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S.B. No. 2035

A BILL TO BE ENTITLED

AN ACT

relating to contributions, expenditures, and related activities for supporting or opposing a ballot measure; creating criminal offenses; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 51.014(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) A person may appeal from an interlocutory order of a district court, county court at law, statutory probate court, or county court that:

(1) appoints a receiver or trustee;

(2) overrules a motion to vacate an order that appoints a receiver or trustee;

(3) certifies or refuses to certify a class in a suit brought under Rule 42 of the Texas Rules of Civil Procedure;

(4) grants or refuses a temporary injunction or grants or overrules a motion to dissolve a temporary injunction as provided by Chapter 65;

(5) denies a motion for summary judgment that is based on an assertion of immunity by an individual who is an officer or employee of the state or a political subdivision of the state;

(6) denies a motion for summary judgment that is based in whole or in part upon a claim against or defense by a member of

1 the electronic or print media, acting in such capacity, or a person
2 whose communication appears in or is published by the electronic or
3 print media, arising under the free speech or free press clause of
4 the First Amendment to the United States Constitution, or Article
5 I, Section 8, of the Texas Constitution, or Chapter 73;

6 (7) grants or denies the special appearance of a
7 defendant under Rule 120a, Texas Rules of Civil Procedure, except
8 in a suit brought under the Family Code;

9 (8) grants or denies a plea to the jurisdiction by a
10 governmental unit as that term is defined in Section 101.001;

11 (9) denies all or part of the relief sought by a motion
12 under Section 74.351(b), except that an appeal may not be taken from
13 an order granting an extension under Section 74.351;

14 (10) grants relief sought by a motion under Section
15 74.351(1);

16 (11) denies a motion to dismiss filed under Section
17 90.007;

18 (12) denies a motion to dismiss filed under Section
19 27.003;

20 (13) denies a motion for summary judgment filed by an
21 electric utility regarding liability in a suit subject to Section
22 75.0022;

23 (14) denies a motion filed by a municipality with a
24 population of 500,000 or more in an action filed under Section
25 54.012(6) or 214.0012, Local Government Code;

26 (15) makes a preliminary determination on a claim
27 under Section 74.353;

1 (16) overrules an objection filed under Section
2 148.003(d) or denies all or part of the relief sought by a motion
3 under Section 148.003(f); ~~[or]~~

4 (17) grants or denies a motion for summary judgment
5 filed by a contractor based on Section 97.002; or

6 (18) makes a determination of probable cause under
7 Section 253.206(b), Election Code.

8 SECTION 2. Chapter 252, Election Code, is amended by adding
9 Sections 252.0012, 252.0033, and 252.0034 to read as follows:

10 Sec. 252.0012. DEFINITIONS. In this chapter:

11 (1) "Direct or indirect" means, with respect to an act
12 by a person, the person acting alone or jointly with, through, or on
13 behalf of another person.

14 (2) "Preliminary activity" includes conducting a poll
15 or focus group on the ballot measure, drafting sample ballot
16 measure language, making telephone calls in relation to the ballot
17 measure, or incurring travel expenses in relation to the ballot
18 measure.

19 Sec. 252.0033. CONTENTS OF APPOINTMENT BY SPECIFIC-PURPOSE
20 COMMITTEE FOR SUPPORTING OR OPPOSING BALLOT MEASURE. In addition
21 to the information required by Section 252.002, a campaign
22 treasurer appointment by a specific-purpose committee for
23 supporting or opposing a ballot measure must include an affidavit
24 certifying that the committee did not receive direct or indirect
25 funding from a foreign national, as defined by Section 253.201, for
26 preliminary activity regarding the ballot measure.

27 Sec. 252.0034. CONTENTS OF APPOINTMENT BY GENERAL-PURPOSE

1 COMMITTEE THAT SUPPORTS OR OPPOSES BALLOT MEASURE. In addition to
2 the information required by Section 252.002, a campaign treasurer
3 appointment by a general-purpose committee that supports or opposes
4 a ballot measure must include an affidavit certifying that the
5 committee did not receive direct or indirect funding from a foreign
6 national, as defined by Section 253.201, for preliminary activity
7 regarding the ballot measure.

