86R8693 JG-D

By:  Davis of Harris H.B. No. 1877

A BILL TO BE ENTITLED

AN ACT

relating to the ethics of public servants, including regulations relating to certain contributions, expenditures, and reports, and certain authority and duties of the Texas Ethics Commission; creating a criminal offense.

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

SECTION 1.  Section 251.005(d), Election Code, is amended to read as follows:

(d)  An out-of-state political committee that does not file a campaign treasurer appointment shall comply with Sections [~~Section~~] 254.1581, 254.161, and 254.261.

SECTION 2.  Subchapter A, Chapter 253, Election Code, is amended by adding Section 253.006 to read as follows:

Sec. 253.006.  UNLAWFUL USE OF PUBLIC FUNDS FOR CONTRIBUTIONS OR EXPENDITURES. (a) An officer or employee of a political subdivision may not spend or authorize the spending of public funds to make a political contribution or a political expenditure.

(b)  An officer or employee of a political subdivision may not directly or indirectly employ a person to use public funds to make an unlawful political contribution or political expenditure.

(c)  A person who violates Subsection (a) or (b) commits an offense. An offense under this section is a Class A misdemeanor.

SECTION 3.  Subchapter D, Chapter 253, Election Code, is amended by adding Section 253.105 to read as follows:

Sec. 253.105.  CONTRIBUTIONS TO DIRECT EXPENDITURE ONLY COMMITTEES. A corporation or labor organization may make a political contribution from its own property to a political committee that:

(1)  is not established or controlled by a candidate or an officeholder;

(2)  makes or intends to make direct campaign expenditures;

(3)  does not make or intend to make political contributions to:

(A)  a candidate;

(B)  an officeholder;

(C)  a specific-purpose committee established or controlled by a candidate or an officeholder; or

(D)  a political committee that makes or intends to make political contributions to a candidate, an officeholder, or a specific-purpose committee established or controlled by a candidate or an officeholder; and

(4)  has filed an affidavit with the commission stating the committee's intention to operate as described by Subdivisions (2) and (3).

SECTION 4.  Section 254.161, Election Code, is amended to read as follows:

Sec. 254.161.  NOTICE TO CANDIDATE AND OFFICEHOLDER OF CONTRIBUTIONS AND EXPENDITURES. If a general-purpose committee other than the principal political committee of a political party or a political committee established by a political party's county executive committee accepts political contributions or makes political expenditures for a candidate or officeholder, notice of that fact shall be given to the affected candidate or officeholder as provided by Section 254.128 for a specific-purpose committee. An out-of-state political committee that is required to comply with this section shall designate an officer of the committee to provide the notice.

SECTION 5.  Section 254.261, Election Code, is amended by adding Subsection (e) to read as follows:

(e)  This section applies to an out-of-state political committee that does not file a campaign treasurer appointment.

SECTION 6.  Section 302.021(a), Government Code, is amended to read as follows:

(a)  A speaker candidate or former speaker candidate commits an offense if the person:

(1)  knowingly fails to file the declaration of candidacy required by Section 302.0121;

(2)  knowingly fails to file the statement required by Section 302.013;

(3)  knowingly accepts a contribution, loan, or promise of a contribution or loan in violation of Section 302.0121(c);

(4)  [~~knowingly accepts a contribution, loan, or promise of a contribution or loan prohibited by Section 302.017 from a corporation, partnership, association, firm, union, foundation, committee, club, or other organization or group of persons;~~

[~~(5)~~]  knowingly accepts a contribution from a person who uses political contributions, interest earned on political contributions, or an asset purchased with political contributions to make the contribution in violation of Section 302.0191;

(5) [~~(6)~~]  expends campaign funds for any purpose other than those enumerated in Section 302.020;

(6) [~~(7)~~]  knowingly retains contributions, assets purchased with contributions, or interest or other income earned on contributions in violation of Section 302.0201(b); or

(7) [~~(8)~~]  knowingly fails to file the report of unexpended campaign funds as required by Section 302.0201(d).

SECTION 7.  Subchapter B, Chapter 571, Government Code, is amended by adding Section 571.033 to read as follows:

Sec. 571.033.  NOTIFICATION PROCEDURES. (a) Except as provided by Subsection (b), the commission may adopt rules prescribing how the commission will notify any person or provide any notice required by this subtitle, Chapter 305 of this code, or Title 15, Election Code.

(b)  Subsection (a) does not authorize the commission to adopt rules prescribing how the commission will notify any person or provide any notice required by Subchapter E or F of this chapter or how the commission will issue a warning of liability under Section 254.042(b), Election Code.

SECTION 8.  Section 571.071, Government Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c)  The commission may provide a seminar for persons required to register under Chapter 305 that addresses issues involving lobbying, political contributions and expenditures, and other issues as determined by the commission. The commission may charge a fee for attending the seminar in an amount necessary to cover the costs associated with the seminar, including the cost of providing food or nonalcoholic beverages to attendees.

