

By: Herrero

H.B. No. 1941

A BILL TO BE ENTITLED

AN ACT

relating to the election of the commissioner of insurance and qualifications of the commissioner and certain employees of the Texas Department of Insurance; providing civil penalties.

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

SECTION 1. Section 31.022, Insurance Code, is amended to read as follows:

Sec. 31.022. ELECTION [APPOINTMENT, TERM]. The commissioner is elected by the qualified voters at the general election for state and county officers for a term of four years.

~~[(a) The governor, with the advice and consent of the senate, shall appoint the commissioner. The commissioner serves a two-year term that expires on February 1 of each odd-numbered year.]~~

~~[(b) The governor shall appoint the commissioner without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.]~~

SECTION 2. Section 31.023, Insurance Code, is amended to read as follows:

Sec. 31.023. QUALIFICATIONS. The commissioner must:

- (1) be a competent and experienced administrator;
- (2) be well informed and qualified in the field of insurance and insurance regulation; and
- (3) have at least 10 ~~[five]~~ years of experience as an executive in the administration of business or government or as a

1 practicing attorney or certified public accountant, with at least
2 five years of that experience in the field of insurance or insurance
3 regulation.

4 SECTION 3. Section 31.024, Insurance Code, is amended to
5 read as follows:

6 Sec. 31.024. INELIGIBILITY FOR OTHER PUBLIC OFFICE. The
7 commissioner is ineligible to be a candidate for another ~~[a]~~ public
8 elective office in this state, unless the commissioner has resigned
9 and the governor has accepted the resignation.

10 SECTION 4. Section 31.027(a), Insurance Code, is amended to
11 read as follows:

12 (a) It is a ground for removal from office if the
13 commissioner:

14 (1) does not have at the time of taking office
15 ~~[appointment]~~ the qualifications required by Section 31.023;

16 (2) does not maintain during service as commissioner
17 the qualifications required by Section 31.023;

18 (3) violates a prohibition established by Section
19 33.001, 33.002 ~~[33.003]~~, 33.004, or 33.005; or

20 (4) cannot, because of illness or disability,
21 discharge the commissioner's duties for a substantial part of the
22 commissioner's term.

23 SECTION 5. Section 33.002, Insurance Code, is amended to
24 read as follows:

25 Sec. 33.002. INSURANCE BUSINESS INTEREST; SERVICE AS
26 COMMISSIONER. (a) A person is not eligible to serve ~~[for~~
27 ~~appointment]~~ as commissioner if the person, the person's spouse, or

any other person who resides in the same household as the person:

(1) is registered, certified, or licensed by the department;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving funds from the department;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving funds from the department; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the department, other than compensation or reimbursement authorized by law.

(b) In addition to the restriction imposed by Subsection (a), a [A] person is not eligible to serve [for appointment] as commissioner if the person:

(1) is a stockholder, director, officer, attorney, agent, or employee of an insurance company, insurance agent, insurance broker, or insurance adjuster or any other business entity or other organization regulated by or receiving funds from the department; or

(2) is directly or indirectly interested in a business described by Subdivision (1).

(c) Subsection (b) does not apply to:

(1) a person solely because the person is insured by an insurer or is the beneficiary of insurance; or

(2) a person who:

1 (A) is appointed as a receiver, liquidator,
2 supervisor, or conservator of an insurer; or

3 (B) is an employee of a receiver, liquidator,
4 supervisor, or conservator of an insurer with respect to duties
5 under that employment.

6 (d) In addition to the restrictions imposed by Subsection
7 (a), a person is not eligible to serve as commissioner if the person
8 is related within the third degree of consanguinity or affinity, as
9 determined under Chapter 573, Government Code, to a person who is an
10 officer, managerial employee, or paid consultant in the insurance
11 industry.

12 SECTION 6. Section 33.003, Insurance Code, is amended by
13 amending Subsection (b) and adding Subsection (c) to read as
14 follows:

15 (b) A person who is related within the third degree of
16 consanguinity or affinity, as determined under Chapter 573,
17 Government Code, to ~~[resides in the same household as]~~ a person who
18 is an officer, managerial employee, or paid consultant in the
19 insurance industry may not be employed by the department in a "bona
20 fide executive, administrative, or professional capacity," as that
21 phrase is used for purposes of establishing an exemption to the
22 overtime provisions of the federal Fair Labor Standards Act of 1938
23 (29 U.S.C. Section 201 et seq.) ~~[an exempt salary position as~~
24 ~~defined by the General Appropriations Act]~~.