8 SECTION 3. Chapter 253, Election Code, is amended by adding
9 Subchapter G to read as follows:

10 SUBCHAPTER G. RESTRICTIONS ON CONTRIBUTIONS, EXPENDITURES, AND
11 RELATED ACTIVITIES INVOLVING GENERAL-PURPOSE OR SPECIFIC-PURPOSE
12 COMMITTEE SUPPORTING OR OPPOSING BALLOT MEASURE

13 Sec. 253.201. DEFINITIONS. In this subchapter:

14 (1) "Directly or indirectly" means, with respect to an
15 act by a person, the person acting alone or jointly with, through,
16 or on behalf of another person.

17 (2) "Foreign national" means:

18 (A) an individual who is not a United States
19 citizen or national;

20 (B) a government of a foreign country or of a
21 political subdivision of a foreign country;

22 (C) a foreign political party;

23 (D) a person that is organized under the law of or
24 has the person's principal place of business in a foreign country;
25 or

26 (E) a person that is wholly or primarily owned by
27 a person described by Paragraph (A), (B), (C), or (D).

1 Sec. 253.202. APPLICABILITY. (a) This subchapter applies
2 only to a general-purpose committee or specific-purpose committee
3 that supports or opposes a ballot measure.

4 (b) For purposes of this subchapter, a prohibition under
5 this chapter related to contributions and expenditures by a foreign
6 national that is a person wholly or primarily owned by a person
7 described by Section 253.201(2)(A), (B), (C), or (D) does not apply
8 if:

9 (1) the contribution or expenditure is derived
10 entirely from money generated in the United States; and

11 (2) each decision related to the contribution or
12 expenditure, other than a decision on setting overall contribution
13 or expenditure budget amounts, is made by an individual who is a
14 United States citizen or national.

15 Sec. 253.203. PROHIBITED CONTRIBUTIONS AND EXPENDITURES;
16 AFFIRMATION REQUIRED. (a) A general-purpose committee or
17 specific-purpose committee may not knowingly and directly or
18 indirectly:

19 (1) solicit or accept a contribution from a foreign
20 national;

21 (2) solicit or accept a contribution from a person
22 that in the four years preceding the date on which the contribution
23 is made knowingly accepted, directly or indirectly, money from one
24 or more foreign nationals that in the aggregate exceeds \$100,000;
25 or

26 (3) solicit a foreign national to make an expenditure
27 on the committee's behalf.

1 (b) On receipt of a contribution by a general-purpose
2 committee or specific-purpose committee, the committee shall
3 obtain from the person making the contribution a written
4 affirmation that the person:

5 (1) is not a foreign national; and

6 (2) has not, in the four years preceding the date on
7 which the contribution is made, knowingly accepted money from one
8 or more foreign nationals that in the aggregate exceeds \$100,000.

9 Sec. 253.204. PROHIBITED CONDUCT BY FOREIGN NATIONALS
10 RELATED TO CONTRIBUTIONS AND EXPENDITURES. (a) A foreign national
11 may not direct, dictate, control, or directly or indirectly
12 participate in a person's decision-making process with regard to
13 influencing a ballot measure, including the person's decision to
14 make a contribution or expenditure to influence a ballot measure.

15 (b) A foreign national may not directly or indirectly
16 solicit the making by a person of a donation, contribution, or
17 expenditure to influence a ballot measure.

18 Sec. 253.205. RECORDKEEPING AND CERTIFICATION REQUIREMENTS
19 RELATED TO CERTAIN CONTRIBUTIONS AND EXPENDITURES; PRESUMPTION OF
20 VIOLATION; CRIMINAL OFFENSE. (a) A general-purpose committee or
21 specific-purpose committee that makes a contribution or an
22 expenditure to support or oppose a ballot measure, or a person who
23 makes a direct campaign expenditure to support or oppose a ballot
24 measure, shall maintain a record of the contribution, expenditure,
25 or direct campaign expenditure until the second anniversary of the
26 date the contribution, expenditure, or direct campaign expenditure
27 is made.