(d)  The commission may provide a seminar that addresses the laws administered and enforced by the commission and any other relevant laws, as determined by the commission. The commission may charge a fee for attending the seminar in an amount necessary to cover the costs associated with the seminar, including the cost of providing food or nonalcoholic beverages to attendees.

SECTION 9.  Section 572.023(b), Government Code, is amended to read as follows:

(b)  The account of financial activity consists of:

(1)  a list of all sources of occupational income, identified by employer, or if self-employed, by the nature of the occupation, including identification of a person or other organization from which the individual or a business in which the individual has a substantial interest received a fee as a retainer for a claim on future services in case of need, as distinguished from a fee for services on a matter specified at the time of contracting for or receiving the fee, if professional or occupational services are not actually performed during the reporting period equal to or in excess of the amount of the retainer, and the category of the amount of the fee;

(2)  identification by name and the category of the greatest number of shares of stock of any nonpublicly traded business entity held or acquired, and if sold, the category of the amount of net gain or loss realized from the sale;

(2-a) identification by stock symbol and the category of the number of shares of stock of any publicly traded corporation held;

(3)  a list of all bonds, notes, and other commercial paper held or acquired, and if sold, the category of the amount of net gain or loss realized from the sale;

(4)  identification of each source and the category of the amount of income in excess of $500 derived from each source from interest, dividends, royalties, and rents;

(5)  identification of each guarantor of a loan and identification of each person or financial institution to whom a personal note or notes or lease agreement for a total financial liability in excess of $1,000 existed at any time during the year and the category of the amount of the liability;

(6)  identification by description of all beneficial interests in real property and business entities held or acquired, and if sold, the category of the amount of the net gain or loss realized from the sale;

(7)  identification of a person or other organization from which the individual or the individual's spouse or dependent children received a gift of anything of value in excess of $250 and a description of each gift, except:

(A)  a gift received from an individual related to the individual at any time within the second degree by consanguinity or affinity, as determined under Subchapter B, Chapter 573;

(B)  a political contribution that was reported as required by Chapter 254, Election Code; and

(C)  an expenditure required to be reported by a person required to be registered under Chapter 305;

(8)  identification of the source and the category of the amount of all income received as beneficiary of a trust, other than a blind trust that complies with Subsection (c), and identification of each trust asset, if known to the beneficiary, from which income was received by the beneficiary in excess of $500;

(9)  identification:

(A)  by description of a corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other business association in which five percent or more of the outstanding ownership was held, acquired, or sold; and

(B)  by description and the category of the amount of all assets and liabilities of a corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other business association in which 50 percent or more of the outstanding ownership was held, acquired, or sold;

(10)  a list of all boards of directors of which the individual is a member and executive positions that the individual holds in corporations, firms, partnerships, limited partnerships, limited liability partnerships, professional corporations, professional associations, joint ventures, or other business associations or proprietorships, stating the name of each corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other business association or proprietorship and the position held;

(11)  identification of any person providing transportation, meals, or lodging expenses permitted under Section 36.07(b), Penal Code, and the amount of those expenses, other than expenditures required to be reported under Chapter 305;

(12)  any corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other business association, excluding a publicly held corporation, in which both the individual and a person registered under Chapter 305 have an interest;

(13)  identification by name and the category of the number of shares of any mutual fund held or acquired, and if sold, the category of the amount of net gain or loss realized from the sale;

(14)  identification of each blind trust that complies with Subsection (c), including:

(A)  the category of the fair market value of the trust;

(B)  the date the trust was created;

(C)  the name and address of the trustee; and

(D)  a statement signed by the trustee, under penalty of perjury, stating that:

(i)  the trustee has not revealed any information to the individual, except information that may be disclosed under Subdivision (8); and

(ii)  to the best of the trustee's knowledge, the trust complies with this section;

(15)  if the aggregate cost of goods or services sold under one or more written contracts described by this subdivision exceeds $10,000 in the year covered by the report, identification of each written contract, including the name of each party to the contract:

(A)  for the sale of goods or services in the amount of $2,500 or more;

(B)  to which the individual, the individual's spouse, the individual's dependent child, or any business entity of which the individual, the individual's spouse, or the individual's dependent child, independently or in conjunction with one or more persons described by this subsection, has at least a 50 percent ownership interest is a party; and

(C)  with:

(i)  a governmental entity; or

(ii)  a person who contracts with a governmental entity, if the individual or entity described by Paragraph (B) performs work arising out of the contract, subcontract, or agreement between the person and the governmental entity for a fee; and

(16)  if the individual is a member of the legislature and provides bond counsel services to an issuer, as defined by Section 1201.002(1), identification of the following for each issuance for which the individual served as bond counsel:

(A)  the amount of the issuance;

(B)  the name of the issuer;

(C)  the date of the issuance;

(D)  the amount of fees paid to the individual, and whether the amount is:

(i)  less than $5,000;

(ii)  at least $5,000 but less than $10,000;

(iii)  at least $10,000 but less than $25,000; or

(iv)  $25,000 or more; and

(E)  the amount of fees paid to the individual's firm, if applicable, and whether the amount is:

(i)  less than $5,000;

(ii)  at least $5,000 but less than $10,000;

(iii)  at least $10,000 but less than $25,000; or

(iv)  $25,000 or more.

