

By: Strama

H.B. No. 3291

A BILL TO BE ENTITLED

AN ACT

relating to political contributions and expenditures; providing  
civil and criminal penalties.

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

SECTION 1. Section 251.001, Election Code, is amended by  
adding Subdivisions (21)-(27) to read as follows:

(21) "Membership organization" means a trade  
association, cooperative, or corporation without capital stock or a  
local, national, or international labor organization that:

(A) is composed of members, some or all of whom  
are vested with the authority to operate or administer the  
organization according to the organization's articles, bylaws,  
constitution, or other formal organizational documents;

(B) expressly states the qualifications and  
requirements for membership in its articles, bylaws, constitution,  
or other formal organizational documents;

(C) makes its articles, bylaws, constitution, or  
other formal organizational documents available to its members upon  
request;

(D) expressly solicits persons to become  
members;

(E) expressly acknowledges the acceptance of  
membership by sending a membership card, including the member's  
name on a membership newsletter list, or using another means; and

1           (F) is not organized primarily for the purpose of  
2 influencing the nomination for election, or election, of an  
3 individual to public office.

4           (22) "Member" means a person who:

5           (A) satisfies the requirements for membership in  
6 a membership organization;

7           (B) affirmatively accepts the membership  
8 organization's invitation to become a member;

9           (C) has a significant financial attachment to,  
10 including a significant investment or ownership interest in, the  
11 membership organization or pays membership dues, other than  
12 payments to a separate segregated fund, at least annually to the  
13 organization in a specific amount as determined by the  
14 organization;

15           (D) has a significant organizational attachment  
16 to the membership organization that includes affirmation of  
17 membership on at least an annual basis; and

18           (E) has an opportunity to participate in any part  
19 of the organization's decision-making.

20           (23) "Connected organization" means a corporation  
21 with or without capital stock, labor organization, membership  
22 organization, or cooperative or trade association, other than a  
23 political committee, that directly or indirectly establishes or  
24 administers a separate segregated fund.

25           (24) "Establishment or administration expense" means  
26 an expenditure incurred in the normal course of business by an  
27 organization, regardless of whether the organization engages in

1 political activity. An expenditure is an establishment or  
2 administration expense if the expenditure:

3 (A) is for:

4 (i) office space;

5 (ii) phones;

6 (iii) salaries for routine clerical and  
7 administrative assistance;

8 (iv) utilities;

9 (v) general office supplies;

10 (vi) the organization's legal and  
11 accounting fees for compliance with this title;

12 (vii) office equipment; or

13 (viii) routine administrative expenses  
14 incurred in setting up and administering a separate segregated  
15 fund; and

16 (B) is not for political activity, including:

17 (i) political consulting;

18 (ii) telephone banks;

19 (iii) issue advocacy;

20 (iv) electioneering brochures and direct  
21 mail;

22 (v) voter registration and  
23 get-out-the-vote drives;

24 (vi) broadcast issue advertising or  
25 electioneering communications;

26 (vii) other political advertising;

27 (viii) political fund-raising;

1                   (ix) voter identification, lists, or  
2 databases; or

3                   (x) any other expenditure directly or  
4 indirectly connected with an election or campaign for public  
5 office.

6                   (25) "Restricted class" means the group of individuals  
7 who:

8                   (A) for a corporation, are the stockholders,  
9 employees, and families of the stockholders and employees of the  
10 corporation or the corporation's subsidiaries, branches,  
11 divisions, affiliates, or departments;

12                   (B) for a labor organization, are the members,  
13 employees, and families of the members and employees of the labor  
14 organization; or

15                   (C) for a membership organization:

16                   (i) are the members, employees, and  
17 families of employees of the organization; or

18                   (ii) with respect to a solicitation for a  
19 campaign contribution, are the stockholders, employees, and  
20 families of stockholders and employees of a corporate member of a  
21 membership organization that separately and specifically approves  
22 the solicitation and does not approve a solicitation by any other  
23 membership organization for the same calendar year.