25 (c) A person who owns stock in an insurer or other entity
26 regulated under this code may not be employed by the department in a
27 "bona fide executive, administrative, or professional capacity,"

1 as that phrase is used for purposes of establishing an exemption to
2 the overtime provisions of the federal Fair Labor Standards Act of
3 1938 (29 U.S.C. Section 201 et seq.).

4 SECTION 7. Sections 33.004(a) and (b), Insurance Code, are
5 amended to read as follows:

6 (a) A person who is an officer, employee, or paid consultant
7 of a trade association in the field of insurance may not be:

8 (1) the commissioner; or

9 (2) an employee of the department in a "bona fide
10 executive, administrative, or professional capacity," as that
11 phrase is used for purposes of establishing an exemption to the
12 overtime provisions of the federal Fair Labor Standards Act of 1938
13 (29 U.S.C. Section 201 et seq.) ~~[who is exempt from the state's~~
14 ~~position classification plan or is compensated at or above the~~
15 ~~amount prescribed by the General Appropriations Act for step 1,~~
16 ~~salary group A17, of the position classification salary schedule].~~

17 (b) A person who is related within the third degree of
18 consanguinity or affinity, as determined under Chapter 573,
19 Government Code, to ~~[the spouse of]~~ an officer, manager, or paid
20 consultant of a trade association in the field of insurance may not
21 be:

22 (1) the commissioner; or

23 (2) an employee of the department in a "bona fide
24 executive, administrative, or professional capacity," as that
25 phrase is used for purposes of establishing an exemption to the
26 overtime provisions of the federal Fair Labor Standards Act of 1938
27 (29 U.S.C. Section 201 et seq.) ~~[who is exempt from the state's~~

~~position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule].~~

SECTION 8. Section 52.092(c), Election Code, is amended to read as follows:

(c) Statewide offices of the state government shall be listed in the following order:

- (1) governor;
- (2) lieutenant governor;
- (3) attorney general;
- (4) comptroller of public accounts;
- (5) commissioner of the General Land Office;
- (6) commissioner of agriculture;
- (7) commissioner of insurance;
- (8) railroad commissioner;
- (9) [~~(8)~~] chief justice, supreme court;
- (10) [~~(9)~~] justice, supreme court;
- (11) [~~(10)~~] presiding judge, court of criminal appeals;
- (12) [~~(11)~~] judge, court of criminal appeals.

SECTION 9. Chapter 253, Election Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. INSURANCE COMMISSIONER CAMPAIGN FAIRNESS ACT

Sec. 253.251. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a political contribution or political expenditure in connection with the office of commissioner of insurance.

Sec. 253.252. DEFINITIONS. In this subchapter:

1 (1) "Complying candidate" or "complying officeholder"
2 means a candidate who files a declaration of compliance under
3 Section 253.261(a)(1).

4 (2) "In connection with an election" means:

5 (A) with regard to a contribution that is
6 designated in writing for a particular election, the election
7 designated; or

8 (B) with regard to a contribution that is not
9 designated in writing for a particular election or that is
10 designated as an officeholder contribution, the next election for
11 the office of commissioner of insurance occurring after the
12 contribution is made.

13 (3) "Noncomplying candidate" means a candidate who:

14 (A) files a declaration of intent to exceed the
15 limit on expenditures or the use of personal funds under Section
16 253.261(a)(2);

17 (B) files a declaration of compliance under
18 Section 253.261(a)(1) but later exceeds the limit on expenditures
19 or the use of personal funds;

20 (C) fails to file a declaration of compliance
21 under Section 253.261(a)(1) or a declaration of intent under
22 Section 253.261(a)(2); or

23 (D) violates Section 253.269 or 253.270.

24 Sec. 253.253. CONTRIBUTION LIMIT. (a) Subject to Section
25 253.259, the commissioner of insurance or a candidate for the
26 office of commissioner of insurance may not, except as provided by
27 Subsection (b), knowingly accept political contributions from a

1 person that in the aggregate exceed \$5,000 in connection with each
2 election in which the person is involved.

