By:  Klick, et al. (Senate Sponsor - Fallon) H.B. No. 3233

(In the Senate - Received from the House May 6, 2019; May 7, 2019, read first time and referred to Committee on State Affairs; May 16, 2019, reported favorably by the following vote: Yeas 9, Nays 0; May 16, 2019, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Huffman         X

Hughes          X

Birdwell        X

Creighton       X

Fallon          X

Hall            X

Lucio           X

Nelson          X

Zaffirini       X

A BILL TO BE ENTITLED

AN ACT

relating to the Judicial Campaign Fairness Act.

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

SECTION 1.  Section 253.152, Election Code, is amended to read as follows:

Sec. 253.152.  DEFINITIONS. In this subchapter:

(1)  "Child" means a person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes [~~"Complying candidate" or "complying officeholder" means a judicial candidate who files a declaration of compliance under Section 253.164(a)(1)~~].

(2)  "In connection with an election" means:

(A)  with regard to a contribution that is designated in writing for a particular election, the election designated; or

(B)  with regard to a contribution that is not designated in writing for a particular election [~~or that is designated as an officeholder contribution~~], the next election for that office occurring after the contribution is made.

(3)  "Judicial district" means the territory from which a judicial candidate is elected or appointed.

(4)  "Law firm" means a partnership, limited liability partnership, limited liability company, professional corporation, or other entity organized for the practice of law.

(5)  "Law firm group" means:

(A)  a law firm;

(B)  a general-purpose committee established or controlled by the law firm or a member of the law firm;

(C)  a member of the law firm; and

(D)  the spouse of a member of the law firm.

(6)  "Member of a law firm" means:

(A)  a person designated "of counsel" or "of the firm";

(B)  a partner of the law firm, whether an individual or an entity;

(C)  an associate of the law firm;

(D)  a shareholder of the law firm, whether an individual or an entity; or

(E)  an employee of the law firm [~~"Noncomplying candidate" means a judicial candidate who:~~

[~~(A)  files a declaration of intent to exceed the limits on expenditures under Section 253.164(a)(2);~~

[~~(B)  files a declaration of compliance under Section 253.164(a)(1) but later exceeds the limits on expenditures;~~

[~~(C)  fails to file a declaration of compliance under Section 253.164(a)(1) or a declaration of intent under Section 253.164(a)(2); or~~

[~~(D)  violates Section 253.173 or 253.174~~].

(7) [~~(5)~~]  "Statewide judicial office" means the office of chief justice or justice, supreme court, or presiding judge or judge, court of criminal appeals.

SECTION 2.  The heading to Section 253.1541, Election Code, is amended to read as follows:

Sec. 253.1541.  ACCEPTANCE OF POLITICAL [~~OFFICEHOLDER~~] CONTRIBUTIONS BY PERSON APPOINTED TO FILL VACANCY.

SECTION 3.  Section 253.1541(b), Election Code, is amended to read as follows:

(b)  Notwithstanding Section 253.153, a person to whom this section applies may accept political [~~officeholder~~] contributions beginning on the date the person assumes the duties of office and ending on the 60th day after that date.

SECTION 4.  Section 253.155, Election Code, is amended by amending Subsections (a), (b), and (e) and adding Subsection (d-1) to read as follows:

(a)  A [~~Subject to Section 253.1621, a~~] judicial candidate or officeholder may not[~~, except as provided by Subsection (c),~~] knowingly accept political contributions from a person that, in the aggregate, exceed the contribution limits prescribed by Subsection (b) in connection with each election in which the judicial candidate's name appears on the ballot [~~person is involved~~].

(b)  The contribution limits under this section are:

(1)  for a statewide judicial office, $5,000; or

(2)  for any other judicial office:

(A)  $1,000, if the population of the judicial district is less than 250,000;

(B)  $2,500, if the population of the judicial district is 250,000 to one million; or

(C)  $5,000, if the population of the judicial district is more than one million.

(d-1)  In addition to the contribution limits imposed on each contributor under this section, a judicial candidate or officeholder may not accept a political contribution in excess of $50 from a person if:

(1)  the person is part of a law firm group; and

(2)  the contribution, when aggregated with all political contributions accepted by the candidate or officeholder from the same law firm group in connection with the election, would exceed six times the applicable contribution limit under this section.

(e)  A person who receives a political contribution that violates this section [~~Subsection (a)~~] shall return the contribution to the contributor not later than the later of:

(1)  the last day of the reporting period in which the contribution is received; or

(2)  the fifth day after the date the contribution is received.

SECTION 5.  The heading to Section 253.157, Election Code, is amended to read as follows:

Sec. 253.157.  LIMIT ON CONTRIBUTION BY [~~LAW FIRM OR MEMBER OR~~] GENERAL-PURPOSE COMMITTEES [~~COMMITTEE OF LAW FIRM~~].