24                   (26) "Executive or administrative personnel" means  
25 individuals employed by a corporation, labor organization, or  
26 membership organization who are paid on a salary rather than hourly  
27 basis and who have policymaking, managerial, professional, or

1 supervisory responsibilities. The term:

2 (A) includes:

3 (i) individuals who administer the entity's  
4 business, including officers, other executives, and managers of a  
5 plant, division, or section of the corporation or organization;

6 (ii) individuals practicing recognized  
7 professions, including lawyers and engineers; and

8 (iii) individuals who are paid on a  
9 commission basis, have policymaking, managerial, professional, or  
10 supervisory responsibility and are employees for the purpose of  
11 income withholding tax on employee wages under the Internal Revenue  
12 Code; and

13 (B) does not include:

14 (i) professionals who are represented by a  
15 labor organization;

16 (ii) salaried foremen or supervisors having  
17 direct supervision over hourly employees;

18 (iii) former or retired personnel who are  
19 not stockholders; or

20 (iv) individuals who may be paid by the  
21 entity, including consultants, but who are not employees for the  
22 purpose of income withholding tax on employee wages under the  
23 Internal Revenue Code.

24 (27) "Separate segregated fund" means a fund  
25 established under Section 253.1001.

26 SECTION 2. Section 251.006(a), Election Code, is amended to  
27 read as follows:

1 (a) Except as provided by Subsection (b), this title does  
2 not apply to a candidate for an office of the federal government.  
3 This title does not apply to a political contribution accepted or  
4 political expenditure made by a political committee in connection  
5 with a campaign for federal office.

6 SECTION 3. The heading to Section 253.098, Election Code,  
7 is amended to read as follows:

8 Sec. 253.098. COMMUNICATION WITH RESTRICTED CLASS  
9 [~~STOCKHOLDERS OR MEMBERS~~].

10 SECTION 4. Section 253.098(a), Election Code, is amended to  
11 read as follows:

12 (a) A corporation, [or] labor organization, or membership  
13 organization may make [~~one or more~~] direct campaign expenditures  
14 from its own property for the purpose of communicating directly  
15 with its restricted class [~~stockholders or members, as applicable,~~  
16 ~~or with the families of its stockholders or members~~].

17 SECTION 5. Section 253.099(a), Election Code, is amended to  
18 read as follows:

19 (a) A corporation, [or] labor organization, or membership  
20 organization may make [~~one or more~~] expenditures from its own  
21 property to finance nonpartisan voter registration and  
22 get-out-the-vote campaigns aimed at its restricted class  
23 [~~stockholders or members, as applicable, or at the families of its~~  
24 ~~stockholders or members~~].

25 SECTION 6. Subchapter D, Chapter 253, Election Code, is  
26 amended by adding Sections 253.1001 and 253.1002 to read as  
27 follows:

1       Sec. 253.1001. EXPENDITURES FOR SEPARATE SEGREGATED FUND.

2       (a) A corporation, labor organization, or membership organization,  
3       other than a political committee, may make political expenditures  
4       from its own treasury funds and property to finance the  
5       establishment or administration expenses of not more than one  
6       separate segregated fund.

7       (b) For purposes of this section, all parents,  
8       subsidiaries, branches, divisions, and affiliates of a  
9       corporation, labor organization, or membership organization count  
10       as a single entity.

11       (c) A corporation or labor organization may make a political  
12       expenditure from its own treasury funds or property for  
13       establishment or administration expenses of one membership  
14       organization of which it is a member.

15       (d) An entity that is a member of a connected organization  
16       is not considered to have directly or indirectly established or  
17       administered the separate segregated fund established or  
18       administered by the connected organization of which the entity is a  
19       member.

20       (e) Money in a separate segregated fund from corporate,  
21       labor organization, or membership organization treasury funds  
22       shall be kept in a separate account and may not be commingled with  
23       any other funds. A person who knowingly violates this subsection  
24       commits an offense. An offense under this subsection is a Class A  
25       misdemeanor.

26       (f) A separate segregated fund shall be treated as a  
27       general-purpose committee and shall comply with the provisions of

1 this title applicable to a general-purpose committee as if the  
2 separate segregated fund were a general-purpose committee.

3 Sec. 253.1002. SOLICITATION FOR SEPARATE SEGREGATED FUNDS.

4 (a) Subject to Subsection (c), a connected organization may make a  
5 political expenditure from its own treasury funds for expenses to  
6 solicit or facilitate political contributions from its restricted  
7 class for the organization's separate segregated fund.

8 (b) A connected organization may facilitate a political  
9 contribution from its restricted class under Subsection (a) by  
10 enabling a contribution to be made by a payroll deduction, checking  
11 a form to indicate a contribution is authorized, instituting a  
12 periodic payment plan, or enclosing a return envelope in a  
13 solicitation request. A connected organization may solicit a  
14 voluntary political contribution from its restricted class under  
15 Subsection (a) by mailings, oral requests, pamphlets, and other  
16 means.

