



*Our mission is to end discrimination based on sexual orientation and gender identity, and to ensure the dignity, safety, and legal equality of all Kansans*

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Testimony Thomas Witt, Chair, Kansas Equality Coalition  
Senate Committee on Ethics and Elections  
Statement in support of SB563  
March 10, 2010

The Kansas Equality Coalition is a statewide not-for-profit organization with over one thousand members in nine chapters. We are a grass-roots group who works for full equality and fair treatment for gay and lesbian Kansans.

Just one week ago, we requested introduction of SB563, and I'd like to thank the Chair and the committee for scheduling today's hearing so quickly. This is an important issue for all Kansans, and our members thank you for your willingness to immediately address it.

As the committee is undoubtedly aware, last month Kansas Supreme Court Justice Carol Beier requested a ruling from the Kansas Governmental Ethics Commission as to whether retention elections of Kansas Supreme Court Justices are covered by the Kansas Campaign Finance Act. The Ethics Commission's ruling, issued the following week, informed Justice Beier that retention campaigns are not covered by the Act. A copy of Justice Beier's request and the Ethics Commission ruling are attached to this testimony.

The practical impact of the Ethics ruling is this: completely unlimited, entirely anonymous funds may now pour into any campaign for or against our Kansas Supreme Court justices, our appellate judges, and those district court judges who must stand for retention. The door is now wide open to the corrosive influence of unaccountable campaign cash to influence, and perhaps outright buy, seats on the most important courts in our state.

As an organization which represents the interests of a class of people who depend on access to the courts for the protection and guarantee of our basic Constitutional rights, the Kansas Equality Coalition is adamantly opposed to leaving this door open. We stand with those who believe in the integrity and independence of our Kansas courts and American system of justice. Selling the Supreme Court to the highest anonymous bidder is an offense to all Kansans.

After we requested introduction of this bill last week, we were immediately inundated with questions from interested parties across Kansas as to the intent and purpose of the language. Our intent is simple: We believe that the Kansas Campaign Finance Act must be broadened to include justices and judges who face retention elections. The intent of SB563 is to require complete disclosure and reporting from justices and judges running for retention, and complete disclosure and reporting from any and all organizations raising and spending money to defeat or support them. Furthermore, SB563 defines, for the purposes of the Campaign Finance Act, all Supreme Court justices, appellate judges, and district judges who stand for retention, as statewide officers. Our intent is that these officials will be subject to the same contribution limits as candidates for Governor, Attorney General, Secretary of State, and so on.

Although we worked with counsel on the language we proposed to the Senate, we are not experts on campaign finance law. We sought further assistance from the Revisor of Statutes, and are grateful for their assistance in helping match the language of this

bill to our intent. There has been some confusion among interested parties regarding exactly which statutes must be amended to accomplish our goal; indeed, this committee added a balloon to SB443 the same day we requested SB563. We believe that, while the balloon adds justices and judges to the definition of “statewide officers,” it is insufficient in that it does not clearly include “retention” in the Campaign Finance Act’s provisions requiring disclosure and reporting.

Another issue that has come up since SB563 was introduced was whether or not our intent was to subject the justices and judges official campaign committees to the same contribution limits as other state elected officials. Yes, that is our intent. We believe that the contribution limits defined in the Campaign Finance Act are present to keep the corrosive, corruptive influence of large sums of money at “arms-length” from candidates for public office, and we believe this is a sound principle that should be preserved. Independent political action committees can be set up to support and oppose candidates for retention, and under this bill, will be required to comply with the same statutes and rules and regulations as any other PAC operating in Kansas.

Other parties have suggested that since retention candidates do not face opponents who are similarly limited in their fundraising, there should be no limit on the retention candidates. While we disagree with this approach, it’s an argument that has merit, and at their request we offer language that will remove retention campaigns from contribution limits while preserving reporting and disclosure requirements:

*and amending K.S.A. 25-4153 to add:*

*(j) No limitation on amounts contributed to a candidate or such candidate’s candidate committee as set forth herein shall apply to an incumbent Justice or Judge in an election upon the question of retention pursuant to K.S.A. 25-111, 25-3006, 20-2908, 25-113, or 20-337 and any amendments thereto.*

I do not think it is hyperbole to say that this may be one of the most important issues to come before the Legislature in some time, and may be one of the most important votes you will cast. The questions before this committee, and indeed the entire Legislature, are simple: Is our court system for sale? Is justice in Kansas only for those with money, only for those anonymous interests, whether from Kansas or not, who can pour millions of unaccountable, untraceable dollars into our state?

This is not an issue about sexual orientation or the ongoing debate over gay rights. This is about preserving our system of justice for all Kansans. The “For Sale” sign must come down from the front door of our Supreme Court, and the people of Kansas are counting on you to do the right thing.

Respectfully,

Thomas Witt, Chair  
Kansas Equality Coalition