3 (b) This section does not apply to a political contribution
4 made by an out-of-state political committee.

5 (c) Notwithstanding Section 254.034, a person who receives
6 a political contribution that violates Subsection (a) shall return
7 the contribution to the contributor not later than the later of:

8 (1) the last day of the reporting period in which the
9 contribution is received; or

10 (2) the fifth day after the date the contribution is
11 received.

12 (d) A person who violates this section is liable for a civil
13 penalty not to exceed three times the amount of the political
14 contributions accepted in violation of this section.

15 Sec. 253.254. LIMIT ON CONTRIBUTIONS FROM REGULATED
16 INDUSTRY. (a) Subject to Section 253.259, the commissioner of
17 insurance or a candidate for the office of commissioner of
18 insurance may not accept a political contribution in excess of \$50
19 from a person if:

20 (1) the person is:

21 (A) an insurer, an insurance agent, an insurance
22 broker, an insurance adjuster, or any other person regulated by or
23 receiving funds from the Texas Department of Insurance;

24 (B) an employee of a person regulated by or
25 receiving funds from the department; or

26 (C) a general-purpose committee established or
27 controlled by a person regulated by or receiving funds from the

1 department or a trade association in the field of insurance; or

2 (2) the contribution when aggregated with all
3 political contributions accepted by the candidate or officeholder
4 from the person regulated by or receiving funds from the
5 department, the person's employees, or a general-purpose committee
6 established or controlled by the person in connection with the
7 election would exceed six times the applicable contribution limit
8 in Section 253.253.

9 (b) A person who receives a political contribution that
10 violates Subsection (a) shall return the contribution to the
11 contributor not later than the later of:

12 (1) the last day of the reporting period in which the
13 contribution is received; or

14 (2) the fifth day after the date the contribution is
15 received.

16 (c) A person who fails to return a political contribution as
17 required by Subsection (b) is liable for a civil penalty not to
18 exceed three times the total amount of political contributions
19 accepted from the insurer, insurance agent, insurance broker,
20 insurance adjuster, or other person regulated by or receiving funds
21 from the Texas Department of Insurance, an employee of that person,
22 or general-purpose committees established or controlled by the
23 person.

24 (d) For the purposes of this section, a general-purpose
25 committee is established or controlled by a person if the committee
26 is established or controlled by persons employed by the person.

27 Sec. 253.255. CONTRIBUTION BY SPOUSE OR CHILD CONSIDERED TO

1 BE CONTRIBUTION BY INDIVIDUAL. (a) For purposes of Sections
2 253.253 and 253.254, a contribution by the spouse or child of an
3 individual is considered to be a contribution by the individual.

4 (b) In this section, "child" means a person under 18 years
5 of age who is not and has not been married or who has not had the
6 disabilities of minority removed for general purposes.

7 Sec. 253.256. EXCEPTION TO CONTRIBUTION LIMITS. Sections
8 253.253 and 253.254 do not apply to an individual who is related to
9 the candidate or officeholder within the second degree by
10 consanguinity, as determined under Subchapter B, Chapter 573,
11 Government Code.

12 Sec. 253.257. AGGREGATE LIMIT ON CONTRIBUTIONS FROM AND
13 DIRECT CAMPAIGN EXPENDITURES BY GENERAL-PURPOSE COMMITTEE. (a)
14 Subject to Section 253.259, a candidate for the office of
15 commissioner of insurance may not knowingly accept a political
16 contribution from a general-purpose committee that, when
17 aggregated with each other political contribution from a
18 general-purpose committee in connection with the election, exceeds
19 \$300,000.

20 (b) A person who receives a political contribution that
21 violates Subsection (a) shall return the contribution to the
22 contributor not later than the later of:

23 (1) the last day of the reporting period in which the
24 contribution is received; or

25 (2) the fifth day after the date the contribution is
26 received.

