

MINUTES OF THE HOUSE ETHICS AND ELECTIONS COMMITTEE

The meeting was called to order by Chairman Don Myers at 3:30 p.m. on March 15, 2004 in Room 526-S of the Capitol.

All members were present.

Committee staff present:

Martha Dorsey, Legislative Research Department
Dennis Hodgins Legislative Research Department
Ken Wilke, Office of Revisor of Statutes
Shirley Weideman, Committee Secretary

Conferees appearing before the committee:

Carlos Mayans, Mayor of Wichita
Carol Williams, Governmental Ethics Commission Director
Kevin Anselmi, Crawford County Clerk

Others attending: See Attached List.

Chairman Myers announced that he would work **House Sub for SB 166** Wednesday (using SB 166, gut and go) to address the disability issues as recommended by KAPS for the Help America Vote Act..

The chair opened the hearing on **SB 376 - Campaign finance; use of unexpended campaign funds.**

Chairman Myers requested that Ken Wilke, Revisor explain **SB 376**. Ken gave a history of events that preceded the bill. Carlos Mayans, former state representative, transferred approximately \$50,000 of unused legislative campaign funds to his election campaign for Mayor of Wichita. (Attachment 1) Mr. Mayans obtained Opinion 2002-20 dated July 18, 2002 from the Kansas Governmental Ethics Commission. (Attachment 2) Through his attorney, Mr. Mayans obtained Opinion 2003-05, dated February 20, 2003 from KGEC, which held that pursuant to K.A.R. 19-22-1, the carryover of funds from one campaign to a bonafide successor campaign is not a contribution and does not violate the Act. (Attachment 3) During the campaign for mayor, the opposition invoked a provision in the Wichita ordinance that sets a limit of \$500 maximum for a contribution for anyone running for mayor. In the lawsuit, the district court said that it was okay; but in a rehearing, told Mr. Mayans that he couldn't use the money. He then appealed this decision to the Court of Appeals which said that a \$500 contribution is allowed. Lastly, Mr. Mayans appealed to the Supreme Court, who decided that his case involved the Campaign Finance Act and that the transfer of funds was not proper, disagreeing with the Governmental Ethics Commission. The Supreme Court further recommended that the Legislature enact a clear definition of bona fide successor candidacy and outline a procedure on how the Governmental Ethics Commission will return funds to the original donors. (Attachment 4) Ken said the bill itself replaces Section 1 with the new Section 4, which is basically the Campaign Finance Act (Attachment 5) He indicated that the basic change in Section 2, the definition section, is in regards to the transfer of campaign funds to a bonafide successor committee or candidacy in accordance with K.S.A. 25-4157. Ken said there is another change in Section 2, a definition of "public office", but he said that the main change is in Section 3., the statute that pertains to the transfer of funds. On page 12 it adds lines 23-25; the provisions of this subsection shall not prohibit: "*a candidate or candidate committee from transferring campaign funds to a bona fide successor committee or candidacy established by the candidate*". He said this has been allowed through past practices. Ken told the committee that the termination of a campaign is dealt with on page 12, lines 33-43 and on the top of page 13, lines 1-2 "(5) *transferred to a bona fide successor committee or candidacy established by the candidate*" or (6) *transferred for the purpose of retiring the remaining debt to the original committee*". Lines 17-25 define a bona fide successor or candidate committee. He said that the biggest part is the new Section 4, lines 26-36 which ratifies any transfers that have been done since January 1, 1976 until the effective date of the act. Ken drew the committee's attention to the definition of "contributions" in K.S.A. 25-4143. (Attachment 6)

Appearing before the committee as a proponent for **SB 376** was Carlos Mayans, Mayor of Wichita. He said that this bill clarifies that the transfer of funds to a bona fide successor committee or candidacy is not considered a contribution and provides the proper definition of the term "bona fide successor". Mayor