

By: Patrick, Nichols

S.B. No. 217

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the state employee charitable campaign.

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

SECTION 1. Subdivision (11), Section 659.131, Government Code, is amended to read as follows:

(11) "Local campaign area" means an area established by the state policy committee under Section 659.140(e)(1)(A) [the county or counties] in which a local campaign is conducted as part of the [manager conducts a] state employee charitable campaign.

SECTION 2. Subsection (g), Section 659.132, Government Code, is amended to read as follows:

(g) An authorization must direct the comptroller to distribute the deducted funds to a participating federation or fund or a local charitable organization selected by the state policy committee [and a local campaign manager] as prescribed by rule.

SECTION 3. Subsection (a), Section 659.133, Government Code, is amended to read as follows:

(a) Participation by a state employee in a state employee charitable campaign is voluntary. The state [Each] campaign manager, any local employee committee or local campaign manager appointed by the state policy committee, each charitable organization, each state employee, and each state agency shall inform state employees that deductions are voluntary.

1 SECTION 4. Section 659.140, Government Code, is amended by
2 amending Subsections (a), (b), and (e) and adding Subsections (c-1)
3 and (e-1) to read as follows:

4 (a) The state employee charitable campaign policy committee
5 shall consist of nine [~~13~~] members.

6 (b) The governor with the advice and consent of the senate
7 shall appoint two [~~four~~] members who are state employees at the time
8 of their appointment and one member [~~three members~~] who is a [~~are~~]
9 retired state employee [~~employees~~] receiving benefits under
10 Chapter 814. The lieutenant governor and the comptroller shall
11 [~~may~~] appoint [~~not more than~~] three members each. An appointment to
12 the committee shall be made without regard to the race, color,
13 disability, sex, religion, age, or national origin of the
14 appointee. The state policy committee shall elect a chair
15 [~~chairman~~] biennially from its own membership.

16 (c-1) The governor, lieutenant governor, and comptroller
17 shall attempt to appoint members to the state policy committee from
18 institutions of higher education and a range of small, medium, and
19 large state agencies.

20 (e) The state policy committee shall:

21 (1) establish the organization and structure of the
22 state employee charitable campaign at the state and local levels,
23 including:

24 (A) establishing local campaign areas [~~based on~~
25 ~~recommendations by the state advisory committee~~];

26 (B) appointing any local employee committees the
27 state policy committee considers necessary to assist the state

1 policy committee with evaluating applications from organizations
2 that seek to participate in the state employee charitable campaign
3 only in a local campaign area; and

4 (C) appointing any local campaign managers the
5 state policy committee considers necessary to administer the state
6 employee charitable campaign in a local campaign area;

7 (2) develop a strategic plan for the state employee
8 charitable campaign and make changes to improve the campaign as
9 necessary;

10 (3) in coordination with the state campaign manager,
11 post on the state employee charitable campaign Internet website
12 annual summary information regarding the state employee charitable
13 campaign's performance, including information about:

14 (A) state employee participation;

15 (B) the amount of donations pledged and
16 collected;

17 (C) the amount of donations pledged to and
18 received by each charitable organization;

19 (D) the total cost to administer the state
20 employee charitable campaign; and

21 (E) the balance of any surplus account maintained
22 by the state policy committee;

23 (4) [~~2~~] select as the state campaign manager:

24 (A) a federated community campaign organization;

25 or

26 (B) a charitable organization determined by the
27 state policy committee to have demonstrated the capacity to conduct

1 a state campaign;

2 (5) enter into a contract with the state campaign
3 manager selected under Subdivision (4) for the administration of
4 the state employee charitable campaign;

5 (6) [~~3~~] determine the eligibility of:

6 (A) a federation or fund and its affiliated
7 agencies for statewide participation in the state employee
8 charitable campaign; and

9 (B) if the state policy committee does not
10 appoint a local employee committee, a charitable organization for
11 participation in the state employee charitable campaign in a local
12 campaign area;

13 (7) develop in coordination with the state campaign
14 manager, review, and approve:

15 (A) an annual [~~4~~] ~~approve the recommended~~
16 campaign plan;

17 (B) an annual [~~7~~] budget, including:

18 (i) costs related to contracting for the
19 administration of the state employee charitable campaign at the
20 state and local levels;

21 (ii) costs related to changes or
22 improvements to the state employee charitable campaign; and

23 (iii) other costs determined and
24 prioritized by the state policy committee; and

25 (C) generic materials to be used for the [~~by~~]
26 campaign [~~managers~~];

27 (8) [~~5~~] oversee the state employee charitable

1 campaign to ensure that all:

2 (A) campaign activities are conducted fairly and
3 equitably to promote unified solicitation on behalf of all
4 participants; and

5 (B) donations are appropriately distributed by a
6 federation or fund or a charitable organization that receives money
7 from the state employee charitable campaign; and

8 (9) [(6)] perform other duties prescribed by the
9 comptroller's rules.

