86R9637 JG-D

By:  Davis of Harris H.B. No. 1876

A BILL TO BE ENTITLED

AN ACT

relating to the ethics of public servants, including regulations related to certain political contributions, lobbying activities, reports, and disclosures; creating criminal offenses.

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

SECTION 1.  The heading to Section 253.034, Election Code, is amended to read as follows:

Sec. 253.034.  RESTRICTIONS ON CONTRIBUTIONS BEFORE, DURING, AND FOLLOWING [~~REGULAR~~] LEGISLATIVE SESSION.

SECTION 2.  Section 253.034, Election Code, is amended by adding Subsections (a-1) and (a-2) and amending Subsections (b) and (c) to read as follows:

(a-1)  During the period beginning on the date the governor issues a proclamation calling a special legislative session and continuing through the date of final adjournment of the special legislative session, a person may not knowingly make a political contribution to:

(1)  a statewide officeholder other than the governor;

(2)  a member of the legislature; or

(3)  a specific-purpose committee for supporting, opposing, or assisting a statewide officeholder other than the governor or a member of the legislature.

(a-2)  During the period beginning on the date the governor issues a proclamation calling a special legislative session and continuing through the 20th day after the date of final adjournment of the special legislative session, a person may not knowingly make a political contribution to the governor or a specific-purpose committee for supporting, opposing, or assisting the governor.

(b)  A statewide officeholder, a member of the legislature, or a specific-purpose committee for supporting, opposing, or assisting a statewide officeholder or member of the legislature may not knowingly accept a political contribution, and shall refuse a political contribution that is received, during an applicable [~~the~~] period prescribed by Subsection (a), (a-1), or (a-2). A political contribution that is received and refused during that period shall be returned to the contributor not later than the 30th day after the date of receipt. A contribution made by United States mail or by common or contract carrier is not considered received during that period if it was properly addressed and placed with postage or carrier charges prepaid or prearranged in the mail or delivered to the contract carrier before the beginning of the period. The date indicated by the post office cancellation mark or the common or contract carrier documents is considered to be the date the contribution was placed in the mail or delivered to the common or contract carrier unless proven otherwise.

(c)  This section does not apply to a political contribution that was made and accepted with the intent that it be used:

(1)  in an election held or ordered during a [~~the~~] period prescribed by Subsection (a), (a-1), or (a-2) in which the person accepting the contribution is a candidate if the contribution was made after the person appointed a campaign treasurer with the appropriate authority and before the person was sworn in for that office;

(2)  to defray expenses incurred in connection with an election contest; or

(3)  by a person who holds a state office or a member of the legislature if the person or member was defeated at the general election held immediately before the session is convened or by a specific-purpose political committee that supports or assists only that person or member.

SECTION 3.  Section 254.036(a), Election Code, is amended to read as follows:

(a)  Each report filed under this chapter with an authority other than the commission must be in a format prescribed by the commission. A report filed with the commission that is not required to be filed by computer diskette, modem, or other means of electronic transfer must be on a form prescribed by the commission and written in black or blue ink or typed with black or blue typewriter ribbon or, if the report is a computer printout, the printout must conform to the same format and paper size as the form prescribed by the commission.

SECTION 4.  Section 571.061(a), Government Code, is amended to read as follows:

(a)  The commission shall administer and enforce:

(1)  Chapters 302, 303, 305, 572, 576, and 2004;

(2)  Subchapter C, Chapter 159, Local Government Code, in connection with a county judicial officer, as defined by Section 159.051, Local Government Code, who elects to file a financial statement with the commission;

(3)  Title 15, Election Code; and

(4)  Sections 2152.064 and 2155.003.

SECTION 5.  Section 571.077, Government Code, is amended by adding Subsection (d) to read as follows:

(d)  A person filing by nonelectronic means a statement, registration, or report with the commission may use an unsworn declaration in the format prescribed by Section 132.001, Civil Practice and Remedies Code, instead of an affidavit of verification.

SECTION 6.  Subchapter C, Chapter 572, Government Code, is amended by adding Section 572.062 to read as follows:

Sec. 572.062.  FORMER LEGISLATOR OR STATEWIDE OFFICEHOLDER: LOBBYING RESTRICTED; CRIMINAL OFFENSE. (a) In this section, "administrative action," "communicates directly with," "legislation," "member of the executive branch," and "member of the legislative branch" have the meanings assigned by Section 305.002.

