

BILL ANALYSIS

C.S.H.B. 2511
By: Smith, Todd
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, corporations are prohibited from making a political contribution or a political expenditure that is not specifically authorized. A violation is a felony of the third degree, but state law provides that certain corporate and union funded expenditures made to finance administrative functions of a general-purpose committee or communications to one's members are not violations. This bill seeks to clarify and modernize Texas campaign finance laws to ensure the continuance of the long-standing Texas tradition of full disclosure and the prohibition against the use of corporate and union treasury funds for certain expenditures.

C.S.H.B. 2511 revises definitions of key terms, provides new definitions, and revises the provisions of law relating to political contributions and expenditures.

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. 2511 amends the Election Code to authorize a corporation, labor organization, or membership organization, other than a political committee, to make political expenditures from its own treasury funds and property to finance the establishment or administration expenses of its own separate segregated fund. The bill requires money in a separate segregated fund from corporate, labor organization, or membership organization treasury funds to be kept in a separate account and prohibits the money in that separate segregated fund from being commingled with any other funds. The bill makes it a Class A misdemeanor offense to knowingly violate either the requirement that the funds be kept in a separate account or the prohibition against commingling with any other funds. The bill requires a separate segregated fund to be treated as a general-purpose committee and to comply with provisions regulating political funds and campaigns applicable to a general-purpose committee as if the separate segregated fund were a general-purpose committee.

C.S.H.B. 2511 increases from \$100 to \$500 the maximum total amount of unreimbursed direct campaign expenditures that an individual not acting in concert with another person is authorized to make from the individual's own property on any one or more candidates or measures, and authorizes such an individual to make one or more such unreimbursed direct campaign expenditures that exceed \$500 if the individual complies with certain recordkeeping requirements as if the individual were a campaign treasurer of a political committee.

C.S.H.B. 2511 removes a provision authorizing a corporation or labor organization to make one or more direct campaign expenditures from its own property for the purpose of communicating directly with its stockholders or members, as applicable, or with the families of its stockholders or members, and instead authorizes a corporation, labor organization, or membership organization to make communications on any subject, including communications containing

express advocacy or electioneering communications, to its restricted class or any part of that class. The bill clarifies that a political party accepting a contribution from a corporation or labor organization as authorized by state law may use the contribution only for its own administrative expenses, rather than to defray normal overhead and administrative or operating costs incurred by the party.

C.S.H.B. 2511 specifies, under state law regulating political funds and campaigns, that the term "contribution" includes an in-kind contribution. The bill redefines "direct campaign expenditure," under the same law, to mean a campaign expenditure that is not an in-kind contribution and to include expenditures for communications that are express advocacy or an electioneering communication, rather than to mean a campaign expenditure that does not constitute a campaign contribution by the person making the expenditure. The bill defines "administrative expense," "in-kind contribution," "electioneering communication," "express advocacy," "clearly identified," "membership organization," "member," and "restricted class."

C.S.H.B. 2511 prohibits the legislative history and text of the bill from being construed or used to interpret the meaning of provisions of the Election Code as they existed before amendment by the bill and from being construed or used in any manner, directly or indirectly, to interpret the prior law, or its meaning, constitutionality, legality, or clarity, in any pending civil or criminal case.

C.S.H.B. 2511 repeals Section 253.100, Election Code, a provision that authorizes a corporation or a labor organization to make certain political expenditures for a general-purpose committee.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2511 restores language removed in the original from the definition of "contribution" specifying that "contribution" includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The substitute adds a provision not in the original to specify that the term "contribution" includes an in-kind contribution. The substitute adds a provision not in the original to redefine "direct campaign expenditure" to mean a campaign expenditure that is not an in-kind contribution and includes expenditures for communications that are express advocacy or an electioneering communication, rather than to mean a campaign expenditure that does not constitute a campaign contribution by the person making the expenditure as in current law. The substitute adds provisions not in the original to define "administrative expense," "in-kind contribution," "electioneering communication," "express advocacy," "clearly identified," "membership organization," "member," and "restricted class."

C.S.H.B. 2511 omits a temporary provision included in the original requiring the Texas Ethics Commission to conduct a study regarding limits on political contributions and expenditures. The substitute omits a provision included in the original that includes a member of the State Board of Education among other offices in a commission study on possible restrictions on amounts of reimbursements for political expenditures and establishes a deadline for making related recommendations to the legislature and the provision's expiration date. The substitute removes a provision included in the original creating a Class C misdemeanor offense for violating the prohibition against converting a political contribution to personal use.

C.S.H.B. 2511 adds provisions not in the original relating to making political expenditures to finance a separate segregated fund. The substitute differs from the original by increasing the maximum total amount of direct campaign expenditures an individual not acting in concert with another person is authorized to make from the individual's own property, with certain exceptions from \$100 to \$500, rather than to \$200, as in the original. The substitute omits provisions

included in the original increasing from \$50 to \$75 the minimum aggregate amount of political contributions, loans made for campaign or officeholder purposes, and political expenditures that must be included in reports that each candidate or officeholder is required to file.

C.S.H.B. 2511 adds provisions not in the original to remove the authority of a corporation or labor organization to make one or more direct campaign expenditures from its own property to communicate with certain persons, and instead authorize a corporation, labor organization, or membership organization to make communications on any subject to its restricted class or any part of that class. The substitute adds a provision not in the original authorizing a political party that accepts a contribution from a corporation or labor organization to use the contribution only for its own administrative expenses, rather than to defray normal overhead and administrative or operating costs incurred by the party.

C.S.H.B. 2511 adds a provision not in the original prohibiting the bill from being construed or used to interpret the meaning of the provisions of the Election Code as they existed before the bill's effective date, or to interpret the prior law in any pending civil or criminal case.

C.S.H.B. 2511 repeals Section 253.100, Election Code, a provision that authorizes a corporation or a labor organization to make certain political expenditures for a general-purpose committee, whereas the original does not repeal that provision.