10 (e-1) The comptroller shall provide administrative support
11 to the state policy committee, including assistance in:

12 (1) developing and overseeing contracts;

13 (2) developing the budget of the state employee
14 charitable campaign; and

15 (3) any other administrative function the state policy
16 committee determines is necessary.

17 SECTION 5. Subsection (c), Section 659.140, Government
18 Code, as amended by Chapters 280 (H.B. 1608), 1249 (S.B. 1664), and
19 1015 (H.B. 2549), Acts of the 82nd Legislature, Regular Session,
20 2011, is reenacted and amended to read as follows:

21 (c) [~~A member of the state policy committee may not receive~~
22 ~~compensation for serving on the committee and is not entitled to~~
23 ~~reimbursement from state funds for expenses incurred in performing~~
24 ~~functions as a member of the committee.] The state policy
25 committee must:~~

26 (1) be composed of employees and retired state
27 employees receiving benefits under Chapter 814; and

1 (2) in its membership, represent employees at
2 different levels of employee classification.

3 SECTION 6. Subchapter I, Chapter 659, Government Code, is
4 amended by adding Sections 659.1401 and 659.1402 to read as
5 follows:

6 Sec. 659.1401. GROUNDS FOR REMOVAL FROM STATE POLICY
7 COMMITTEE. (a) It is a ground for removal from the state policy
8 committee that a member:

9 (1) does not have at the time of taking office the
10 qualifications required by Section 659.140;

11 (2) does not maintain during service on the state
12 policy committee the qualifications required by Section 659.140;

13 (3) is ineligible for membership under Section
14 659.140;

15 (4) cannot, because of illness or disability,
16 discharge the member's duties for a substantial part of the member's
17 term; or

18 (5) is absent from more than half of the regularly
19 scheduled state policy committee meetings that the member is
20 eligible to attend during a calendar year without an excuse
21 approved by a majority vote of the state policy committee.

22 (b) The validity of an action of the state policy committee
23 is not affected by the fact that it is taken when a ground for
24 removal of a state policy committee member exists.

25 (c) If the chair of the state policy committee has knowledge
26 that a potential ground for removal exists, the chair shall notify
27 the governor and the attorney general that a potential ground for

1 removal exists. If the potential ground for removal involves the
2 chair, another member of the state policy committee shall notify
3 the governor and the attorney general that a potential ground for
4 removal exists.

5 Sec. 659.1402. TRAINING FOR STATE POLICY COMMITTEE MEMBERS.

6 (a) A person who is appointed to and qualifies for office as a
7 member of the state policy committee may not vote, deliberate, or be
8 counted as a member in attendance at a meeting of the state policy
9 committee until the person completes a training program that
10 complies with this section.

11 (b) The training program must provide the person with
12 information regarding:

13 (1) the legislation that created the state employee
14 charitable campaign;

15 (2) the programs, functions, rules, and budget of the
16 state employee charitable campaign;

17 (3) the results of the most recent formal audit of the
18 state employee charitable campaign;

19 (4) the requirements of laws relating to open
20 meetings, public information, administrative procedure, and
21 conflicts of interest; and

22 (5) any applicable ethics policies adopted by the
23 Texas Ethics Commission or adopted for the state employee
24 charitable campaign by the state policy committee.

25 SECTION 7. Section 659.141, Government Code, is amended to
26 read as follows:

27 Sec. 659.141. STATE CAMPAIGN MANAGER. The state campaign

1 manager shall:

2 (1) assist the state policy committee to:

3 (A) develop a campaign plan;

4 (B) develop [~~(2) prepare~~] a [~~statewide~~]

5 campaign budget [~~in cooperation with local campaign managers~~]; and

6 (C) [~~(3)~~] prepare generic materials to be used

7 for the campaign [~~by campaign managers~~];

8 (2) [~~(4)~~] coordinate and facilitate campaign services

9 to state employees throughout the state;

10 (3) [~~(5)~~] ensure that all state employee charitable

11 campaign activities are conducted fairly and equitably to promote

12 unified solicitation on behalf of all participants; [~~and~~]

13 (4) [~~(6)~~] perform other duties prescribed by the

14 comptroller's rules; and

15 (5) perform other duties required by the contract with

16 the state policy committee.

17 SECTION 8. Subsections (b) and (e), Section 659.142,

18 Government Code, are amended to read as follows:

19 (b) [~~Four members must represent campaign managers.~~] Four

20 members must represent statewide or local federations or funds

21 [~~that are not campaign managers~~]. Four members must represent

22 other charitable organizations participating in the state employee

23 charitable campaign.