(b)  Except as provided by Subsection (c), a person who is a former member of the legislature or a former holder of an office normally filled by statewide election may not engage in activities that require registration under Chapter 305 before the first anniversary of the first day of the first regular legislative session to convene after the date the person ceases to be a member of the legislature or statewide officeholder, as applicable.

(c)  Subsection (b) does not apply to a person who:

(1)  communicates directly with a member of the legislative or executive branch to influence legislation or administrative action; and

(2)  does not receive compensation other than reimbursement for actual expenses for a communication described by Subdivision (1).

(d)  A person who violates this section commits an offense. An offense under this section is a Class B misdemeanor.

SECTION 7.  Subtitle B, Title 5, Government Code, is amended by adding Chapter 576 to read as follows:

CHAPTER 576.  CONFLICT OF INTEREST OF STATE AGENCY GOVERNING BOARD MEMBER OR OFFICER

Sec. 576.001.  DEFINITIONS. In this chapter:

(1)  "Conflict of interest" means the conflict between an official decision made by a state agency governing board member or governing officer in the individual's official capacity and the individual's private financial interest in which the individual realizes any pecuniary gain.

(2)  "Financial interest" means ownership or control, directly or indirectly, of an ownership interest of at least five percent in a person, including the right to share in profits, proceeds, or capital gains, or an ownership interest that an individual could reasonably foresee could result in any financial benefit to the individual. The term does not include an interest in a retirement plan, a blind trust, insurance coverage, or capital gains.

(3)  "State agency" means a board, commission, council, committee, department, office, agency, or other governmental entity in the executive branch of state government.

Sec. 576.002.  DUTY TO DISCLOSE AND REFRAIN FROM PARTICIPATION. (a) Except as provided by Subsection (b) or (c), in each matter before the governing board of a state agency or, if the agency is not governed by a multimember governing board, the officer who governs the agency, for which a member of the board or officer, as applicable, has a conflict of interest, the individual:

(1)  shall disclose in writing the conflict of interest to the agency; and

(2)  may not participate in the decision on the matter.

(b)  If a majority of the members of the governing board of a state agency has a conflict of interest related to a matter before the board or, if the agency is not governed by a multimember governing board, the officer who governs the agency has a conflict of interest on the matter, the board or officer may decide the matter only if:

(1)  each member, or the officer, as applicable, who has a conflict of interest discloses in writing the conflict of interest to the agency; and

(2)  the board, or officer, as applicable, makes a finding that an emergency exists that requires a decision on the matter despite the conflict of interest.

(c)  The duty to disclose a conflict of interest and refrain from participation in the decision on a matter for a member of the governing board of an institution of higher education, as those terms are defined by Section 61.003, Education Code, is governed by Section 51.923, Education Code.

Sec. 576.003.  PUBLIC INFORMATION. A written disclosure made under Section 576.002 is public information.

Sec. 576.004.  REPORT TO TEXAS ETHICS COMMISSION; RULES. (a) A state agency that receives a written disclosure under Section 576.002 shall file a copy of the disclosure with the Texas Ethics Commission.

(b)  The Texas Ethics Commission may adopt the rules necessary to implement this chapter, including rules on the disclosure to be filed with the commission under Subsection (a).

Sec. 576.005.  CRIMINAL PENALTY. (a) An individual commits an offense if the individual knowingly fails to comply with Section 576.002.

(b)  An offense under this section is a Class B misdemeanor.

SECTION 8.  Section 253.034, Election Code, as amended by this Act, applies only to a political contribution made on or after the effective date of this Act. A political contribution made before the effective date of this Act is governed by the law in effect on the date the contribution was made, and the former law is continued in effect for that purpose.

SECTION 9.  Section 571.077(d), Government Code, as added by this Act, applies only to a statement, registration, or report required to be filed with the Texas Ethics Commission that is due on or after the effective date of this Act or that is due before the effective date of this Act but is filed after the effective date of this Act.

SECTION 10.  Section 572.062, Government Code, as added by this Act, applies only to a member of the legislature or statewide officeholder who ceases to hold office on or after the effective date of this Act.

SECTION 11.  This Act takes effect September 1, 2019.