SECTION 6.  Section 253.157, Election Code, is amended by adding Subsections (a-1) and (a-2) and amending Subsections (b) and (c) to read as follows:

(a-1)  A judicial candidate or officeholder may not knowingly accept political contributions from a general-purpose committee that, in the aggregate, exceed the contribution limits prescribed by this subsection in connection with an election in which the judicial candidate's name appears on the ballot. The contribution limits under this subsection are:

(1)  for a statewide judicial office, $25,000; or

(2)  for any other judicial office, $5,000.

(a-2)  In addition to the contribution limits imposed on each contribution in Subsection (a-1), a judicial candidate or officeholder may not accept a political contribution in excess of $50 from a general-purpose committee if the contribution, when aggregated with all political contributions from all general-purpose committees in connection with an election, would exceed:

(1)  for a statewide judicial office, $300,000;

(2)  for the office of chief justice or justice, court of appeals:

(A)  $75,000, if the population of the judicial district is more than one million; or

(B)  $52,500, if the population of the judicial district is one million or less; or

(3)  for an office other than an office included under Subdivision (1) or (2):

(A)  $52,500, if the population of the judicial district is more than one million;

(B)  $30,000, if the population of the judicial district is 250,000 to one million; or

(C)  $15,000, if the population of the judicial district is less than 250,000.

(b)  A person who receives a political contribution that violates this section [~~Subsection (a)~~] shall return the contribution to the contributor not later than the later of:

(1)  the last day of the reporting period in which the contribution is received; or

(2)  the fifth day after the date the contribution is received.

(c)  A person who violates this section [~~fails to return a political contribution as required by Subsection (b)~~] is liable for a civil penalty not to exceed three times the [~~total~~] amount of the political contributions accepted in violation of this section [~~from the law firm, members of the law firm, or general-purpose committees established or controlled by the law firm in connection with the election~~].

SECTION 7.  Sections 253.158, 253.159, and 253.1601, Election Code, are amended to read as follows:

Sec. 253.158.  CONTRIBUTION BY SPOUSE OR CHILD [~~CONSIDERED TO BE CONTRIBUTION BY INDIVIDUAL~~]. (a)  For purposes of this subchapter [~~Sections 253.155 and 253.157~~], a contribution by the spouse [~~or child~~] of an individual is not considered to be a contribution by the individual.

(b)  For purposes of this subchapter, a contribution by a child of an individual is considered to be a contribution by the individual [~~In this section, "child" means a person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes~~].

Sec. 253.159.  EXCEPTION TO CONTRIBUTION LIMITS. Section [~~Sections~~] 253.155 does [~~and 253.157 do~~] not apply to an individual who is related to the candidate or officeholder within the second degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code.

Sec. 253.1601.  CONTRIBUTION TO CERTAIN COMMITTEES CONSIDERED CONTRIBUTION TO CANDIDATE OR OFFICEHOLDER. For purposes of Sections 253.155 and[~~,~~] 253.157, [~~and 253.160,~~] a contribution to a specific-purpose committee for the purpose of supporting a judicial candidate, opposing the candidate's opponent, or assisting a judicial [~~the candidate as an~~] officeholder is considered to be a contribution to the candidate or officeholder.

SECTION 8.  Sections 253.161(a) and (b), Election Code, are amended to read as follows:

(a)  A judicial candidate or officeholder, a specific-purpose committee for supporting or opposing a judicial candidate, or a specific-purpose committee for assisting a judicial officeholder may not use a political contribution to make a campaign expenditure for judicial office or to make an officeholder expenditure in connection with a judicial office if the contribution was accepted while the candidate or officeholder:

(1)  was a candidate for an office other than a judicial office; or

(2)  held an office other than a judicial office, unless the person had become a candidate for judicial office and the contribution was made in connection with an election for judicial office.

(b)  A candidate, officeholder, or specific-purpose committee for supporting, opposing, or assisting the candidate or officeholder may not use a political contribution to make a campaign expenditure for an office other than a judicial office or to make an officeholder expenditure in connection with an office other than a judicial office if the contribution was accepted while the candidate or officeholder:

(1)  was a candidate for a judicial office; or

(2)  held a judicial office, unless the person had become a candidate for another office and the contribution was made in connection with an election for nonjudicial office.

SECTION 9.  Subchapter F, Chapter 253, Election Code, is amended by adding Section 253.1612 to read as follows:

Sec. 253.1612.  CERTAIN CAMPAIGN ACTIVITIES AUTHORIZED. The Code of Judicial Conduct may not prohibit, and a judicial candidate may not be penalized for, a joint campaign activity conducted by two or more judicial candidates.

SECTION 10.  Sections 253.162(a) and (c), Election Code, are amended to read as follows:

(a)  A [~~Subject to Section 253.1621, a~~] judicial candidate or officeholder who makes political expenditures from the person's personal funds or who accepts one or more political contributions in the form of a loan, including an extension of credit or guarantee of a loan or extension of credit, from one or more persons related to the candidate or officeholder within the second degree of affinity or consanguinity, as determined under Subchapter B, Chapter 573, Government Code, may not reimburse those [~~the~~] personal funds or repay those loans from political contributions in amounts that in the aggregate exceed, for each election in which the person's name appears on the ballot:

(1)  for a statewide judicial office, $100,000; or

(2)  for an office other than a statewide judicial office, five times the applicable contribution limit under Section 253.155.

