

BILL ANALYSIS

Senate Research Center

S.B. 1686
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DIGEST

Currently, campaign spending is a volatile issue in Texas. This bill contains comprehensive reforms for both individuals and PAC contributions while also proposing voluntary campaign expenditure and contributions limits for state legislative races.

PURPOSE

As proposed, S.B. 1686 sets forth provisions for the regulation of certain political contributions, political expenditures, and political advertising and provides certain penalties.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Ethics Commission in SECTIONS 1 and 14 (Sections 253.221(b) and 255.009(e), Election Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 253, Election Code, by adding Subchapter G, as follows:

SUBCHAPTER G. LEGISLATIVE FAIR CAMPAIGN SPENDING ACT

Sec. 253.201. **APPLICABILITY OF SUBCHAPTER.** Provides that this subchapter applies only to a political contribution or political expenditure in connection with the office of state senator or state representative.

Sec. 253.202. **DEFINITIONS.** Defines "complying candidate," "in connection with an election," "noncomplying candidate," and "principal campaign committee."

Sec. 253.203. **PRINCIPAL CAMPAIGN COMMITTEE.** Requires a legislative candidate or officeholder to designate in writing a specific-purpose committee to serve as the person's principal campaign committee. Requires a designation under Subsection (a) to be made by a certain date and filed with the Texas Ethics Commission (commission). Requires the name of a principal campaign committee to include the candidate's or officeholder's name. Prohibits a legislative candidate or officeholder from having more than one principal campaign committee at a time. Prohibits a person who is both a candidate and an officeholder from having more than one principal campaign committee. Provides that a candidate who becomes an officeholder is not required to designate a new principal campaign committee. Provides that a prohibition or restriction imposed by this title on a candidate or officeholder applies to the principal campaign committee of a legislative candidate or officeholder. Prohibits a person from establishing a specific-purpose committee for supporting or opposing a legislative candidate or assisting a legislative officeholder.

Sec. 253.204. **LIABILITY OF CANDIDATE FOR ACT OR OMISSION OF PRINCIPAL CAMPAIGN COMMITTEE.** Provides that a legislative candidate or officeholder is criminally liable for an act or omission by the person's principal campaign committee in connection with a requirement or prohibition prescribed by this title only under certain conditions. Provides that a legislative candidate or officeholder is civilly liable for an act or omission by the person's principal campaign committee in connection with a requirement or prohibition

prescribed by this title only under certain conditions.

Sec. 253.205. ACCEPTANCE OF POLITICAL CONTRIBUTION BY CANDIDATE OR OFFICEHOLDER. Provides that a person commits a Class A misdemeanor if a person violates this section. Prohibits a legislative candidate or officeholder from knowingly accepting a political contribution in connection with the person's own candidacy or office. Authorizes a legislative candidate or officeholder to accept a political contribution on behalf of the person's principal campaign committee unless the committee itself would be prohibited from accepting the contribution.

Sec. 253.206. CONTRIBUTION LIMITS. Provides that a person commits a Class A misdemeanor if a person violates this section. Prohibits a person other than a general-purpose committee from knowingly making or authorizing political contributions to the principal campaign committee of a legislative candidate or officeholder that, in connection with each election in which the candidate or officeholder is involved, the aggregate exceeds a certain amount for state senator and or state representative. Prohibits a person from knowingly accepting a political contribution and is required to refuse a political contribution that is received, in violation of Subsection (a).

Sec. 253.207. AGGREGATE CONTRIBUTION LIMIT FOR CERTAIN FAMILY GROUPS. Prohibits a certain group from knowingly making or authorizing political contributions to the principal campaign committee of a legislative candidate or officeholder that, in connection with each election in which the candidate or officeholder is involved, the aggregate exceeds a certain amount for state senator or state representative. Prohibits a person from knowingly accepting a political contribution and is required to refuse a political contribution that is received, in violation of Subsection (a). Defines "child." Provides that a person commits a Class A misdemeanor if a person violates this section.

Sec. 253.208. AGGREGATE LIMIT ON CONTRIBUTIONS FROM AND EXPENDITURES BY GENERAL-PURPOSE COMMITTEE. Prohibits the principal campaign committee of a legislative candidate or officeholder from knowingly accepting a political contribution from a general-purpose committee that, when aggregated with each other political contribution from a general-purpose committee in connection with an election exceeds a certain amount. Provides the conditions under which a political expenditure by a general-purpose committee for the purpose of supporting a candidate, for opposing a candidate's opponent, or for assisting the candidate as an officeholder is considered to be a political contribution to the principal campaign committee of the candidate whom the expenditure benefits. Provides that Subsection (b) applies only to a certain type of political expenditure and does not apply to a political expenditure by the principal political committee of the state executive committee or a county executive committee of a political party. Requires an affidavit under Subsection (b) to be filed with the report under Chapter 254, Election Code, in which the political expenditure is required to be reported. Provides that a person commits a Class A misdemeanor if the person violates this section.

