

Approved: March 15, 2010
Date

MINUTES OF THE HOUSE ELECTIONS COMMITTEE

The meeting was called to order by Chairman Steve Huebert at 3:30 p.m. on March 10, 2010, in Room 144-S of the Capitol.

All members were present except:

Representative Bob Bethell- excused
Representative Mike Peterson- excused

Committee staff present:

Ken Wilke, Office of the Revisor of Statutes
Martha Dorsey, Kansas Legislative Research Department
Jill Shelley, Kansas Legislative Research Department
Florence Deeter, Committee Assistant

Conferees appearing before the Committee:

Others attending:

See attached list.

Hearing on: SB 423 - Campaign finance; transfer of campaign funds to another candidacy.

Ken Wilke, Kansas Legislative Research Department, briefed the committee on the basic changes in **SB 423** by stating that the transfer of funds from one campaign to another is a long-standing issue. He noted that there are changes in definitions to explain the transfer of funds and clarifying the term "contribution." Mr. Wilke said that contributions used to retire a debt in the original candidacy are subject to limitations. He noted that new wording is inserted, which lists six areas for dispersal of residual funds.

Answering questions, Mr. Wilke stated there are many aspects for consideration regarding whether or not funds can be reversed back to a candidate's "war chest" when a bid for a state office has been unsuccessful. He said funds cannot be transferred to another candidate, however a political committee can receive contribution of funds. In response to a question, Mr. Wilke referred to K.S.A. 25-205, which defines the positions of state offices.

Chairman Huebert reported that a number of Senators have expressed support for this bill.

Written testimony was submitted by Carol Williams, Executive Director, Governmental Ethics Commission (Attachment 1).

The hearing was closed on **SB423**.

The next meeting is scheduled for March 15, 2010.

The meeting was adjourned at 4:00 p.m.

3/10

HOUSE ELECTIONS COMMITTEE

GUEST LIST

DATE: 3-10-10

NAME	REPRESENTING
Brad Bryant	Sec. of state



GOVERNMENTAL ETHICS COMMISSION
www.kansas.gov/ethics

**Written Testimony for House Elections Committee
on Senate Bill 423
By Carol Williams, Executive Director
March 10, 2010**

The Governmental Ethics Commission does not take a position on Senate Bill 423. This written testimony is being provided as background information and to explain the amendments and new language being provided for K.S.A. 25-4142, K.S.A. 25-4143 and K.S.A. 25-4157a.

Senate Bill 423 was introduced to address the Kansas Supreme Court decision in *Joan Cole v Carlos Mayans and Winston Kenton* handed down in December of 2003. In its' decision, the Court ruled that Carlos Mayans, a candidate for Mayor in the city of Wichita, is prohibited from transferring funds from his legislative campaign account to his mayoral account. The Court ruled the transfer of funds from one campaign account to another is a contribution and that K.S.A. 25-4157a(c) prohibits contributions between candidacies.

As background, in July of 2002, Representative Mayans requested an advisory opinion from the Commission as to whether he could transfer his State Representative campaign funds to a campaign account to run as a candidate for Mayor in Wichita. In Opinion 2002-20, the Commission stated "Nothing in the Kansas Campaign Finance Act prohibits a state legislator from using his existing campaign funds to run for a city office". Acting upon Opinion 2002-20, Representative Mayans transferred funds from his State Representative campaign account to a new mayoral campaign account. In February 2003, Mr. Mayans' attorney requested another advisory opinion from the Commission. The Commission was asked if the Campaign Finance Act prohibits a former State legislator from transferring funds from his legislative campaign fund to his Mayoral campaign fund, whether Mayans' Mayoral campaign was a bona fide successor committee or candidacy, and whether the transfer of funds by a candidate from one candidacy to a bona fide successor candidacy constitutes a contribution. The Commission opined that as long as a candidate carries over the remaining balance of his first campaign fund to a bona fide

successor campaign, the Act does not prohibit the transfer. In addition, since Mr. Mayans intended his mayoral campaign to be a successor campaign to his legislative campaign, the Commission considered the Mayoral campaign to be a bona fide successor candidacy, and that carryover funds by a candidate to a bona fide successor candidacy does not constitute a contribution pursuant to K.A.R. 19-22-1.

Since 1976, the Commission has issued eight advisory opinions to legislators and other individuals inquiring whether a candidate could transfer excess campaign funds to a campaign account for another state or local office. In each opinion issued since 1976, the Commission has opined that it is permissible to make such a transfer and that these transfers do not constitute a contribution. A minimum of 60 candidates had made such transfers between 1976 and 2003.

Senate Bill 423 amends three provisions of the Campaign Finance Act. These amendments would permit a candidate for a state or local office to transfer all residual funds from his or her original campaign account to a new campaign account which is established by the candidate when he or she files for a different state or local office.

New Section 4 would permit a candidate who has debt remaining from his or her original campaign, to retire such debt by accepting contributions subject to the contribution limits for the original office sought. Once the debt is retired, the candidate would be required to terminate such candidacy.

New Section 5 provides that any candidate who transferred campaign funds to a bona fide successor candidacy commencing January 1, 1976 through the day preceding the effective date of this act, will have made such transfer in compliance with the provisions of the Campaign Finance Act.