

BILL ANALYSIS

C.S.H.B. 762
By: Nixon
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to advisory opinion no. 427, issued by the Texas Ethics Commission, a charitable contribution made in honor of a public servant is not a "benefit" to the public servant if the public servant does not exercise discretion over the decision to make the contribution to a particular organization. Despite this opinion, there has been some confusion whether elected officials can solicit contributions and direct them towards specific charities.

C.S.H.B. 762 modifies provisions relating to state officers or state employees soliciting or making recommendations regarding contributions to charitable organizations or governmental entities.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 762 amends the Government Code by authorizing a state officer or state employee to solicit or recommend the making of contributions to United States Internal Revenue Service tax exempt 501(c)(3) organizations (charities) or governmental entities. The bill provides that these contributions must:

- be paid or made directly to the charity or governmental entity by the person making the contribution;
- be in the form of a check, money order, or similar instrument payable to the charity or governmental organization; or
- be in the form of a deduction from a state employee's salary or wages under the state employee charitable campaign.

The bill also provides that any contribution that is not monetary must be delivered to the charity or governmental entity directly by the person making the contribution.

The bill provides that contributions paid or delivered according to these provisions are not:

- political contributions to, or political expenditures on behalf of, the state officer or state employee for the purposes of laws relating to the regulation of political funds and campaigns;
- expenditures, generally, for the purposes of laws relating to the registration of lobbyists; or
- a benefit to the state officer or state employee for the purposes of laws relating to gifts to a public servant by a person subject to his jurisdiction or laws relating to offering a gift to a public servant.

EFFECTIVE DATE

September 1, 2005.

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COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute modifies the original by authorizing a state officer or employee to recommend to any person that the person make a contribution, rather than only authorizing solicitation of contributions. The bill also modifies the original by providing that these contributions can be directed at a charity or a governmental entity, rather than only to a charity. The substitute modifies the bill caption to conform to these changes.

The substitute modifies the original by adding payment in the form of a deduction from a state employee's salary or wage payment under the state employee charitable campaign to the acceptable ways of making a contribution.

The substitute also modifies the original by providing that the contributions are generally not an expenditure for the purposes of regulations relating to registered lobbyists, rather than specifying that the contributions are specifically not expenditures made to influence legislation or administrative action.