SECTION 10.  Subchapter B, Chapter 572, Government Code, is amended by adding Section 572.0292 to read as follows:

Sec. 572.0292.  RECORDKEEPING REQUIRED. (a) Each individual who files with the commission a financial statement required by this subchapter shall maintain a record of the information that is necessary for filing the financial statement.

(b)  An individual required to maintain a record under this section shall preserve the record for at least three years beginning on the filing deadline for the financial statement containing the information in the record.

SECTION 11.  The heading to Section 572.030, Government Code, is amended to read as follows:

Sec. 572.030.  PREPARATION [~~AND MAILING~~] OF FORMS; NOTICE OF FILING REQUIREMENTS.

SECTION 12.  Sections 572.030(b), (c), and (d), Government Code, are amended to read as follows:

(b)  The commission shall notify [~~mail to~~] each individual required to file under this subchapter of [~~a notice that~~]:

(1)  the requirement [~~states~~] that the individual [~~is required to~~] file a financial statement under this subchapter;

(2)  [~~identifies~~] the filing dates for the financial statement as provided by Sections 572.026 and 572.027; and

(3)  [~~describes~~] the manner in which the individual may electronically file the financial statement and access instructions for filing financial statements on [~~obtain the financial statement forms and instructions from~~] the commission's Internet website[~~;~~

[~~(4)  states that on request of the individual, the commission will mail to the individual a copy of the financial statement forms and instructions; and~~

[~~(5)  states, if applicable, the fee for mailing the forms and instructions and the manner in which the individual may pay the fee~~].

(c)  Except as provided by commission rule, the notification [~~The notice~~] required by Subsection (b) must be provided [~~mailed~~]:

(1)  before the 30th day before the deadline for filing the financial statement under Section 572.026(a) or (c), except as otherwise provided by this subsection;

(2)  not later than the 15th day after the applicable deadline for filing an application for a place on the ballot or a declaration of write-in candidacy for candidates required to file under Section 572.027(a), (b), or (c);

(3)  not later than the seventh day after the date of appointment for individuals required to file under Section 572.026(b), or if the legislature is in session, sooner if possible; and

(4)  not later than the fifth day after the date the certificate of nomination is filed for candidates required to file under Section 572.027(d) [~~574.027(d)~~].

(d)  Except as provided by commission rule, the [~~The~~] commission shall mail a copy of the financial statement forms and instructions to an individual not later than the third business day after the date the commission receives the individual's request for the forms and instructions.

SECTION 13.  Section 572.032, Government Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a)  Financial statements filed under this subchapter are public records. The commission shall maintain the statements in separate alphabetical files and in a manner that is accessible to the public during regular office hours and make the statements available to the public on the commission's Internet website not later than the 15th day after the date the statement is required to be filed or is actually filed, whichever is later.

(d)  The commission is not required to continue to make available on its Internet website a financial statement that may be destroyed under Subsection (c). The commission may not make available on its Internet website a financial statement that the commission is required to destroy under Subsection (c).

SECTION 14.  Section 572.032(a-1), Government Code, as amended by Chapters 34 (S.B. 1576) and 983 (H.B. 776), Acts of the 85th Legislature, Regular Session, 2017, is reenacted and amended to read as follows:

(a-1)  The commission shall remove the home address, the telephone number, and the names of the dependent children of an individual from a financial statement filed by the individual under this subchapter before:

(1)  permitting a member of the public to view the statement;

(2)  providing a copy of the statement to a member of the public; or

(3)  making the statement available to the public on the commission's Internet website[~~, if the commission makes statements filed under this subchapter available on its website~~].

SECTION 15.  The following laws are repealed:

(1)  Section 253.037, Election Code; and

(2)  Sections 302.017, 302.019, and 572.032(b), Government Code.

SECTION 16.  Section 253.006, Election Code, as added by this Act, applies only to a political contribution or a political expenditure made on or after the effective date of this Act.

SECTION 17.  The changes in law made by this Act apply 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 18.  The changes in law made by this Act to Chapter 572, Government Code, apply only to a financial statement due on or after the effective date of this Act. A financial statement due before the effective date of this Act is governed by the law in effect on the date the financial statement was due, and the former law is continued in effect for that purpose.

SECTION 19.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.