24 (e) The state advisory committee shall:

25 (1) advise the comptroller and state policy committee

26 in adopting rules and establishing procedures for the operation and

27 management of the state employee charitable campaign; and

1 (2) provide input from charitable organizations
2 participating in the state employee charitable campaign to the
3 state policy committee [~~recommend the number, not to exceed 50, and~~
4 ~~geographic scope of local campaign areas to the state policy~~
5 ~~committee, and~~

6 [~~(3) review and submit the recommended campaign plan,~~
7 ~~budget, and generic materials to be used by campaign managers].~~

8 SECTION 9. Section 659.145, Government Code, is amended to
9 read as follows:

10 Sec. 659.145. TERMS OF COMMITTEE MEMBERS; COMPENSATION.

11 (a) A member of the state advisory committee[~~, the state policy~~
12 ~~committee, or a local employee committee]~~ serves a two-year term.

13 (a-1) Members of the state policy committee serve staggered
14 terms of two years, with the terms of four or five members expiring
15 September 1 of each year.

16 (b) A member of the state advisory committee, the state
17 policy committee, or a local employee committee appointed by the
18 state policy committee may not receive compensation for serving on
19 the committee and is not entitled to reimbursement from state funds
20 for expenses incurred in performing functions as a member of the
21 committee.

22 SECTION 10. Section 659.146, Government Code, is amended by
23 amending Subsection (e) and adding Subsections (f) and (g) to read
24 as follows:

25 (e) An appeal from a decision of the state policy committee
26 shall be conducted in the manner prescribed by the committee. The
27 appeals process must permit a charitable organization that is not

1 approved for statewide participation to apply for participation in
2 the [a local] state employee charitable campaign only in a local
3 campaign area.

4 (f) The state policy committee shall develop guidelines for
5 evaluation of applications based on eligibility criteria under this
6 section and Section 659.150. The state policy committee shall make
7 the guidelines publicly available.

8 (g) A federation or organization that participated in the
9 state employee charitable campaign before June 20, 2003, is not
10 barred from participation in the program, both in terms of actual
11 participation and the purposes for which the contributions are
12 used, solely as a result of changes made by Sections 35, 36, 37, and
13 121(9) and (11), Chapter 1310 (H.B. 2425), Acts of the 78th
14 Legislature, Regular Session, 2003. This subsection does not
15 excuse a federation or organization from compliance with any other
16 law, rule, or state policy.

17 SECTION 11. Section 659.147, Government Code, is amended to
18 read as follows:

19 Sec. 659.147. ELIGIBILITY OF CHARITABLE ORGANIZATIONS FOR
20 LOCAL PARTICIPATION. (a) A charitable organization that seeks to
21 participate [local participation] in the [a] state employee
22 charitable campaign only in a local campaign area must apply to the
23 state policy committee [appropriate local employee committee]
24 during the annual eligibility determination period specified by the
25 state policy committee.

26 (b) The state policy committee, with assistance of any
27 applicable local employee committee appointed by the state policy

1 committee, shall review each application and may approve a
2 charitable organization for [~~local~~] participation only in a local
3 campaign area only if the organization qualifies as a local
4 charitable organization and is:

- 5 (1) an unaffiliated local organization; or
6 (2) a federation or fund or an affiliate of a
7 federation or fund that is not approved for statewide
8 participation.

9 (c) An affiliated organization of an eligible federation or
10 fund that does not qualify as a statewide charitable organization
11 under Section 659.146 because it does not provide services in two or
12 more noncontiguous standard metropolitan statistical areas may
13 apply to the state policy committee [~~a local employee committee~~]
14 for participation in the [~~a local~~] state employee charitable
15 campaign only in a local campaign area.

16 (d) An appeal from a decision of the state policy committee
17 regarding the eligibility of an organization to participate in the
18 state employee charitable campaign only in a local campaign area [~~a~~
19 ~~local employee committee~~] shall be conducted in the manner
20 prescribed by the state policy committee.

21 (e) The state policy committee shall develop guidelines for
22 evaluation of applications based on eligibility criteria under this
23 section and Section 659.150. The state policy committee shall make
24 the guidelines publicly available.

25 SECTION 12. Section 659.148, Government Code, is amended by
26 amending Subsections (a), (b), and (c) and adding Subsection (b-1)
27 to read as follows:

1 (a) The state [A] campaign manager or any local campaign
2 manager appointed by the state policy committee may not charge a fee
3 to the comptroller, a state agency, or a state employee for the
4 services the state campaign manager or local campaign manager
5 provides in connection with a state employee charitable campaign.