Sec. 253.209. RETURN OF EXCESS CONTRIBUTION. Requires a principal campaign committee that receives a political contribution the acceptance of which would violate Section 253.206, 253.207, or 253.208, Election Code, to return the contribution to the contributor by a certain date. Provides that a political contribution that is not returned as required by this section is considered to be accepted.

Sec. 253.210. NOTICE REQUIRED FOR CERTAIN DIRECT CAMPAIGN EXPENDITURES. Sets forth provisions for direct campaigning expenditures relating to certain notification procedures including making and filing of declarations.

Sec. 253.211. VOLUNTARY COMPLIANCE. Requires a person who becomes a candidate for public office to file with the commission certain documents. Prohibits a legislative candidate or the principal campaign committee of a legislative candidate from knowingly accepting a campaign contribution or making or authorizing a campaign expenditure before the candidate files a declaration under Subsection (a).

Sec. 253.212. EFFECT OF NONCOMPLYING CANDIDATE. Provides that a complying candidate or the principal campaign committee of a complying candidate is not required to comply with the limits on political contributions and political expenditures prescribed by this subchapter and the limit on the reimbursement of personal funds prescribed by Section 253.042 if another person becomes a candidate for the same office and performs certain functions. Requires the executive director to issue an order suspending the limits on political contributors, political expenditures, and reimbursement of personal funds for a specific office not later than a certain date under certain conditions.

Sec. 253.213. BENEFITS TO COMPLYING CANDIDATE. Provides that a complying candidate and the principal campaign committee of a complying candidate are entitled to certain provisions under certain conditions. Provides that a noncomplying candidate and the principal campaign committee of a noncomplying candidate are not entitled to the benefits provided by this section.

Sec. 253.214. PERSONAL EXPENDITURE LIMITS. Prohibits a complying candidate from knowingly making or authorizing, from the candidate's personal funds or other assets, political expenditures in connection with the candidate's candidacy that, in connection with each election in which the candidate is involved, in the aggregate exceeds a certain amount for a state senator or state representative. Provides that the use of a person's personal funds or other assets as collateral for a loan is considered to be a political expenditure. Provides that a person commits a Class A misdemeanor if the person violates this section.

Sec. 253.215. AGGREGATE EXPENDITURE LIMITS. Prohibits the principal campaign committee of a complying candidate from knowingly making or authorizing political expenditures that in the aggregate exceed a certain amount. Provide that this section applies to all political expenditures with exceptions. Provides that the expenditure limits prescribed by this section for an election other than a special election or runoff special election apply during a certain period. Provides that a political expenditure made by a complying candidate from the candidate's personal funds or other assets is considered to be a political expenditure by the candidate's principal campaign committee. Provides that a person commits a Class A misdemeanor if the person violates this section.

Sec. 253.216. CONTRIBUTION FROM OR DIRECT CAMPAIGN EXPENDITURE BY POLITICAL PARTY. Prohibits the principal political committee of the state executive committee of political party from performing certain functions under certain conditions. Sets forth a certain formula for calculating the amount of certain direct campaign expenditures made under this section. Provides that certain political contributions made by a county executive committee of a political party is considered to be a political expenditure by the candidate's principal campaign committee for the purposes of the expenditure limits prescribed by Section 253.215, Election Code. Provides that Subsections (a) and (c) do not apply to a political expenditure for certain campaign-related activities.

Sec. 253.217. CONTRIBUTION BY NATIONAL COMMITTEE OF POLITICAL PARTY CONSIDERED EXPENDITURE BY CANDIDATE'S COMMITTEE. Provides that a political contribution by the national committee of a political party as defined by 2 U.S.C. Section 431, to the principal campaign committee of a complying candidate that is made from money that is not accepted in compliance with Subchapter I, Chapter 14, Title 2, U.S.C., is considered to be a political expenditure by the candidate's principal campaign committee.

Sec. 253.218. CERTAIN IN-KIND CONTRIBUTIONS CONSIDERED EXPENDITURE BY CANDIDATE'S COMMITTEE. Provides that an in-kind political contribution is considered to be a political expenditure by the principal campaign committee of a complying candidate if it is made in a certain manner. Defines "in-kind political contribution."