27 (c) For purposes of this section, an expenditure by a

1 general-purpose committee for the purpose of supporting a
2 candidate, for opposing the candidate's opponent, or for assisting
3 the candidate as an officeholder is considered to be a contribution
4 to the candidate unless the campaign treasurer of the
5 general-purpose committee, in an affidavit filed with the authority
6 with whom the candidate's campaign treasurer appointment is
7 required to be filed, states that the committee has not directly or
8 indirectly communicated with the candidate's campaign, including
9 the candidate, an aide to the candidate, a campaign officer, or a
10 campaign consultant, or a specific-purpose committee in regard to a
11 strategic matter, including polling data, advertising, or voter
12 demographics, in connection with the candidate's campaign.

13 (d) This section does not apply to a political expenditure
14 by the principal political committee of the state executive
15 committee or a county executive committee of a political party that
16 complies with Section 253.267(b).

17 (e) A person who violates this section is liable for a civil
18 penalty not to exceed three times the amount by which the political
19 contributions accepted in violation of this section exceed the
20 applicable limit prescribed by Subsection (a).

21 Sec. 253.258. CONTRIBUTION TO CERTAIN COMMITTEES
22 CONSIDERED CONTRIBUTION TO CANDIDATE. For purposes of Sections
23 253.253, 253.254, and 253.257, a contribution to a specific-purpose
24 committee for the purpose of supporting a candidate for the office
25 of commissioner of insurance, opposing the candidate's opponent, or
26 assisting the candidate as an officeholder is considered to be a
27 contribution to the candidate.

1 Sec. 253.259. APPLICATION OF CONTRIBUTION LIMITS TO CERTAIN
2 CANDIDATES. (a) For purposes of a contribution limit prescribed
3 by Section 253.253, 253.254, or 253.257, the general primary
4 election and general election for state and county officers are
5 considered to be a single election in which a candidate for the
6 office of commissioner of insurance is involved if the candidate:

7 (1) is unopposed in the primary election; or
8 (2) does not have an opponent in the general election
9 whose name is to appear on the ballot.

10 (b) For a candidate to whom Subsection (a) applies, each
11 applicable contribution limit prescribed by Section 253.253,
12 253.254, or 253.257 is increased by 25 percent. A candidate who
13 accepts political contributions from a person that in the aggregate
14 exceed the applicable contribution limit prescribed by Section
15 253.253, 253.254, or 253.257 but that do not exceed the adjusted
16 limit as determined under this subsection may use the amount of
17 those contributions that exceeds the limit prescribed by Section
18 253.253, 253.254, or 253.257 only for making an officeholder
19 expenditure.

20 Sec. 253.260. NOTICE REQUIRED FOR CERTAIN POLITICAL
21 EXPENDITURES. (a) A person other than a candidate for the office
22 of commissioner of insurance or the principal political committee
23 of the state executive committee or a county executive committee of
24 a political party may not make political expenditures that in the
25 aggregate exceed the limit prescribed by Section 253.266 for the
26 purpose of supporting or opposing a candidate for the office of
27 commissioner of insurance or assisting a candidate as an

1 officeholder unless the person files with the commission a written
2 declaration of the person's intent to make expenditures that exceed
3 the limit prescribed by Section 253.266.

4 (b) A declaration under Subsection (a) must be filed not
5 later than the earlier of:

6 (1) the date the person makes the political
7 expenditure that causes the person to exceed the limit prescribed
8 by Section 253.266; or

9 (2) the 60th day before the date of the election in
10 connection with which the political expenditures are intended to be
11 made.

12 (c) The commission shall file a declaration received under
13 Subsection (a) with the records of each candidate or officeholder
14 on whose behalf the person filing the declaration intends to make
15 political expenditures. If the person intends to make only
16 political expenditures opposing a candidate, the commission shall
17 file the declaration with the records of each candidate for the
18 office.

19 (d) An expenditure made by a political committee or other
20 association that consists only of costs incurred in contacting the
21 committee's or association's membership may be made without the
22 declaration required by Subsection (a).

23 (e) A person who violates this section is liable for a civil
24 penalty not to exceed three times the amount of the political
25 expenditures made in violation of this section.

26 Sec. 253.261. VOLUNTARY COMPLIANCE. (a) When a person
27 becomes a candidate for the office of commissioner of insurance,

1 the person shall file with the commission:

2 (1) a sworn declaration of compliance stating that the
3 person voluntarily agrees to comply with the limit on expenditures
4 prescribed by this subchapter; or

5 (2) a written declaration of the person's intent to
6 make expenditures that exceed the limit prescribed by this
7 subchapter.

