

By: Davis of Harris

H.B. No. 1877

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

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

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

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

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

24 SECTION 3. Subchapter D, Chapter 253, Election Code, is

1 amended by adding Section 253.105 to read as follows:

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

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

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

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

12 (A) a candidate;

13 (B) an officeholder;

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

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

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

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

25 Sec. 254.161. NOTICE TO CANDIDATE AND OFFICEHOLDER OF
26 CONTRIBUTIONS AND EXPENDITURES. If a general-purpose committee
27 other than the principal political committee of a political party

1 or a political committee established by a political party's county
2 executive committee accepts political contributions or makes
3 political expenditures for a candidate or officeholder, notice of
4 that fact shall be given to the affected candidate or officeholder
5 as provided by Section 254.128 for a specific-purpose committee.
6 An out-of-state political committee that is required to comply with
7 this section shall designate an officer of the committee to provide
8 the notice.

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

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

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

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

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

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

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

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

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

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

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

10 (7) ~~(8)~~ knowingly fails to file the report of
11 unexpended campaign funds as required by Section 302.0201(d).

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

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

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

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

27 (c) The commission may provide a seminar for persons

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

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

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

15 (b) The account of financial activity consists of:

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

27 (2) identification by name and the category of the

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

4 (2-a) identification by stock symbol and the category
5 of the number of shares of stock of any publicly traded corporation
6 held;

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

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

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

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

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

26 (A) a gift received from an individual related to
27 the individual at any time within the second degree by

1 consanguinity or affinity, as determined under Subchapter B,
2 Chapter 573;

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

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

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

12 (9) identification:

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

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

24 (10) a list of all boards of directors of which the
25 individual is a member and executive positions that the individual
26 holds in corporations, firms, partnerships, limited partnerships,
27 limited liability partnerships, professional corporations,

1 professional associations, joint ventures, or other business
2 associations or proprietorships, stating the name of each
3 corporation, firm, partnership, limited partnership, limited
4 liability partnership, professional corporation, professional
5 association, joint venture, or other business association or
6 proprietorship and the position held;

7 (11) identification of any person providing
8 transportation, meals, or lodging expenses permitted under Section
9 36.07(b), Penal Code, and the amount of those expenses, other than
10 expenditures required to be reported under Chapter 305;

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

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

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

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

25 (B) the date the trust was created;

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

27 (D) a statement signed by the trustee, under

1 penalty of perjury, stating that:

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

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

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

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

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

20 (C) with:

21 (i) a governmental entity; or

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

27 (16) if the individual is a member of the legislature

1 and provides bond counsel services to an issuer, as defined by
2 Section 1201.002(1), identification of the following for each
3 issuance for which the individual served as bond counsel:

- 4 (A) the amount of the issuance;
- 5 (B) the name of the issuer;
- 6 (C) the date of the issuance;
- 7 (D) the amount of fees paid to the individual,
8 and whether the amount is:

- 9 (i) less than \$5,000;
- 10 (ii) at least \$5,000 but less than \$10,000;
- 11 (iii) at least \$10,000 but less than
12 \$25,000; or

- 13 (iv) \$25,000 or more; and

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

- 16 (i) less than \$5,000;
- 17 (ii) at least \$5,000 but less than \$10,000;
- 18 (iii) at least \$10,000 but less than
19 \$25,000; or

- 20 (iv) \$25,000 or more.

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

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

27 (b) An individual required to maintain a record under this

1 section shall preserve the record for at least three years
2 beginning on the filing deadline for the financial statement
3 containing the information in the record.

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

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

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

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

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

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

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

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

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

27 (c) Except as provided by commission rule, the notification

1 ~~[The notice]~~ required by Subsection (b) must be provided ~~[mailed]~~:

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

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

9 (3) not later than the seventh day after the date of
10 appointment for individuals required to file under Section
11 572.026(b), or if the legislature is in session, sooner if
12 possible; and

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

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

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

24 (a) Financial statements filed under this subchapter are
25 public records. The commission shall maintain the statements in
26 separate alphabetical files and in a manner that is accessible to
27 the public during regular office hours and make the statements

1 available to the public on the commission's Internet website not
2 later than the 15th day after the date the statement is required to
3 be filed or is actually filed, whichever is later.

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

9 SECTION 14. Section 572.032(a-1), Government Code, as
10 amended by Chapters 34 (S.B. 1576) and 983 (H.B. 776), Acts of the
11 85th Legislature, Regular Session, 2017, is reenacted and amended
12 to read as follows:

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

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

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

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

24 SECTION 15. The following laws are repealed:

25 (1) Section 253.037, Election Code; and

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

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

4 SECTION 17. The changes in law made by this Act apply only
5 to a political contribution made on or after the effective date of
6 this Act. A political contribution made before the effective date
7 of this Act is governed by the law in effect on the date the
8 contribution was made, and the former law is continued in effect for
9 that purpose.

10 SECTION 18. The changes in law made by this Act to Chapter
11 572, Government Code, apply only to a financial statement due on or
12 after the effective date of this Act. A financial statement due
13 before the effective date of this Act is governed by the law in
14 effect on the date the financial statement was due, and the former
15 law is continued in effect for that purpose.

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