6 (b) The state [A] campaign manager may charge a reasonable
7 and necessary fee for actual campaign expenses to the participating
8 charitable organizations in the same proportion that the
9 contributions to that charitable organization bear to the total of
10 contributions in the state employee charitable campaign.

11 **(b-1) If the state policy committee appoints a local**
12 **campaign manager to administer the state employee charitable**
13 **campaign in a local campaign area, the state policy committee may**
14 **authorize the local campaign manager to charge a reasonable and**
15 **necessary fee in the same manner provided for the state campaign**
16 **manager under Subsection (b).**

17 (c) Fees [A fee] under Subsections [Subsection] (b) and
18 (b-1) must be based on the combined expenses of the state campaign
19 manager and any [each] local campaign managers appointed by the
20 state policy committee [manager] and may not exceed 10 percent of
21 the total amount collected in the state employee charitable
22 campaign unless the state policy committee approves a higher amount
23 to accommodate reasonable documented costs.

24 SECTION 13. Section 659.151, Government Code, is amended by
25 amending Subsections (a), (b), and (c) and adding Subsection (a-1)
26 to read as follows:

27 (a) The state policy committee may request the comptroller

1 or state auditor to audit a participating charitable organization,
2 the state [a] campaign manager, or a local employee committee or
3 local campaign manager appointed by the state policy committee that
4 the state policy committee reasonably believes has misapplied
5 contributions under this subchapter.

6 (a-1) At the request of the state policy committee, the
7 comptroller shall audit a participating charitable organization's
8 distributions of money received from the state employee charitable
9 campaign.

10 (b) If an audit under this section reveals gross negligence
11 or intentional misconduct on the part of the state [a] campaign
12 manager or a local employee committee or local campaign manager
13 appointed by the state policy committee, the state policy committee
14 shall remove the campaign manager or local employee committee. A
15 person removed under this subsection is not eligible to serve in the
16 capacity from which the person was removed before the fifth
17 anniversary of the date the person was removed.

18 (c) If an audit under this section reveals intentional
19 misconduct on the part of the state [a] campaign manager, ~~[or]~~ a
20 local employee committee or local campaign manager appointed by the
21 state policy committee, or a participating charitable organization
22 that has distributed money received from the state employee
23 charitable campaign, the state policy committee shall forward its
24 findings to the appropriate law enforcement agency.

25 SECTION 14. Section 659.153, Government Code, is amended to
26 read as follows:

27 Sec. 659.153. LEGAL REPRESENTATION. The attorney general

1 shall represent the state policy committee and any ~~each~~ local
2 employee committee appointed by the state policy committee in all
3 legal matters.

4 SECTION 15. Subdivisions (1), (12), and (14), Section
5 659.131, Subsection (i), Section 659.140, and Sections 659.143 and
6 659.144, Government Code, are repealed.

7 SECTION 16. (a) Section 18.01, Chapter 3 (House Bill No.
8 7), Acts of the 78th Legislature, 3rd Called Session, 2003, is
9 repealed.

10 (b) Each federation or charitable organization is subject
11 to Subdivision (3), Subsection (a), Section 659.146, Government
12 Code.

13 (c) Subsections (a) and (b) of this section and Subsection
14 (g), Section 659.146, Government Code, as added by this Act, apply
15 only to the eligibility of a charitable organization to participate
16 in, and the use of contributions from, a state employee charitable
17 campaign conducted on or after January 1, 2014.

18 (d) This section and Subsection (g), Section 659.146,
19 Government Code, as added by this Act, take effect January 1, 2014.

20 SECTION 17. (a) The term of each member of the state
21 employee charitable campaign policy committee expires September 1,
22 2013.

23 (b) Not later than September 2, 2013:

24 (1) the governor shall appoint one member who is a
25 state employee and one member who is a retired state employee
26 receiving benefits under Chapter 814, Government Code, the
27 lieutenant governor shall appoint one member, and the comptroller

1 of public accounts shall appoint one member to the state employee
2 charitable campaign policy committee for terms expiring September
3 1, 2014; and

4 (2) the governor shall appoint one member who is a
5 state employee, the lieutenant governor shall appoint two members,
6 and the comptroller of public accounts shall appoint two members to
7 the state employee charitable campaign policy committee for terms
8 expiring September 1, 2015.

9 SECTION 18. Not later than December 31, 2013, the
10 comptroller of public accounts shall adopt rules necessary to
11 implement the changes in law made by this Act.

12 SECTION 19. Any changes made by the state employee
13 charitable campaign policy committee to the operation of the state
14 employee charitable campaign under Subsection (e), Section
15 659.140, Government Code, as amended by this Act, apply only to a
16 state employee charitable campaign conducted on or after January 1,
17 2014.

18 SECTION 20. Except as otherwise provided by this Act, this
19 Act takes effect September 1, 2013.