

By: Villarreal

H.B. No. 391

A BILL TO BE ENTITLED

AN ACT

relating to limits on political contributions and direct campaign expenditures by individuals, partnerships, partners, and limited liability companies; providing civil and criminal penalties.

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

SECTION 1. This Act may be cited as the "Clean Elections Act."

SECTION 2. Chapter 253, Election Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. AGGREGATE LIMIT ON CONTRIBUTIONS

BY INDIVIDUAL, PARTNERSHIP, PARTNER, OR

LIMITED LIABILITY COMPANY

Sec. 253.201. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to:

(1) a political contribution to a general-purpose committee;

(2) a political contribution to a candidate for or holder of one of the following offices:

(A) a statewide office;

(B) the office of state senator;

(C) the office of state representative;

(D) the office of member, State Board of Education;

(E) the office of justice or chief justice, court

1 of appeals; or

2 (F) the office of district judge;

3 (3) a political contribution to a specific-purpose  
4 committee for supporting or opposing a candidate for an office  
5 described by Subdivision (2) or assisting a holder of such an  
6 office; and

7 (4) as provided by Section 253.206, a direct campaign  
8 expenditure in connection with an office described by Subdivision  
9 (2).

10 Sec. 253.202. DEFINITION. In this subchapter, "election  
11 cycle" means the period beginning on January 1 of an odd-numbered  
12 year and ending on December 31 of the following even-numbered year.

13 Sec. 253.203. CONTRIBUTION LIMITS. (a) An individual may  
14 not knowingly make or authorize political contributions to which  
15 this subchapter applies that in the aggregate exceed \$100,000 in an  
16 election cycle.

17 (b) Notwithstanding Subsection (a), an individual who is  
18 younger than 18 years of age and who has not had the disabilities of  
19 minority removed for general purposes may not knowingly make or  
20 authorize political contributions to which this subchapter applies  
21 that in the aggregate exceed \$5,000 in an election cycle.

22 (c) A candidate, officeholder, or political committee may  
23 not knowingly accept a political contribution that the person knows  
24 to have been made or authorized in violation of Subsection (a) or  
25 (b). A candidate, officeholder, or political committee that  
26 receives a political contribution made in violation of Subsection  
27 (a) or (b) shall return the contribution to the individual making

1 the contribution not later than the 10th day after the date on which  
2 the person determines the contribution has been made in violation  
3 of Subsection (a) or (b).

4 (d) A person may not knowingly aid or abet the making of a  
5 political contribution in violation of Subsection (a) or (b).

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

8 Sec. 253.204. RECEIPT OF CONTRIBUTION INTENDED FOR ANOTHER.

9 For purposes of Section 253.203, a political contribution is  
10 considered to be a contribution to a candidate, officeholder, or  
11 political committee if the person making the contribution in any  
12 way indicates to the person receiving the contribution that the  
13 contribution is intended for the candidate, officeholder, or  
14 committee. A person that receives a political contribution to which  
15 this section applies shall:

16 (1) report the contribution under Chapter 254 as if  
17 the person were a general-purpose committee;

18 (2) notify in writing the candidate, officeholder, or  
19 political committee for whom the contribution is intended of the  
20 amount of the contribution, the date it was made, and the name and  
21 address of the person making the contribution; and

22 (3) not later than the 14th business day after the date  
23 on which the person receives the contribution, deliver the  
24 contribution to the candidate, officeholder, or political  
25 committee for whom the contribution is intended.

26 Sec. 253.205. CONTRIBUTIONS BY PARTNERSHIPS, PARTNERS, AND  
27 LIMITED LIABILITY COMPANIES. (a) A general or limited partnership

1 may not knowingly make or authorize political contributions to  
2 which this subchapter applies that in the aggregate exceed \$100,000  
3 in an election cycle.

4 (b) A political contribution by a general or limited  
5 partnership shall be attributed to the partnership and, as follows,  
6 to each partner for purposes of the aggregate limit prescribed by  
7 Section 253.203:

8 (1) in direct proportion to the partner's share of the  
9 partnership profits, according to instructions provided by the  
10 partnership to the candidate, officeholder, or political  
11 committee; or

12 (2) by agreement of the partners, but only if:

13 (A) only a partner to whom the contribution is  
14 attributed has the partner's profits reduced or losses increased;  
15 and

16 (B) a partner's profits are reduced or losses are  
17 increased in proportion to the amount of the contribution  
18 attributed to the partner.

19 (c) No portion of a political contribution may be made from  
20 the profits of a partner that is a corporation to which Subchapter D  
21 applies.

22 (d) A political contribution by a limited liability company  
23 that elects to be treated as a partnership by the Internal Revenue  
24 Service, or that does not elect to be treated as a partnership or  
25 corporation, is considered a contribution subject to Subsections  
26 (a) and (b).

27 (e) A political contribution by a limited liability company

1 that elects to be treated as a corporation by the Internal Revenue  
2 Service is considered a contribution by a corporation to which  
3 Subchapter D applies.

4 Sec. 253.206. CERTAIN DIRECT CAMPAIGN EXPENDITURES  
5 CONSIDERED CONTRIBUTION TO CANDIDATE. For purposes of Section  
6 253.203, a direct campaign expenditure is considered to be a  
7 campaign contribution to a candidate if it is made with the  
8 cooperation or prior consent of, in consultation with, or at the  
9 suggestion of:

10 (1) the candidate;

11 (2) a specific-purpose committee for supporting the  
12 candidate or opposing the candidate's opponent; or

13 (3) a person acting with the candidate's knowledge and  
14 consent.

15 Sec. 253.207. REVIEW OF CONTRIBUTIONS BY COMMISSION. Not  
16 later than March 1 of each odd-numbered year, the commission shall:

17 (1) conduct a comprehensive computer review of the  
18 commission's records of political contributions made by  
19 individuals during the preceding election cycle to determine if any  
20 individual exceeded the limit prescribed by Section 253.203; and

21 (2) make the results of the review available to the  
22 public.

23 SECTION 3. Section 254.034, Election Code, is amended by  
24 adding Subsection (f) to read as follows:

25 (f) This section applies to a political contribution  
26 covered by Subchapter G, Chapter 253, except as provided by Section  
27 253.203.

1           SECTION 4. Subchapter G, Chapter 253, Election Code, as  
2 added by this Act, applies only to a political contribution or  
3 direct campaign expenditure made on or after September 1, 2009. A  
4 political contribution or direct campaign expenditure made before  
5 September 1, 2009, is governed by the law in effect at the time the  
6 contribution or expenditure was made and is not aggregated with  
7 political contributions or direct campaign expenditures made on or  
8 after that date.

9           SECTION 5. This Act takes effect September 1, 2009.