8 (b) The limits on contributions prescribed by this
9 subchapter apply to complying candidates unless suspended as
10 provided by Section 253.262 or 253.266. The limits on
11 contributions prescribed by this subchapter apply to noncomplying
12 candidates regardless of whether the limits on contributions and
13 expenditures are suspended for complying candidates.

14 (c) A candidate may not knowingly accept a campaign
15 contribution or make or authorize a campaign expenditure before the
16 candidate files a declaration under Subsection (a).

17 (d) A person who violates Subsection (c) is liable for a
18 civil penalty not to exceed three times the amount of the political
19 contributions or political expenditures made in violation of this
20 section.

21 Sec. 253.262. EFFECT OF NONCOMPLYING CANDIDATE. (a) A
22 complying candidate or a specific-purpose committee for supporting
23 a complying candidate is not required to comply with the limits on
24 contributions and expenditures prescribed by this subchapter if
25 another person becomes a candidate for the office of commissioner
26 of insurance and:

27 (1) files a declaration of intent to exceed the limit

1 on expenditures under Section 253.261(a)(2);

2 (2) fails to file a declaration of compliance under
3 Section 253.261(a)(1) or a declaration of intent under Section
4 253.261(a)(2);

5 (3) files a declaration of compliance under Section
6 253.261(a)(1) but later exceeds the limit on expenditures; or

7 (4) violates Section 253.269 or 253.270.

8 (b) The executive director of the commission shall issue an
9 order suspending the limits on contributions and expenditures for
10 the office of commissioner of insurance not later than the fifth day
11 after the date the executive director determines that:

12 (1) a person has become a candidate for that office
13 and:

14 (A) has filed a declaration of intent to exceed
15 the limits on expenditures under Section 253.261(a)(2); or

16 (B) has failed to file a declaration of
17 compliance under Section 253.261(a)(1) or a declaration of intent
18 under Section 253.261(a)(2);

19 (2) a complying candidate for that office has exceeded
20 the applicable limit on expenditures prescribed by this subchapter;
21 or

22 (3) a candidate for that office has violated Section
23 253.269 or 253.270.

24 Sec. 253.263. BENEFIT TO COMPLYING CANDIDATE. (a) A
25 complying candidate is entitled to state on political advertising
26 as provided by Section 255.009 that the candidate complies with the
27 Insurance Commissioner Campaign Fairness Act, regardless of

1 whether the limits on contributions and expenditures are later
2 suspended.

3 (b) A noncomplying candidate is not entitled to the benefit
4 provided by this section.

5 Sec. 253.264. EXPENDITURE LIMIT. (a) For each election
6 in which the candidate is involved, a complying candidate may not
7 knowingly make or authorize political expenditures that in the
8 aggregate exceed \$2 million.

9 (b) A person who violates this section is liable for a civil
10 penalty not to exceed three times the amount by which the political
11 expenditures made in violation of this section exceed the
12 applicable limit prescribed by Subsection (a).

13 Sec. 253.265. EXPENDITURE BY CERTAIN COMMITTEES CONSIDERED
14 EXPENDITURE BY CANDIDATE. (a) For purposes of Section 253.264,
15 an expenditure by a specific-purpose committee for the purpose of
16 supporting a candidate for the office of commissioner of insurance,
17 opposing the candidate's opponent, or assisting the candidate as an
18 officeholder is considered to be an expenditure by the candidate
19 unless the candidate, in an affidavit filed with the commission,
20 states that the candidate's campaign, including the candidate, an
21 aide to the candidate, a campaign officer, or a campaign consultant
22 of the candidate, has not directly or indirectly communicated with
23 the committee in regard to a strategic matter, including polling
24 data, advertising, or voter demographics, in connection with the
25 candidate's campaign.

26 (b) This section applies only to an expenditure of which the
27 candidate or officeholder has notice.

1 (c) An affidavit under this section shall be filed with the
2 next report the candidate or officeholder is required to file under
3 Chapter 254 following the receipt of notice of the expenditure.