Sec. 253.219. EFFECT OF CERTAIN DIRECT CAMPAIGN EXPENDITURES. Requires the executive director of the commission to issue an order increasing, by an amount equal to

the amount of the expenditure, the expenditure limits for the principal campaign committee of each complying candidate who opposes the candidate whom the expenditure benefits under certain conditions. Requires the executive director to issue the order not later than a certain date. Provides that a direct campaign expenditure that opposes a candidate is considered to benefit each candidate for the office other than the opposed candidate.

Sec. 253.220. LEGISLATIVE FAIR CAMPAIGN SPENDING FUND. Provides that the legislative fair campaign fund is a special account in the general revenue fund. Sets forth the contents of the legislative fair campaign spending fund. Authorizes the legislative fair campaign spending fund to be used only for certain purposes. Requires the fund to be permitted to accumulate until the balance is sufficient to permit the publication of a voter's guide as provided by Section 253.221, Election Code. Authorizes the commission, the secretary of state, and the comptroller to use the money in the legislative fair campaign fund for certain purposes relating to the education of voters about this subchapter. Authorizes the commission to accept gifts and grants for the purposes described by Subsections(c) (1), (d), and (e). Requires funds received under this subsection to be deposited to the credit of the legislative fair campaign spending fund. Provides that the legislative fair campaign spending fund is exempt from Section 403.095, Government Code.

Sec. 253.221. VOTER'S GUIDE. Requires the commission to publish a voter's guide listing candidates, their backgrounds, and similar information. Requires the commission to adopt rules under which a candidate must provide information to the commission for inclusion in the voter's guide. Prohibits the rules from restricting the content of a candidate's information by any means other than prescribing a maximum length. Requires the voter's guide to indicate whether each candidate is a complying candidate or noncomplying candidate, based on declarations filed under Section 253.211, Election Code, or determinations by the executive director under Section 253.212, Election Code. Sets forth the procedure for listing a noncomplying candidate in the voter's guide. Requires the commission to perform certain functions with respect to the voter's guide by a certain date. Defines "Internet."

SECTION 2. Amends Section 251.005, Election Code, by amending Subsection (a) and adding Subsection (d), to provide that an out-of-state committee that is the national committee of a political party, as defined by 2 U.S.C. Section 431, that makes political contributions described by Section 253.217, Election Code, is subject to this title to the same extent as a political committee that is not an out-of-state committee.

SECTION 3. Amends Section 253.003(c), Election Code, to provide that this section does not apply to a political expenditure made or accepted in violation of Section 253.040 or 253.211, Election Code. Makes a conforming change.

SECTION 4. Amends Section 253.004(b), Election Code, to provide that this section does not apply to a political expenditure made or authorized in violation of Section 253.210 or 253.211, Election Code. Makes a conforming change.

SECTION 5. Amends Chapter 253B, Election Code, by adding Section 253.040 as follows:

Sec. 253.040. CERTAIN CONTRIBUTIONS BY CERTAIN FORMER OFFICEHOLDERS PROHIBITED. Prohibits a former officeholder who is required to register as a lobbyist under Chapter 305, Government Code, from using a political contribution accepted while the person was a candidate or officeholder from making a political contribution to a person other than the political party with which the person was affiliated or aligned when the person's name last appeared on the ballot.

SECTION 6. Amends Section 253.042(a), Election Code, to make standard inclusive language changes. Prohibits certain expenditures under this section in the aggregate from exceeding an amount for each election in which the person's name appears on the ballot and in which the person has an opponent whose name appears on the ballot for a state senator or state representative.

SECTION 7. Amends Section 253.134, Election Code, to authorize the commission to contract with

a nongovernmental entity to collect a civil penalty imposed under Section 571.173, Government Code, for a violation of this chapter that is not paid before the 120th day after the date it is imposed.

SECTION 8. Amends Section 254.034, Election Code, by adding Subsection (f), to provide that this section applies to a political contribution covered by Chapter 253G, Election Code, except as provided by Section 253.209, Election Code.

SECTION 9. Amends Chapter 254C, Election Code, by adding Section 254.0612, as follows:

Sec. 254.0612. REPORTS BY PRINCIPAL CAMPAIGN COMMITTEE OF LEGISLATIVE CANDIDATE; ADDITIONAL CONTENTS. Requires the principal campaign committee of a candidate for state senator or state representative to comply with this chapter as if the committee were a candidate. Requires each report by the principal campaign committee of a candidate for state senator or state representative to include certain information. Defines "principal campaign committee."

SECTION 10. Amends Chapter 254D, Election Code, by adding Section 254.0912, as follows:

Sec. 254.0912. REPORTS BY PRINCIPAL CAMPAIGN COMMITTEE OF LEGISLATIVE OFFICEHOLDER; ADDITIONAL CONTENTS. Requires the principal campaign committee of a state senator or state representative to comply with this chapter as if the committee were an officeholder. Requires each report by the principal campaign committee of a state senator or state representative to include the contents prescribed by Section 254.0612, Election Code. Defines "principal campaign committee."