(c)  A person who is both a candidate and an officeholder may reimburse the person's personal funds in only [~~in~~] one capacity.

SECTION 11.  Section 253.1621, Election Code, is amended to read as follows:

Sec. 253.1621.  APPLICATION OF CONTRIBUTION AND REIMBURSEMENT LIMITS TO CERTAIN CANDIDATES. (a)  For purposes of the [~~a~~] contribution limits [~~limit~~] prescribed by Section 253.155 or[~~,~~] 253.157[~~, or 253.160~~] and the limit on reimbursement of personal funds and repayment of certain loans prescribed by Section 253.162, the general and primary elections [~~election and general election for state and county officers~~] are considered separate elections for a candidate whose name appears on the ballot [~~to be a single election in which a judicial candidate is involved if the candidate:~~

[~~(1)  is unopposed in the primary election; or~~

[~~(2)  does not have an opponent in the general election whose name is to appear on the ballot~~].

(b)  For purposes of the [~~a candidate to whom Subsection (a) applies, each applicable~~] contribution limits [~~limit~~] prescribed by Sections [~~Section~~] 253.155 and[~~,~~] 253.157 and the limits on reimbursement of personal funds and repayment of certain loans prescribed by Section 253.162, a runoff election in which the candidate's name is on the ballot is considered a separate election[~~, or 253.160 is increased by 25 percent. A candidate who accepts political contributions from a person that in the aggregate exceed the applicable contribution limit prescribed by Section 253.155, 253.157, or 253.160 but that do not exceed the adjusted limit as determined under this subsecton may use the amount of those contributions that exceeds the limit prescribed by Section 253.155, 253.157, or 253.160 only for making an officeholder expenditure~~].

SECTION 12.  The heading to Section 253.167, Election Code, is amended to read as follows:

Sec. 253.167.  CERTIFICATION OF POPULATION;  NOTICE OF CONTRIBUTION [~~AND EXPENDITURE~~] LIMITS.

SECTION 13.  Section 253.167, Election Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b)  Following certification of population under Subsection (a), the commission or county clerk, as appropriate, shall make available to each candidate for an office covered by this subchapter written notice of the contribution [~~and expenditure~~] limits applicable to the office the candidate seeks.

(c)  The commission shall post the written certification required by this section on the commission's Internet website.

SECTION 14.  Section 253.171, Election Code, is amended to read as follows:

Sec. 253.171.  CONTRIBUTION FROM OR DIRECT CAMPAIGN EXPENDITURE BY POLITICAL PARTY. A political expenditure [~~(a)  Except as provided by Subsection (b), a political contribution to or a direct campaign expenditure on behalf of a complying candidate~~] that is made by the principal political committee of the state executive committee or a county executive committee of a political party [~~is considered to be a political expenditure by the candidate for purposes of the expenditure limits prescribed by Section 253.168.~~

[~~(b)  Subsection (a) does not apply to a political expenditure~~] for a generic get-out-the-vote campaign or to create and distribute [~~for~~] a written list of two or more candidates is not considered a contribution to a judicial candidate who benefits from the get-out-the-vote campaign or is included in the written list and is not subject to the limits of Section 253.155 or 253.157 if the get-out-the-vote campaign or written list [~~that~~]:

(1)  identifies the party's candidates by name and office sought, office held, or photograph;

(2)  does not include any reference to the judicial philosophy or positions on issues of the party's judicial candidates; and

(3)  is not broadcast, cablecast, published in a newspaper or magazine, or placed on a billboard.

SECTION 15.  Section 253.176(a), Election Code, is amended to read as follows:

(a)  The commission may impose a civil penalty against a person as provided by this subchapter only after a formal hearing as provided by Subchapter E, Chapter 571, Government Code.

SECTION 16.  Section 254.0611(b), Election Code, is amended to read as follows:

(b)  In this section:

(1)  "Child" and "law firm" have [~~has~~] the meanings [~~meaning~~] assigned by Section 253.152 [~~253.158~~].

(2)  "Member" has [~~"Law firm" and "member" have~~] the meaning [~~meanings~~] assigned to "member of a law firm" by Section 253.152 [~~253.157~~].

SECTION 17.  The following provisions of the Election Code are repealed:

(1)  Section 253.155(d);

(2)  Sections 253.157(a), (d), and (e);

(3)  Section 253.160;

(4)  Section 253.161(c);

(5)  Section 253.162(b);

(6)  Sections 253.163, 253.164, 253.165, 253.166, 253.168, 253.169, 253.170, 253.172, 253.173, 253.174, and 253.175; and

(7)  Section 253.176(c).

SECTION 18.  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.

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