4 Sec. 253.266. EFFECT OF CERTAIN POLITICAL EXPENDITURES. (a)
5 A complying candidate or a specific-purpose committee for
6 supporting a complying candidate is not required to comply with the
7 applicable limits on contributions and expenditures prescribed by
8 this subchapter if a person makes political expenditures supporting
9 the candidate's opponent, assisting the candidate's opponent as an
10 officeholder, or opposing the candidate that in the aggregate
11 exceed \$25,000.

12 (b) The executive director of the commission shall issue an
13 order suspending the limits on contributions and expenditures for
14 the office of commissioner of insurance not later than the fifth day
15 after the date the executive director determines that:

16 (1) a declaration of intent to make expenditures that
17 exceed the limit prescribed by Subsection (a) is filed in
18 connection with the office as provided by Section 253.260; or

19 (2) a political expenditure that exceeds the limit
20 prescribed by Subsection (a) has been made.

21 (c) The limit prescribed by Subsection (a) does not apply
22 to:

23 (1) an expenditure made by the complying candidate's
24 opponent;

25 (2) an expenditure made by the principal political
26 committee of the state executive committee or a county executive
27 committee of a political party; or

1 (3) an expenditure made by a political committee or
2 other association that consists only of costs incurred in
3 contacting the committee's or association's membership.

4 Sec. 253.267. CONTRIBUTION FROM OR DIRECT CAMPAIGN
5 EXPENDITURE BY POLITICAL PARTY. (a) Except as provided by
6 Subsection (b), a political contribution to or a direct campaign
7 expenditure on behalf of a complying candidate that is made by the
8 principal political committee of the state executive committee or a
9 county executive committee of a political party is considered to be
10 a political expenditure by the candidate for purposes of the
11 expenditure limits prescribed by Section 253.264.

12 (b) Subsection (a) does not apply to a political expenditure
13 for a generic get-out-the-vote campaign or for a written list of two
14 or more candidates that:

15 (1) identifies the party's candidates by name and
16 office sought, office held, or photograph;

17 (2) does not include any reference to the political
18 philosophy or positions on issues of the party's candidates; and

19 (3) is not broadcast, cablecast, published in a
20 newspaper or magazine, or placed on a billboard.

21 Sec. 253.268. RESTRICTION ON EXCEEDING EXPENDITURE
22 LIMITS. (a) A candidate who files a declaration of compliance
23 under Section 253.261(a)(1) and who later files a declaration of
24 intent to exceed the limit on expenditures under Section
25 253.261(a)(2) or a specific-purpose committee for supporting such a
26 candidate may not make a political expenditure that causes the
27 person to exceed the limit on expenditures prescribed by Section

1 253.264 before the 60th day after the date the candidate files the
2 declaration of intent to exceed the limit on expenditures.

3 (b) A person who violates this section is liable for a civil
4 penalty not to exceed three times the amount of political
5 expenditures made in violation of this section.

6 Sec. 253.269. AGREEMENT TO EVADE LIMITS PROHIBITED. (a) A
7 complying candidate may not:

8 (1) solicit a person to campaign as a noncomplying
9 candidate opposing the complying candidate; or

10 (2) enter into an agreement under which a person
11 campaigns as a noncomplying candidate opposing the complying
12 candidate.

13 (b) A candidate who violates this section is considered to
14 be a noncomplying candidate.

15 Sec. 253.270. MISREPRESENTATION OF OPPONENT'S COMPLIANCE
16 WITH OR VIOLATION OF SUBCHAPTER PROHIBITED. (a) A candidate may
17 not knowingly misrepresent that an opponent of the candidate:

18 (1) is a noncomplying candidate; or

19 (2) has violated this subchapter.

20 (b) A candidate who violates this section is considered to
21 be a noncomplying candidate.

22 Sec. 253.271. CIVIL PENALTY. (a) The commission may
23 impose a civil penalty under this subchapter against a person as
24 provided by Subchapter E, Chapter 571, Government Code.

25 (b) The commission shall base the amount of the penalty on:

26 (1) the seriousness of the violation;

27 (2) the history of previous violations;

1 (3) the amount necessary to deter future violations;
2 and
3 (4) any other matter that justice may require.

4 (c) A penalty paid under this subchapter shall be deposited
5 in the general revenue fund to the credit of the commission. The
6 commission may use amounts representing penalties paid under this
7 subchapter only for purposes of enforcing this subchapter.