1 (b) Not later than 48 hours after a person makes a direct
2 campaign expenditure to support or oppose a ballot measure, the
3 person shall certify to the commission, in the form and manner the
4 commission requires, that the person:

5 (1) has not in the four years preceding the date on
6 which the expenditure is made knowingly accepted money from foreign
7 nationals that in the aggregate exceeds \$100,000; and

8 (2) will not for the remainder of the year during which
9 the ballot measure will appear on the ballot knowingly accept money
10 from foreign nationals that in the aggregate exceeds \$100,000.

11 (c) An individual commits an offense if the individual
12 knowingly:

13 (1) fails to maintain a record described by Subsection
14 (a); or

15 (2) fails to submit the certification required by
16 Subsection (b).

17 (d) An offense under this section is a Class B misdemeanor.

18 (e) Any determination that a general-purpose committee,
19 specific-purpose committee, or person who made a contribution or
20 direct campaign expenditure to support or oppose a ballot measure
21 has accepted funds in the aggregate that exceed \$100,000 from one or
22 more foreign nationals in the four years preceding the contribution
23 or direct campaign expenditure at issue shall create a presumption
24 that the committee or person has violated this section.

25 Sec. 253.206. ENFORCEMENT. (a) The commission may bring a
26 civil action to enforce this subchapter. In all actions brought
27 pursuant to this section, the burden of proof shall be on the

1 commission.

2 (b) Before discovery in an action brought under this
3 section, the court must hold a hearing to determine whether there is
4 probable cause to believe that a person has violated this
5 subchapter.

6 (c) If, after the hearing required by Subsection (b), the
7 court determines that:

8 (1) probable cause does not exist to believe that a
9 violation of this subchapter occurred, the court shall dismiss the
10 action with prejudice; or

11 (2) probable cause exists to believe that a violation
12 of this subchapter occurred, the court shall:

13 (A) enter an order stating the court's findings;

14 (B) resume the action; and

15 (C) cause the action to be expedited.

16 (d) After an affirmative finding under Subsection (c), a
17 defendant may, at a time determined by the court and before the
18 scheduling of a trial date, present evidence sufficient to rebut
19 the probable cause finding by making an ex parte presentation of
20 records to the court for in camera review.

21 (e) If the court determines that a general-purpose
22 committee or specific-purpose committee has accepted a
23 contribution in violation of this subchapter, the committee shall,
24 not later than the 30th day after the date of the court's
25 determination, return to the person who made the contribution the
26 contribution accepted in violation of this subchapter. If either
27 party appeals the court's determination, the court shall order the

1 contribution at issue to be placed in escrow pending the outcome of
2 the appeal.

3 (f) If a general-purpose committee or specific-purpose
4 committee that was determined to have accepted a contribution in
5 violation of this subchapter is unable to return all or part of the
6 contribution as required by Subsection (e), the committee's
7 directors, officers, and executive members are jointly and
8 severally liable for returning the remaining part of the
9 contribution.

10 (g) If the court determines that a person who made a direct
11 campaign expenditure to support or oppose a ballot measure has
12 violated this subchapter, the person shall, not later than the 30th
13 day after the date of the court's determination, disgorge to the
14 commission funds in an amount equal to the reported cost of the
15 direct campaign expenditure. If a person who is not an individual is
16 unable to disgorge the requisite funds under this subsection, its
17 directors, officers, or executive members shall be liable in their
18 personal capacities, jointly and severally, for the payment of the
19 amount due. In the event of an appeal, the court shall order the
20 funds subject to disgorgement to be placed in escrow pending the
21 outcome of the appeal.

22 (h) A person who violates this subchapter is liable for a
23 civil penalty in an amount not to exceed three times the amount of
24 the contribution accepted or expenditure made in violation of this
25 subchapter.

26 (i) If the commission prevails in an action brought under
27 Subsection (a), the court shall award:

1 (1) injunctive relief sufficient to prevent the
2 defendant from violating this subchapter or engaging in acts that
3 aid or abet violations of this subchapter; and

4 (2) statutory damages up to twice the amount of the
5 prohibited contribution or expenditure.

