

By: Cook

H.J.R. No. 112

A JOINT RESOLUTION

1 proposing a constitutional amendment requiring certain persons or
2 groups to report certain contributions and political expenditures.

3 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Article XVI, Texas Constitution, is amended by
5 adding Section 75 to read as follows:

6 Sec. 75. (a) In this section:

7 (1) "Campaign contribution" means a contribution to a
8 candidate or political committee that is offered or given with the
9 intent that it be used in connection with a campaign for elective
10 office or on a measure. Whether a contribution is made before,
11 during, or after an election does not affect its status as a
12 campaign contribution.

13 (2) "Campaign expenditure" means an expenditure made
14 by any person in connection with a campaign for an elective office
15 or on a measure. Whether an expenditure is made before, during, or
16 after an election does not affect its status as a campaign
17 expenditure.

18 (3) "Candidate" means a person who knowingly and
19 willingly takes affirmative action for the purpose of gaining
20 nomination or election to public office or for the purpose of
21 satisfying financial obligations incurred by the person in
22 connection with the campaign for nomination or election. Examples
23 of affirmative action include:

24 (A) the filing of a campaign treasurer

1 appointment, except that the filing does not constitute candidacy
2 or an announcement of candidacy for purposes of the automatic
3 resignation provisions of Section 65 of this article or Section 11,
4 Article XI;

5 (B) the filing of an application for a place on a
6 ballot;

7 (C) the filing of an application for nomination
8 by convention;

9 (D) the filing of a declaration of intent to
10 become an independent candidate or a declaration of write-in
11 candidacy;

12 (E) the making of a public announcement of a
13 definite intent to run for public office in a particular election,
14 regardless of whether the specific office is mentioned in the
15 announcement;

16 (F) before a public announcement of intent, the
17 making of a statement of definite intent to run for public office
18 and the soliciting of support by letter or other mode of
19 communication;

20 (G) the soliciting or accepting of a campaign
21 contribution or the making of a campaign expenditure; and

22 (H) the seeking of the nomination of an executive
23 committee of a political party to fill a vacancy.

24 (4) "Commission" means the Texas Ethics Commission.

25 (5) "Contribution" means a direct or indirect transfer
26 of money, goods, services, or any other thing of value and includes
27 an agreement made or other obligation incurred, whether legally

1 enforceable or not, to make a transfer. The term includes a loan or
2 extension of credit, other than those expressly excluded by this
3 subdivision, and a guarantee of a loan or extension of credit,
4 including a loan described by this subdivision. The term also
5 includes dues and gifts. The term does not include:

6 (A) a loan made in the due course of business by a
7 corporation that is legally engaged in the business of lending
8 money and that has conducted the business continuously for more
9 than one year before the loan is made;

10 (B) a commercial transaction involving the
11 transfer for consideration of anything of value pursuant to a
12 contract or agreement that reflects the usual and normal business
13 practice of an industry; or

14 (C) an expenditure required to be reported in a
15 lobbying activities report filed with the commission.

16 (6) "Contribution in connection with campaign
17 activity" means a contribution from a donor to a person or group
18 that, at the time that the donor makes the contribution, the donor
19 knows or has reason to know may be used to make a political
20 contribution or political expenditure or may be commingled with
21 other funds used to make a political contribution or political
22 expenditure. A donor who signs a statement indicating that the
23 donor's contribution to the person or group may not be used to make
24 a political contribution or political expenditure does not have
25 reason to know that the donor's contribution may be used to make a
26 political contribution or political expenditure.

27 (7) "Direct campaign expenditure" means a campaign

1 expenditure that does not constitute a campaign contribution by the
2 person making the expenditure.

3 (8) "Donor" means a person who makes a contribution to
4 a person or group to whom this section applies, regardless of
5 whether the person making the contribution is a member of the person
6 or group that accepts the contribution.

7 (9) "Expenditure" means a payment of money or any
8 other thing of value and includes an agreement made or other
9 obligation incurred, whether legally enforceable or not, to make a
10 payment.

11 (10) "General-purpose committee" means a political
12 committee that has among its principal purposes:

13 (A) supporting or opposing:

14 (i) two or more candidates who are
15 unidentified or are seeking offices that are unknown; or

16 (ii) one or more measures that are
17 unidentified; or

18 (B) assisting two or more officeholders who are
19 unidentified.

20 (11) "Labor organization" means an agency, committee,
21 or any other organization in which employees participate that
22 exists for the purpose, in whole or in part, of dealing with
23 employers concerning grievances, labor disputes, wages, rates of
24 pay, hours of employment, or conditions of work.

25 (12) "Measure" means a question or proposal submitted
26 in an election for an expression of the voters' will and includes
27 the circulation and submission of a petition to determine whether a

1 question or proposal is required to be submitted in an election for
2 an expression of the voters' will.

3 (13) "Officeholder contribution" means a contribution
4 to an officeholder or political committee that is offered or given
5 with the intent that it be used to defray expenses that:

6 (A) are incurred by the officeholder in
7 performing a duty or engaging in an activity in connection with the
8 office; and

9 (B) are not reimbursable with public money.

10 (14) "Officeholder expenditure" means an expenditure
11 made by any person to defray expenses that:

12 (A) are incurred by an officeholder in performing
13 a duty or engaging in an activity in connection with the office; and

14 (B) are not reimbursable with public money.

15 (15) "Political committee" means a group of persons
16 that has as a principal purpose accepting political contributions
17 or making political expenditures.

18 (16) "Political contribution" means a campaign
19 contribution or an officeholder contribution.

20 (17) "Political expenditure" means a campaign
21 expenditure or an officeholder expenditure.