8 SECTION 10. Chapter 255, Election Code, is amended by
9 adding Section 255.009 to read as follows:

10 Sec. 255.009. DISCLOSURE ON POLITICAL ADVERTISING FOR
11 OFFICE OF COMMISSIONER OF INSURANCE. (a) This section applies
12 only to a candidate or political committee covered by Subchapter H,
13 Chapter 253.

14 (b) Political advertising by a candidate for the office of
15 commissioner of insurance who files a declaration of intent to
16 comply with the limit on expenditures under Subchapter H, Chapter
17 253, or a specific-purpose committee for supporting such a
18 candidate may include the following statement: "Political
19 advertising paid for by (name of candidate or committee) in
20 compliance with the voluntary expenditure limit of the Insurance
21 Commissioner Campaign Fairness Act."

22 (c) Political advertising by a candidate who files a
23 declaration of intent to comply with the limit on expenditures
24 under Subchapter H, Chapter 253, or a specific-purpose committee
25 for supporting such a candidate that does not contain the statement
26 prescribed by Subsection (b) must comply with Section 255.001.

27 (d) Political advertising by a candidate who files a

1 declaration of intent to exceed the limit on expenditures under
2 Subchapter H, Chapter 253, or a specific-purpose committee for
3 supporting such a candidate must include the following statement:
4 "Political advertising paid for by (name of candidate or
5 committee), (who or which) has rejected the voluntary expenditure
6 limit of the Insurance Commissioner Campaign Fairness Act."

7 (e) The commission shall adopt rules providing for:

8 (1) the minimum size of the disclosure required by
9 this section in political advertising that appears on television or
10 in writing; and

11 (2) the minimum duration of the disclosure required by
12 this section in political advertising that appears on television or
13 radio.

14 (f) A person who violates this section or a rule adopted
15 under this section is liable for a civil penalty not to exceed
16 \$15,000.

17 (g) Section 253.271 applies to the imposition and
18 disposition of a civil penalty under this section.

19 SECTION 11. Section 504.401(d), Transportation Code, is
20 amended to read as follows:

21 (d) In this section, "state official" means:

- 22 (1) a member of the legislature;
- 23 (2) the governor;
- 24 (3) the lieutenant governor;
- 25 (4) a justice of the supreme court;
- 26 (5) a judge of the court of criminal appeals;
- 27 (6) the attorney general;

- (7) the commissioner of the General Land Office;
- (8) the comptroller;
- (9) a member of the Railroad Commission of Texas;
- (10) the commissioner of agriculture;
- (11) the commissioner of insurance;
- (12) the secretary of state; or
- (13) [~~(12)~~] a member of the State Board of Education.

SECTION 12. (a) The first general election for commissioner of insurance shall be held November 2, 2010, for a two-year term beginning on January 1, 2011. Thereafter, the commissioner of insurance shall be elected to serve a four-year term.

(b) Until the first commissioner of insurance elected under this Act takes office, the commissioner serving on the effective date of this Act shall, unless otherwise removed as provided by law, continue in office under the prior law that governed the office, and that prior law is continued in effect for that purpose. If on January 1, 2011, there is a vacancy in the office of commissioner of insurance created under this Act because the first commissioner-elect has died or refuses or is permanently unable to serve, the commissioner serving on that date shall, unless otherwise removed as provided by law, continue in office under the prior law that governed the office until the governor fills the vacancy by appointment in the manner provided by law. The prior law that governed the office of the commissioner of insurance is continued in effect for that purpose.

SECTION 13. Subchapter H, Chapter 253, Election Code, as

1 added by this Act, applies only to a political contribution
2 accepted or political expenditure made on or after the effective
3 date of this Act. A political contribution accepted or political
4 expenditure made before the effective date of this Act is governed
5 by the law in effect on the date the contribution was accepted or
6 the expenditure was made and is not aggregated with political
7 contributions accepted or political expenditures made on or after
8 the effective date of this Act.

9 SECTION 14. (a) Except as provided by Subsection (b) of
10 this section, this Act takes effect January 1, 2011.

11 (b) Sections 1, 8, 9, and 13 of this Act take effect
12 September 1, 2009.