

By: Klick, et al.

H.B. No. 3233

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;

(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.

1 (5) "Law firm group" means:

2 (A) a law firm;

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

5 (C) a member of the law firm; and

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

7 (6) "Member of a law firm" means:

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

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

12 (C) an associate of the law firm;

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

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

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

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

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

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

25 (7) [(5)] "Statewide judicial office" means the
26 office of chief justice or justice, supreme court, or presiding
27 judge or judge, court of criminal appeals.

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

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

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

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

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

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

20 (b) The contribution limits under this section are:

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

22 (2) for any other judicial office:

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

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

27 (C) \$5,000, if the population of the judicial

1 district is more than one million.

2 (d-1) In addition to the contribution limits imposed on each
3 contributor under this section, a judicial candidate or
4 officeholder may not accept a political contribution in excess of
5 \$50 from a person if:

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

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

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

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

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

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

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

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

26 (a-1) A judicial candidate or officeholder may not
27 knowingly accept political contributions from a general-purpose

1 committee that, in the aggregate, exceed the contribution limits
2 prescribed by this subsection in connection with an election in
3 which the judicial candidate's name appears on the ballot. The
4 contribution limits under this subsection are:

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

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

7 (a-2) In addition to the contribution limits imposed on each
8 contribution in Subsection (a-1), a judicial candidate or
9 officeholder may not accept a political contribution in excess of
10 \$50 from a general-purpose committee if the contribution, when
11 aggregated with all political contributions from all
12 general-purpose committees in connection with an election, would
13 exceed:

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

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

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

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

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

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

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

27 (C) \$15,000, if the population of the judicial

1 district is less than 250,000.

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

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

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

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

16 SECTION 7. Sections [253.158](#), [253.159](#), and [253.1601](#),
17 Election Code, are amended to read as follows:

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

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

1 Sec. 253.159. EXCEPTION TO CONTRIBUTION LIMITS. Section
2 ~~[Sections]~~ 253.155 does ~~[and 253.157 do]~~ not apply to an individual
3 who is related to the candidate or officeholder within the second
4 degree by consanguinity, as determined under Subchapter B, Chapter
5 573, Government Code.

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

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

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

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

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

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

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

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

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

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

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

20 (a) A [Subject to Section 253.1621, a] judicial candidate or
21 officeholder who makes political expenditures from the person's
22 personal funds or who accepts one or more political contributions
23 in the form of a loan, including an extension of credit or guarantee
24 of a loan or extension of credit, from one or more persons related
25 to the candidate or officeholder within the second degree of
26 affinity or consanguinity, as determined under Subchapter B,
27 Chapter 573, Government Code, may not reimburse those [the]

1 personal funds or repay those loans from political contributions in
2 amounts that in the aggregate exceed, for each election in which the
3 person's name appears on the ballot:

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

5 (2) for an office other than a statewide judicial
6 office, five times the applicable contribution limit under Section
7 [253.155](#).

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

10 SECTION 11. Section [253.1621](#), Election Code, is amended to
11 read as follows:

12 Sec. 253.1621. APPLICATION OF CONTRIBUTION AND
13 REIMBURSEMENT LIMITS TO CERTAIN CANDIDATES. (a) For purposes of
14 the [~~a~~] contribution limits [~~limit~~] prescribed by Section [253.155](#)
15 or [~~7~~] [253.157](#) [~~7~~ or [253.160](#)] and the limit on reimbursement of
16 personal funds and repayment of certain loans prescribed by Section
17 [253.162](#), the general and primary elections [~~election and general~~
18 ~~election for state and county officers~~] are considered separate
19 elections for a candidate whose name appears on the ballot [~~to be a~~
20 ~~single election in which a judicial candidate is involved if the~~
21 ~~candidate~~].

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

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

25 (b) For purposes of the [~~a candidate to whom Subsection (a)~~
26 ~~applies, each applicable~~] contribution limits [~~limit~~] prescribed
27 by Sections [~~Section~~] [253.155](#) and [~~7~~] [253.157](#) and the limits on

1 reimbursement of personal funds and repayment of certain loans
2 prescribed by Section 253.162, a runoff election in which the
3 candidate's name is on the ballot is considered a separate
4 election~~[, or 253.160 is increased by 25 percent. A candidate who~~
5 ~~accepts political contributions from a person that in the aggregate~~
6 ~~exceed the applicable contribution limit prescribed by Section~~
7 ~~253.155, 253.157, or 253.160 but that do not exceed the adjusted~~
8 ~~limit as determined under this subsection may use the amount of those~~
9 ~~contributions that exceeds the limit prescribed by Section 253.155,~~
10 ~~253.157, or 253.160 only for making an officeholder expenditure].~~

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

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

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

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

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

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

27 Sec. 253.171. CONTRIBUTION FROM OR DIRECT CAMPAIGN

1 EXPENDITURE BY POLITICAL PARTY. A political expenditure
2 ~~[(a) Except as provided by Subsection (b), a political~~
3 ~~contribution to or a direct campaign expenditure on behalf of a~~
4 ~~complying candidate]~~ that is made by the principal political
5 committee of the state executive committee or a county executive
6 committee of a political party ~~[is considered to be a political~~
7 ~~expenditure by the candidate for purposes of the expenditure limits~~
8 ~~prescribed by Section 253.168.~~

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

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

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

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

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

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

1 SECTION 16. Section [254.0611](#)(b), Election Code, is amended
2 to read as follows:

3 (b) In this section:

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

6 (2) "Member" has ~~["Law firm" and "member" have]~~ the
7 meaning ~~[meanings]~~ assigned to "member of a law firm" by Section
8 [253.152](#) ~~[[253.157](#)]~~.

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

11 (1) Section [253.155](#)(d);

12 (2) Sections [253.157](#)(a), (d), and (e);

13 (3) Section [253.160](#);

14 (4) Section [253.161](#)(c);

15 (5) Section [253.162](#)(b);

16 (6) Sections [253.163](#), [253.164](#), [253.165](#), [253.166](#),
17 [253.168](#), [253.169](#), [253.170](#), [253.172](#), [253.173](#), [253.174](#), and [253.175](#);

18 and

19 (7) Section [253.176](#)(c).

20 SECTION 18. This Act takes effect immediately if it
21 receives a vote of two-thirds of all the members elected to each
22 house, as provided by Section [39](#), Article III, Texas Constitution.
23 If this Act does not receive the vote necessary for immediate
24 effect, this Act takes effect September 1, 2019.