditures. (Current law does not specify the filing format.) The bill would also make late filing of these reports subject to the same civil penalty amounts as applied under the bill to late last-minute campaign finance reports (*i.e.*, \$100 for the first day such report was more than 48 hours late, \$50 for each subsequent day the report was late, with a cap of \$1,000). The bill would authorize the Governmental Ethics Commission to waive these penalties for good cause.

Background

The bill was introduced in the House Committee on Elections during the 2017 Legislative Session at the request of Representative Carpenter. In the House Committee hearing, Representative Carpenter appeared in support of the bill. He testified the bill would add more accountability and transparency to the election process by encouraging candidates to turn reports in on time, giving the public and the media access to the information before the election. A citizen provided written-only testimony in support of the bill. The Executive Director of the Governmental Ethics Commission testified as neutral on the bill. She provided a summary of current law and some background information on late reports and associated civil penalties during the 2016 election cycle. No other testimony was provided.

The House Committee recommended adoption of a substitute bill with the following changes from the original language of the bill: reducing the amount of the civil penalties that could be assessed for reports filed more than 48 hours late, specifying that candidates and not treasurers would be liable for the civil fines, imposing the fines only for candidates in current primary and general election races (as opposed to any person required to make a report as in the bill, as introduced), requiring electronic filing of reports by candidates to the Kansas House and Senate, and making the provisions of the bill also applicable to lobbyists.

Upon re-referral, the House Committee amended the bill to remove the requirement that state Senate and House of Representatives candidates file their reports electronically and only with the Secretary of State, and add penalties for late reporting by certain political committees.

In the Senate Committee on Ethics, Elections and Local Government hearing, Representative Carpenter presented proponent testimony, stating the importance of candidates, lobbyists, and political committees submitting their campaign finance and expenditure reports on time to promote transparency and fairness. The Executive Director of the Kansas Governmental Ethics Commission provided neutral testimony, stating the bill has one departure from current enforcement: increasing the penalty and shortening the notification period for candidates, but not their treasurers. No other testimony was provided.

The Senate Committee amended the bill to cap civil penalties at \$1,000 for the late filing of candidate reports due the eighth day preceding a primary or general election, reports of political committees that anticipate receiving \$2,501 or more in any calendar year, and lobbyist reports on employment and expenditures.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Governmental Ethics Commission indicate the bill would have a fiscal effect

on the agency due to fines assessed. The agency is unable to estimate how many civil fines would be assessed or the amount of fines that would go into the Commission's fee fund. Any fiscal effect associated with enactment of the bill, as introduced, is not reflected in *The FY 2018 Governor's Budget Report*.

An updated fiscal note was not available at the time of the amendment by the Senate Committee.