

SESSION OF 2007

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2332**

As Agreed to May 7, 2008

Brief*

HB 2332 would authorize the transfer of campaign funds in certain circumstances.

The bill would permit a candidate or candidate committee to transfer up to a total of \$15,000 in campaign funds to a *bona fide* successor committee or candidacy established by the candidate. The following conditions would apply:

- The amount transferred to a bona fide successor committee or candidacy must be itemized, and contributions are subject to existing contribution limits. If a person who had made a contribution to the original candidate committee contributes to a *bona fide* successor committee or candidacy, the amount contributed to the *bona fide* successor committee or candidacy is limited to the difference between the new office's statutorily prescribed contribution limit and the aggregate amount of all contributions made by this person to the original candidate committee.
- Once money is transferred to the bona fide successor committee or candidacy, it may not be transferred back to the campaign committee or candidacy from which the original transfer was made.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/klrd>

The bill also would do the following:

- Define the term "*bona fide* successor committee or candidacy" to mean the candidate's campaign committee or candidacy for another public office.
- Clarify that the transfer of funds to a *bona fide* successor committee or candidacy of up to a total of \$15,000 is not considered a contribution.
- 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 December 12, 2003 (the date of the Kansas Supreme Court decision on *Cole v. Mayans and Kenton*) to be in compliance with the Campaign Finance Act in existence at the time of the transfer, regardless of when the original campaign fund was closed after the transfer was made.
- Require that debt be retired before distributing remaining money if any campaign is terminated. The \$15,000 cap applies to money transferred, upon that termination, to a *bona fide* successor committee or candidacy.

Conference Committee Action

The Conference Committee rejected the Senate amendments and eliminated the entire contents of the bill, part of which dealt with campaign finance transfer. The Conference

Committee replaced the bill's contents with the campaign finance transfer provisions described herein.

Background

As it left the Senate, HB 2332 dealt with write-in candidates and campaign finance transfer. The Conference Committee deleted these contents and replaced them as described in "Conference Committee Action."

The issue of campaign finance transfer has been the subject of a number of bills beginning in 2004. This is because, on December 12, 2003, the Kansas Supreme Court ruled that the Campaign Finance Act (Act) prohibited former State Representative Carlos Mayans from transferring unused legislative campaign funds to his campaign for election to be mayor of Wichita.

This ruling came after the Kansas Governmental Ethics Commission (KGEC) had issued several opinions, over a number of years, stating that such transfers were permitted under the Act. Former Representative Mayans had sought and received such an opinion. He also received an opinion from the Wichita city attorney that the transfer would not violate a Wichita ordinance dealing with campaign finance.

The Supreme Court, in *Cole v. Mayans and Kenton*, *Kansas Supreme Court Case No. 89,715*, disagreed with the KGEC's interpretation and overruled the trial court and the Court of Appeals, stating:

We hold that the Campaign Finance Act and the related regulations, when coupled with the purpose for the Campaign Finance Act, must be construed to limit the transfer of campaign contributions from a candidate's campaign account for a specific office to the same candidate's campaign account for election to that same office. Thus, there are only two situations in which the transfer can be made. The

first is when an incumbent runs for reelection to the same office. The second is when a candidate loses an election for a specific office but seeks reelection to the same office in a subsequent election. (Opinion pg. 16) (Emphasis added)

The Supreme Court further suggested the Legislature (a) define the term “bona fide successor candidacy,” which is contained (but not defined) in KGEC administrative rules and regulations, and (b) require the KGEC to promulgate rules and regulations for the “orderly return of contributions to donors who have contributed to a candidate for a specific office but do not want to contribute to the same candidate if he or she decides to run for a different office.”

A fiscal note has not been issued on this version of the campaign finance transfer provisions.

campaign finance transfer