22 (18) "Reportable activity" means a political
23 contribution, political expenditure, or other activity required to
24 be reported under state law regulating political funds and
25 campaigns.

26 (b) This section applies only to a person or group that:

27 (1) is not a political committee;

1 (2) accepts one or more contributions in connection
2 with campaign activity from a person that in the aggregate exceed
3 \$2,000 during a reporting period; and

4 (3) makes one or more political expenditures that in
5 the aggregate exceed \$25,000 during a calendar year, excluding:

6 (A) a direct campaign expenditure that a
7 corporation or labor organization makes from its own property for
8 the purpose of communicating directly with its stockholders or
9 members, as applicable, or with the families of its stockholders or
10 members;

11 (B) an expenditure that a corporation or labor
12 organization makes to finance nonpartisan voter registration and
13 get-out-the-vote campaigns aimed at its stockholders or members, as
14 applicable, or at the families of its stockholders or members;

15 (C) a political expenditure that a corporation or
16 labor organization, acting alone or with one or more other
17 corporations or labor organizations, as applicable, makes to
18 finance the establishment or administration of a general-purpose
19 committee;

20 (D) a political expenditure that a corporation or
21 labor organization makes to finance the solicitation of political
22 contributions from the stockholders, members, or employees, or
23 families of stockholders, members, or employees of one or more
24 corporations or labor organizations, as applicable to a
25 general-purpose committee described by Paragraph (C) of this
26 subdivision; and

27 (E) a contribution made by a corporation or labor

1 organization from its own property to a political party to be used
2 by the political party only to:

3 (i) defray normal overhead and
4 administrative or operating costs incurred by the party; or

5 (ii) administer a primary election or
6 convention held by the party.

7 (c) Except as otherwise provided by this section, a person
8 or group shall comply with the requirements and procedures for
9 reporting political contributions and political expenditures
10 established by the legislature as if the person or group were the
11 campaign treasurer of a general-purpose committee that does not
12 file monthly reports.

13 (d) A person or group is not required to file a campaign
14 treasurer appointment for accepting contributions or making
15 political expenditures for which reporting is required under this
16 section, unless the person or group is otherwise required to file a
17 campaign treasurer appointment under state law.

18 (e) A person or group is not required to file a report under
19 this section if:

20 (1) the person or group is required to disclose the
21 contributions and political expenditures in another report of
22 political contributions and political expenditures required by
23 state law within the time applicable under this section for
24 reporting the contributions and political expenditures; or

25 (2) no reportable activity occurs during the reporting
26 period.

27 (f) Disclosure of a contribution in the manner provided by

1 the legislature for reports of political contributions and
2 political expenditures by general-purpose committees is required
3 in a report under this section only if:

4 (1) the contribution is a contribution in connection
5 with campaign activity; and

6 (2) the aggregate amount of contributions in
7 connection with campaign activity accepted from a person exceeds
8 \$2,000 during the reporting period.

9 (g) A report required under this section is not required to
10 include:

11 (1) any contributions accepted by the person or group
12 that are not contributions in connection with campaign activity;

13 (2) the total amount of unitemized political
14 contributions accepted by the person or group;

15 (3) the total amount of political contributions
16 maintained by the person or group;

17 (4) any expenditures made by the person or group that
18 are not political expenditures;

19 (5) the total amount of unitemized political
20 expenditures made by the person or group; or

21 (6) the principal amount of all of the person's or
22 group's outstanding loans.

23 (h) The first report required to be filed in a calendar year
24 in which the \$2,000 or \$25,000 threshold under Subsection (b) of
25 this section is exceeded must include all contributions in
26 connection with campaign activity accepted from a person that in
27 the aggregate exceed \$2,000 and all political expenditures made in

1 the 12 months immediately preceding the acceptance of the
2 contribution in connection with campaign activity or the making of
3 the political expenditure that triggers the reporting requirements
4 of this section and not previously reported as required under this
5 section.

6 (i) A contribution consisting of personal travel expense
7 incurred by an individual is not required to be reported under this
8 section if the individual receives no reimbursement for the
9 expense.

10 (j) A contribution consisting of an individual's personal
11 service is not required to be reported under this section if the
12 individual receives no compensation for the service.

13 (k) A person to whom this section applies and who, not
14 acting in concert with another person, makes one or more direct
15 campaign expenditures in an election from the person's own property
16 is not required to comply with any requirements or procedures
17 established by the legislature for separately reporting the direct
18 campaign expenditures.

19 (l) Any state law generally applicable to reports of
20 political contributions and political expenditures filed with the
21 commission, including any penalty provision for untimely or
22 incomplete reports, is applicable to a report filed under this
23 section.

24 SECTION 2. The following temporary provision is added to
25 the Texas Constitution:

26 TEMPORARY PROVISION. (a) This temporary provision applies
27 to the constitutional amendment proposed by the 85th Legislature,

1 Regular Session, 2017, requiring certain persons or groups who are
2 not political committees to report certain contributions and
3 political expenditures.

4 (b) The constitutional amendment takes effect January 1,
5 2018.

6 (c) The change in law made by this amendment applies only to
7 the reporting of a contribution in connection with campaign
8 activity or political expenditure made on or after the effective
9 date of the amendment. A contribution or expenditure made before
10 the effective date of the amendment is governed by the law in effect
11 when the contribution or expenditure was made, and the former law is
12 continued in effect for that purpose.

13 (d) This temporary provision expires January 1, 2019.

14 SECTION 3. This proposed constitutional amendment shall be
15 submitted to the voters at an election to be held November 7, 2017.
16 The ballot shall be printed to provide for voting for or against the
17 proposition: "The constitutional amendment requiring certain
18 persons or groups to report certain contributions and political
19 expenditures."