

By: Naishtat

H.B. No. 72

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of electioneering communications made in connection with a political campaign; providing a criminal penalty.

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

SECTION 1. Subchapter D, Chapter 253, Election Code, is amended by adding Section 253.105 to read as follows:

Sec. 253.105. CONTRIBUTIONS AND EXPENDITURES FOR CERTAIN ELECTIONEERING COMMUNICATIONS PROHIBITED. (a) In this section, "covered preelection period" and "electioneering communication" have the meanings assigned by Section 254.0392(b).

(b) A corporation or labor organization may not:

(1) make a contribution to a person with the intent that the contribution be used for an electioneering communication in a covered preelection period; or

(2) make an expenditure for an electioneering communication in a covered preelection period.

(c) A person who violates this section commits an offense. An offense under this section is a felony of the third degree.

SECTION 2. Subchapter B, Chapter 254, Election Code, is amended by adding Section 254.0392 to read as follows:

Sec. 254.0392. REPORTS CONCERNING ELECTIONEERING COMMUNICATIONS. (a) Except as provided by Subsection (f) or (g), a person who makes expenditures that in the aggregate exceed \$10,000 for an electioneering communication in a covered

1 preelection period shall file a report of contributions and  
2 expenditures as provided by this section.

3 (b) For purposes of this section:

4 (1) "Covered preelection period," with respect to a  
5 person, means the period:

6 (A) beginning on:

7 (i) the 60th day before the date of an  
8 election in which the person is a candidate;

9 (ii) the 30th day before the date of a  
10 primary election if the person is a candidate in a primary election;  
11 or

12 (iii) the day after a general primary  
13 election if the person is a candidate in a runoff primary election;  
14 and

15 (B) ending on election day.

16 (2) "Electioneering communication" means a broadcast,  
17 cable, satellite, or direct-mail printed communication that:

18 (A) refers to a clearly identified candidate, by  
19 use of the candidate's name, likeness, or other clear means of  
20 identification; and

21 (B) is targeted to the relevant electorate.

22 (3) "Reporting period" means the period covered by a  
23 report as provided by Subsection (d).

24 (4) A communication is "targeted to the relevant  
25 electorate" of an election if, with respect to a broadcast, cable,  
26 or satellite communication, the communication is distributed or  
27 published to reach an audience that includes a substantial portion

1 of the electorate for the election. A communication delivered by  
2 direct mail is considered to be targeted if it is delivered to  
3 persons residing in the territory from which the candidate to whom  
4 the communication refers is or seeks to be elected.

5 (c) A person who makes an expenditure for which reporting is  
6 required under this section must file a report not later than 24  
7 hours after the expenditure is made if the person:

8 (1) makes an expenditure that causes the person to  
9 exceed the threshold prescribed by Subsection (a); or

10 (2) is required to file a report under Subdivision (1)  
11 and makes expenditures for electioneering communications after the  
12 period covered by a previous report that in the aggregate exceed  
13 \$10,000.

14 (d) A report filed under this section must cover:

15 (1) for the first report, the period:

16 (A) beginning on the date a person required to  
17 file the report first accepts a contribution or makes an  
18 expenditure for an electioneering communication in connection with  
19 the election for which the person is required to file a report; and

20 (B) ending on the date the person makes an  
21 expenditure that causes the person to exceed the threshold  
22 prescribed by Subsection (a); and

23 (2) for any subsequent report, the period:

24 (A) beginning on the day after the last day  
25 covered by the previous report; and

26 (B) ending on the date an expenditure for an  
27 electioneering communication is made that when aggregated with all

1 expenditures for electioneering communications made after the  
2 period covered by the previous report exceeds \$10,000.

3 (e) Each report filed by a person under this section must  
4 include:

5 (1) the full name and address of:

6 (A) the person filing the report;

7 (B) the person's campaign treasurer, if  
8 applicable; and

9 (C) any person who shares or exercises control of  
10 the person;

11 (2) the principal place of business of the person, if  
12 the person is not an individual;

13 (3) for each expenditure of more than \$200 for an  
14 electioneering communication made during the reporting period by  
15 the person:

16 (A) the amount of the expenditure; and

17 (B) the person to whom the expenditure was made;

18 (4) the election to which each electioneering  
19 communication pertains and the name of the candidate identified by  
20 each electioneering communication during the reporting period; and

21 (5) the full name and address of each person from whom  
22 the person required to file the report accepted contributions of  
23 \$1,000 or more in the aggregate during the period beginning on the  
24 first day of the preceding calendar year and ending on the last day  
25 of the reporting period.

26 (f) This section does not apply to:

27 (1) an expenditure for advertising made by a candidate

1 or political party;

2 (2) a reference to a clearly identified candidate in a  
3 news story, commentary, or editorial distributed through the  
4 facilities of a broadcasting station, newspaper, magazine, or other  
5 publication, unless the facilities are owned or controlled by a  
6 political party, political committee, or candidate; or

7 (3) a candidate debate or forum, or a communication  
8 promoting only the debate or forum made on behalf of the person  
9 sponsoring the debate or forum.

10 (g) A person who files reports with the Federal Election  
11 Commission is not required to file reports under Subsection (a).  
12 Not later than the last day prescribed by this section for filing a  
13 report that a person covered by this section is required to file,  
14 the person shall provide to the Texas Ethics Commission a copy of  
15 one or more reports filed with the Federal Election Commission  
16 covering that reporting period that shows the political  
17 contributions accepted, political expenditures made, and other  
18 expenditures made by the person.

19 SECTION 3. (a) The change in law made by Section 253.105,  
20 Election Code, as added by this Act, applies only to a contribution  
21 or expenditure for an electioneering communication made by a  
22 corporation or labor organization on or after September 1, 2005. A  
23 contribution or expenditure for an electioneering communication  
24 made by a corporation or labor organization before September 1,  
25 2005, is governed by the law in effect on the date the contribution  
26 or expenditure is made, and the former law is continued in effect  
27 for that purpose.

1           (b) Section 254.0392, Election Code, as added by this Act,  
2 applies only to the reporting of an expenditure for an  
3 electioneering communication made on or after September 1, 2005.  
4 The reporting of an expenditure for an electioneering communication  
5 made before September 1, 2005, is governed by the law in effect at  
6 the time the expenditure was made, and the expenditure is not  
7 aggregated with expenditures made on or after September 1, 2005.

8           SECTION 4. This Act takes effect September 1, 2005.