

## **BILL ANALYSIS**

H.B. 2359  
By: Hopson  
Elections  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties have argued that the Texas prohibition of corporate direct campaign expenditures is unconstitutional in light of the Supreme Court's decision in *Citizens United v. Federal Election Commission*. A corporate direct campaign expenditure includes a campaign expenditure made by for-profit or nonprofit corporations that do not constitute a campaign contribution by the person making the expenditure.

Based on interpretations of a court order by the United States District Court for the Western District of Texas, the Texas Ethics Commission's Ethics Advisory Opinion No. 489, and the Texas Ethics Commission's recommendations for statutory changes to the 82nd Legislature, interested parties also argue that the state's prohibition of direct campaign expenditures is unenforceable and could lead to costly litigation.

H.B. 2359 seeks to address the prohibition on direct campaign expenditures by removing certain references to political expenditures in the Texas Election Code and by adding and clarifying reporting requirements for certain direct campaign 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**

H.B. 2359 amends the Election Code, in provisions of law relating to restrictions on political contributions or expenditures, to remove a prohibition against a corporation or labor organization making a political expenditure that is not authorized by those provisions and a prohibition against a political expenditure in connection with a recall election, including the circulation and submission of a petition to call an election.

H.B. 2359 removes from among the information each political report by a candidate is required to contain the full name and address of each individual acting as a campaign treasurer of a political committee with direct expenditures exceeding \$100 from whom the candidate received notice of contributions or expenditures from a specific-purpose committee or a general-purpose committee.

H.B. 2359 requires a person not acting in concert with another person who makes one or more direct campaign expenditures in an election from the person's own property to comply with the political reporting requirements as if the person were the campaign treasurer of a general-purpose committee that does not file monthly reports as provided by state law. The bill establishes that a person is not required to file a report for a direct campaign expenditure exceeding \$100 if the person is required to disclose the expenditure in another report required under general statutory provisions regulating political funds and campaigns within the time applicable for reporting the expenditure. The bill specifies that these bill provisions do not require a general-purpose committee that files under the monthly reporting schedule to file any

additional reports required for a committee involved in an election.

H.B. 2359 establishes that a person is not required to file a campaign treasurer appointment for making direct campaign expenditures exceeding \$100 for which reporting is required unless the person is otherwise required to file a campaign treasurer appointment under general statutory provisions regulating political funds and campaigns. The bill authorizes a direct campaign expenditure consisting of personal travel expenses incurred by a person to be made without complying with the bill's provisions governing direct campaign expenditures exceeding \$100.

H.B. 2359 repeals the following provisions of the Election Code:

- Section 253.002, relating to an unlawful direct campaign expenditure
- Section 253.097, relating to a direct campaign expenditure on a measure made by a corporation or labor organization not acting in concert with another person
- Subchapter C, Chapter 253, relating to restrictions on direct campaign expenditures by individuals
- Section 254.036(f), relating to the exception from electronic filing requirements for an individual required to file a report in connection with a direct campaign expenditure

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.