17 (c) A corporation or labor organization may not make more  
18 than two written solicitations for contributions to the separate  
19 segregated fund in a calendar year to employees who are not  
20 stockholders, executive or administrative personnel, or the  
21 families of stockholders or executive or administrative personnel.

22 SECTION 7. The heading to Section 253.101, Election Code,  
23 is amended to read as follows:

24 Sec. 253.101. UNLAWFUL CONTRIBUTION OR EXPENDITURE [~~BY~~  
25 ~~COMMITTEE~~].

26 SECTION 8. Section 253.101(a), Election Code, is amended to  
27 read as follows:

1           (a) A person, including a connected ~~[political committee~~  
2 ~~assisted by a corporation or labor]~~ organization, ~~[under Section~~  
3 ~~253.100]~~ may not make a political contribution or political  
4 expenditure in whole or part from money that is known by the person  
5 or a member or officer of the person ~~[political committee]~~ to be  
6 dues, fees, or other money required as a condition of employment or  
7 condition of membership in a labor organization.

8           SECTION 9. Sections 253.102(a) and (b), Election Code, are  
9 amended to read as follows:

10           (a) A corporation, ~~[or]~~ labor organization, membership  
11 organization, or other person ~~[or a political committee assisted by~~  
12 ~~a corporation or labor organization under Section 253.100]~~ commits  
13 an offense if the person ~~[it]~~ uses or threatens to use physical  
14 force, job discrimination, or financial reprisal to obtain money or  
15 any other thing of value to be used to influence the result of an  
16 election or to assist an officeholder.

17           (b) A political committee assisted by a corporation or labor  
18 organization ~~[under Section 253.100]~~ commits an offense if it  
19 accepts or uses money or any other thing of value that is known by a  
20 member or officer of the political committee to have been obtained  
21 in violation of Subsection (a).

22           SECTION 10. Section 254.151, Election Code, is amended to  
23 read as follows:

24           Sec. 254.151. ADDITIONAL CONTENTS OF REPORTS. In addition  
25 to the contents required by Section 254.031, each report by a  
26 campaign treasurer of a general-purpose committee must include:

- 27           (1) the committee's full name and address;

1           (2) the full name, residence or business street  
2 address, and telephone number of the committee's campaign  
3 treasurer;

4           (3) the identity and date of the election for which the  
5 report is filed, if applicable;

6           (4) the name of each identified candidate or measure  
7 or classification by party of candidates supported or opposed by  
8 the committee, indicating whether the committee supports or opposes  
9 each listed candidate, measure, or classification by party of  
10 candidates;

11           (5) the name of each identified officeholder or  
12 classification by party of officeholders assisted by the committee;

13           (6) the principal occupation of each person from whom  
14 political contributions that in the aggregate exceed \$50 are  
15 accepted during the reporting period;

16           (7) the amount of each political expenditure in the  
17 form of a political contribution made to a candidate, officeholder,  
18 or another political committee that is returned to the committee  
19 during the reporting period, the name of the person to whom the  
20 expenditure was originally made, and the date it is returned;

21           (8) on a separate page or pages of the report, the  
22 identification of any contribution from a corporation or labor  
23 organization made and accepted under Subchapter D, Chapter 253; and

24           (9) on a separate page or pages of the report, the  
25 identification of the name of the donor, the amount, and the date of  
26 any expenditure made by a corporation or labor organization to:

27           (A) establish or administer the political

1 committee; or

2 (B) finance the solicitation of political  
3 contributions to the committee [~~under Section 253.100~~].

4 SECTION 11. Subchapter F, Chapter 254, Election Code, is  
5 amended by adding Section 254.1511 to read as follows:

6 Sec. 254.1511. REPORTING OF EXPENDITURES BY SEPARATE  
7 SEGREGATED FUND. A separate segregated fund shall report  
8 expenditures made under Sections 253.098, 253.099, 253.1001, and  
9 253.1002 on a separate schedule.

10 SECTION 12. Sections 253.098(b), 253.099(b), and 253.100,  
11 Election Code, are repealed.

12 SECTION 13. The changes in law made by this Act apply only  
13 to a contribution or expenditure made on or after September 1, 2005.  
14 A contribution or expenditure made before September 1, 2005, is  
15 governed by the law in effect immediately before that date, and the  
16 former law is continued in effect for that purpose.

17 SECTION 14. This Act takes effect September 1, 2005.