SECTION 11. Amends Chapter 254F, Election Code, by adding Section 254.1511, as follows:

Sec. 254.1511. REPORTS BY PRINCIPAL POLITICAL COMMITTEE OF POLITICAL PARTY; ADDITIONAL CONTENTS. Requires each report by the principal political committee of the state executive committee of a political party to list the political contributions and political expenditures made in connection with each candidate or officeholder on a separate schedule. Requires each report by the principal political committee of the state executive committee of a political party to include, for each candidate for or holder of the office of state senator or state representative for whose benefit the committee makes a political contribution or political expenditure in the calendar, certain information. Defines "principal campaign committee."

SECTION 12. Amends Section 254.203(a), Election Code, to prohibit a person from retaining certain political contributions covered by this title for more than six years after the date the person ceases to be an officeholder or the date the person ceases to be a candidate, rather than ceases to be an officeholder or files a final report under this chapter, whichever is later.

SECTION 13. Amends Section 254.204(a), Election Code, to require the former officeholder or candidate to remit any unexpended political contributions to the political party with which the person was affiliated or aligned when the person's name last appeared on a ballot or the commission for deposit in the legislative fair campaign spending fund under Section 253.220, Election Code. Makes nonsubstantive changes.

SECTION 14. Amends Chapter 255, Election Code, as follows:

Sec. 255.009. DISCLOSURE ON POLITICAL ADVERTISING FOR LEGISLATIVE OFFICE. Provides that this section applies only to the principal campaign committee of a candidate covered by Chapter 253G, Election Code. Authorizes political advertising by the principal campaign committee of a complying candidate to include a certain statement. Requires political advertising by the principal campaign committee of a complying candidate that does not contain the statement prescribed by Subsection (b) to comply with Section 255.001, Election Code. Requires political advertising by the principal campaign committee

of a noncomplying candidate to include a certain statement. Requires the commission to adopt certain rules relating to the disclosure statement. Defines "complying candidate," "noncomplying candidate, and "principal campaign committee." Provides that a person who violates this section is liable for a civil penalty not to exceed three times the cost of the political advertising that violates this section. Provides that a person commits a Class A misdemeanor if a person violates a rule adopted under this chapter.

Sec. 255.010. RESTRICTION ON CERTAIN TELEPHONE ADVERTISING AND POLLING. Provides that a person commits a Class B misdemeanor if the person violates this section. Requires a person to file with the commission the script that will be used in conducting the advertising campaign or poll by a certain date. Prohibits the commission from taking any action in connection with a script filed under this subsection other than making the script available to the public on request. Provides that this section applies only to a telephone advertising campaign or poll conducted by a person, including certain new organizations.

SECTION 15. Amends Chapter 151H, Tax Code, by adding Section 151.354, as follows:

Sec. 151.354. CERTAIN LEGISLATIVE CANDIDATES AND COMMITTEES. Provides that certain taxable items used by a complying candidate for state senator or state representative or the principal campaign committee of a complying candidate is exempted from the taxes imposed by this chapter under certain conditions. Defines "complying candidate" and "principal campaign committee."

SECTION 16. Repealer: Section 253.042(g), Election Code (Restrictions on Reimbursement of Personal Funds and Payment on Certain Loans).

SECTION 17. Provides that the provisions of this Act are not severable and none would have been enacted without the others. Provides that if any provision of this Act is held invalid, each provision is invalid.

SECTION 18. (a) Effective date: September 1, 1997, except as provided by Subsection (h) of this section.

(b) Requires each candidate for or holder of the office of state senator or state representative to file with the Texas Ethics Commission a designation of the person's principal campaign committee as required by Section 253.203, Election Code, not later than September 15, 1997.

(c) through (f) Makes application of this Act prospective.

(g) Requires a former officeholder or candidate before September 1, 1991, who has not filed a final report under Chapter 254, Election Code, before September 1, 1997, to dispose of certain political contributions not later than January 1, 1998, in compliance with Section 254.203, Election Code, as amended by this Act. Requires a former officeholder or candidate who ceased to be an officeholder or candidate prospective to September 1, 1991 to dispose of certain political contributions in compliance with Section 254.203, Election Code, as amended by this Act, regardless of whether the person has filed a final report under Chapter 254, Election Code.

(h) Effective date for Section 151.354, Tax Code: October 1, 1997. Makes application of Section 151.354 of this Act prospective.

SECTION 19. Emergency clause.