6 (j) The commission may bring an action to enjoin a person
7 who violates this subchapter from engaging in activities that would
8 require registration as a lobbyist under Chapter 305, Government
9 Code, for a period to be determined by the court. In determining
10 the period to prohibit a person from engaging in those activities,
11 the court shall consider:

12 (1) the seriousness of the violation, including the
13 nature, circumstances, extent, and gravity of the violation;

14 (2) whether the person acted in bad faith when
15 engaging in conduct constituting a violation of this subchapter;

16 (3) whether the person has previously violated this
17 subchapter; and

18 (4) the duration of an injunction necessary to deter
19 future violations.

20 Sec. 253.207. PROHIBITED DISCLOSURE OF CERTAIN DONORS;
21 CRIMINAL OFFENSE. (a) In this section:

22 (1) "Nonprofit organization" means an organization
23 exempt from federal income taxation under Section 501(a), Internal
24 Revenue Code of 1986, as an organization described by Section
25 501(c)(3) of that code.

26 (2) "Public servant" has the meaning assigned by
27 Section 1.07(41), Penal Code.

1 (b) An investigation of an alleged violation of this
2 subchapter must be conducted in a manner to ensure that the identity
3 of a person who makes a lawful donation to a nonprofit organization
4 is kept confidential. The commission or a court may not compel the
5 disclosure of the identity of a person who makes a lawful donation
6 to a nonprofit organization unless the disclosure is directly
7 related to an alleged violation of this subchapter.

8 (c) A public servant may not disclose to the public the
9 identity of a person who makes a lawful donation to a nonprofit
10 organization unless the person is determined to have violated this
11 subchapter.

12 (d) A public servant commits an offense if the individual
13 knowingly discloses or reveals to the public the identity of a
14 person who makes a lawful donation to a nonprofit organization,
15 unless the person has been determined to have violated this
16 subchapter by a court.

17 (e) For purposes of this section, a person has been
18 determined to have violated this subchapter by a court after an
19 order has been entered by the court to that effect.

20 (f) An offense under this section is a Class A misdemeanor.

21 SECTION 4. Subchapter E, Chapter 254, Election Code, is
22 amended by adding Section 254.131 to read as follows:

23 Sec. 254.131. ADDITIONAL CONTENTS OF REPORTS OF COMMITTEES
24 SUPPORTING OR OPPOSING BALLOT MEASURE. (a) In this section:

25 (1) "Foreign national" has the meaning assigned by
26 Section 253.201.

27 (2) "Directly or indirectly" means, with respect to an

1 act by a person, the person acting alone or jointly with, through,
2 or on behalf of another person.

3 (b) In addition to the contents required by Section 254.031,
4 the campaign treasurer of a general-purpose committee or
5 specific-purpose committee that supports or opposes a ballot
6 measure must include an affirmation that:

7 (1) the committee did not knowingly, whether directly
8 or indirectly:

9 (A) solicit or accept a contribution from a
10 foreign national; or

11 (B) solicit a foreign national to make an
12 expenditure on the committee's behalf; and

13 (2) no contribution included in the report was made
14 by:

15 (A) a foreign national; or

16 (B) a person that in the four years preceding the
17 date on which the contribution is made knowingly accepted, whether
18 directly or indirectly, money from one or more foreign nationals
19 that in the aggregate exceeds \$100,000.

20 SECTION 5. The changes in law made by this Act to Chapters
21 252 and 254, Election Code, apply only to a campaign treasurer
22 appointment required to be filed under Chapter 252 or a report
23 required to be filed under Chapter 254 on or after the effective
24 date of this Act. A campaign treasurer appointment or report
25 required to be filed before the effective date of this Act is
26 governed by the law in effect at the time the appointment or report
27 was filed, and the former law is continued in effect for that

1 purpose.

2 SECTION 6. Subchapter G, Chapter 253, Election Code, as
3 added by this Act, applies only to a contribution or expenditure
4 made or an activity related to the making of a contribution or
5 expenditure that occurs on or after the effective date of this Act.
6 A contribution or expenditure made or a related activity that
7 occurs before the effective date of this Act is governed by the law
8 in effect at the time the contribution or expenditure was made or
9 the activity occurred, and the former law is continued in effect for
10 that purpose.

11 SECTION 7. This Act takes effect September 1, 2025.