

HCS HB 794 -- ELECTIONS (Baker)

COMMITTEE OF ORIGIN: Standing Committee on Commerce

This bill contains numerous provisions related to elections.

ELECTION CHALLENGERS AND WATCHERS - Sections 115.105 and 115.107, RSMo

Currently, election challengers can be physically present in polling locations while ballots are cast on election day.

This bill allows election challengers in first class counties and charter counties to be physically present while ballots are cast during the in-person absentee voting period.

The bill requires the chair of each county committee of each political party named on the ballot to designate election watchers four days before a watcher can enter a polling or counting location. Information is to be presented to and signed off by the local election authority. If an election authority determines that a watcher does not meet the statutory qualifications, the chair can designate a replacement watcher before 5:00 pm on the Monday before the election.

This bill allows election watchers in first class counties and charter counties to be physically present at in-person absentee voting locations while ballots are being counted or prepared for counting.

ELECTION ADMINISTRATION - Section 115.630

This bill defines "election administration" to include any function directly related to the administration of elections, including voter registration, election security, ballot processing, and election official training. The definition also states that it does not include any post-election canvass, recount, contest, or audit processes.

The bill prohibits any government entity from soliciting, accepting, or using any funds or in-kind goods or services for election administration, unless the funds or in-kind goods or services are of de minimis value or provided by another government entity.

The bill states that the government entities must not be members of or participate in programs run by organizations that engage in election administration and receive foreign funding. Further, it prohibits any government entity or election officer from joining

the membership of any entity, participating in any program, or purchasing services from any entity, unless the entity complies with certain certification requirements, as provided in the bill. The restrictions do not apply to memberships in professional organizations or memberships of individuals in a private capacity, unrelated to election administration.

If an election officer joins the membership of such an entity in his or her private capacity, the officer has a duty to disclose that information. The information required to be included in and the requirements for publication of the disclosure are provided in the bill.

A violation of this section will be a class B misdemeanor that is enforceable only if a government entity knowingly accepts foreign-influenced funds for election administration.

CAMPAIGN FINANCE - Sections 130.170, 130.173, 130.176, 130.179, 130.185, and 130.188

Upon forming a campaign committee to support or oppose any ballot measure, the treasurer of the committee is required to file an accompanying certification that no preliminary activity, as defined in the bill, was funded, directly or indirectly, by a prohibited source, defined as any contribution from or expenditure by a foreign national with the intent to influence an election on a ballot measure.

After a campaign committee has been formed, the committee may not knowingly or willfully receive, solicit, or accept contributions or expenditures from a prohibited source, whether directly or indirectly.

The bill requires donors of more than \$2,000 to campaign committees to affirm that the donor is not a foreign national and has not knowingly or willfully accepted funds aggregating in excess of \$10,000 from one or more prohibited sources within, for an individual, the two-year period immediately preceding the date the contribution is made, or within the four-year period immediately preceding the date the contribution is made, in case of any other entity.

Within 48 hours of making one or more expenditures supporting or opposing a ballot measure, an entity making an expenditure in support of or opposition to a ballot measure will affirm to the Missouri Ethics Commission (MEC) that it has not knowingly or willfully accepted funds aggregating in excess of \$10,000 from one or more prohibited sources within the four-year period immediately preceding the date the expenditure is made and that it will not do

so through the remainder of the calendar year in which the ballot measure will appear on the ballot. Receipt of an affirmation from a donor that it is not a foreign national will create a rebuttable presumption that the entity has not knowingly or willingly accepted funds from prohibited sources.

A contribution from a donor or entity of funds obtained through its usual course of business or in any commercial or other transaction from any source that is not a contribution does not violate this section.

Committees are prohibited from accepting in-kind contributions from foreign nationals or from any individual or entity that knowingly accepted funds aggregating in excess of \$10,000 from one or more foreign nationals within the four year period immediately preceding the date the in-kind contribution is made.

If the MEC determines that an entity filing a disclosure report has accepted funds in aggregate from one or more prohibited sources in excess of the threshold specified in the bill within the four-year period immediately preceding the contribution or expenditure at issue, it will create a presumption that the entity has violated the provisions of the bill.

The bill prohibits foreign nationals from directing, dictating, controlling or directly or indirectly participating in the decision-making process of any person with regard to that person's activities to influence an election on a ballot measure; and from soliciting, directly or indirectly, the making of a donation, contribution or expenditure by another person to influence an election on ballot measure.

The bill creates a new enforcement mechanism for foreign funding of campaign committees that is separate and distinct from the process that the MEC uses to investigate complaints of campaign finance law. The Attorney General is allowed to issue civil investigative demands in the same manner as provided for under the Missouri Merchandising Practices Act and may bring a civil action to enforce this act, as described in the bill. If, after the hearing, the court determines that probable cause exists to believe that a violation has occurred, the court will enter an order to that effect and the case should proceed to trial on an expedited basis.

Within 30 days of a finding that a committee has violated these provisions of the bill, the committee must refund the contribution to the original contributor. In the event of an appeal, the contribution will be placed in escrow, after which the funds will be disbursed in accordance with the final order. If the campaign committee is unable to return the funds, the directors, officers,

or executive members of the campaign committee will be liable in their personal capacity, jointly and severally, for the refund of the funds.

Within 30 days of a finding that a committee, person, or other entity making an expenditure has violated these provisions of the bill, the entity making the expenditure must disgorge to the Attorney General funds in an amount equal to the reported cost of the expenditure. If the funds cannot be disgorged, the person or directors, officers or executive members of the committee or other entity shall be liable in their personal capacities, jointly and severally, for the payment of the amount due. In the event of an appeal, the funds subject to disgorgement will be placed in escrow, after which they shall be disbursed in accordance with the final order.

If any lobbyist violates any of the provisions of the bill relating to foreign funding of ballot measures, the lobbyist's registration may be revoked or suspended and the lobbyist may be enjoined from receiving compensation or making expenditures for lobbying.

If the Attorney General prevails in an action brought under the provisions of this bill, the court will award injunctive relief sufficient to prevent the defendant from violating this act or engaging in acts that aid or abet violations and statutory damages up to twice the amount of the prohibited contribution or expenditure.

In addition to other penalties provided in the bill, if the court finds a knowing or willful violation, the court may assess a penalty of up to three times the statutory damages.

Collection of information pursuant to this bill must be done in accordance with the Personal Privacy Protection Act and any public disclosure will be considered a violation of the Personal Privacy Protection Act subject to civil action and penalties, as provided in that bill.