

By: Klick

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; 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, or professional corporation 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. Sections 253.155(a), (b), and (e), Election
12 Code, are amended to read as follows:

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

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

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

21 (2) for any other judicial office:

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

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

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

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

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

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

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

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

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

15 (a) In addition [~~Subject~~] to the contribution limits
16 imposed on each contributor under Section 253.155 [~~253.1621~~], a
17 judicial candidate or officeholder may not accept a political
18 contribution in excess of \$50 from a person if:

19 (1) the person is part of a law firm group [~~a member~~
20 ~~of a law firm, or a general-purpose committee established or~~
21 ~~controlled by a law firm~~]; and

22 (2) the contribution, when aggregated with all
23 political contributions accepted by the candidate or officeholder
24 from the same law firm group in connection with the election, [~~other~~
25 ~~members of the law firm, or a general-purpose committee established~~
26 ~~or controlled by the law firm in connection with the election~~] would
27 exceed six times the applicable contribution limit under Section

1 253.155.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (b) For purposes of this subchapter, a contribution by a
27 child of an individual is considered to be a contribution by the

1 individual [~~In this section, "child" means a person under 18 years~~
2 ~~of age who is not and has not been married or who has not had the~~
3 ~~disabilities of minority removed for general purposes].~~

4 Sec. 253.159. EXCEPTION TO CONTRIBUTION LIMITS. Section
5 [~~Sections~~] 253.155 does [~~and 253.157 do~~] not apply to an individual
6 who is related to the candidate or officeholder within the second
7 degree by consanguinity, as determined under Subchapter B, Chapter
8 573, Government Code.

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

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

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

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

27 (2) held an office other than a judicial office,

1 unless the person had become a candidate for judicial office and the
2 contribution was made in connection with an election for judicial
3 office.

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

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

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

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

17 Sec. 253.1612. CERTAIN CAMPAIGN ACTIVITIES AUTHORIZED. The
18 Code of Judicial Conduct may not prohibit, and a judicial candidate
19 may not be penalized for, a joint campaign activity conducted by two
20 or more judicial candidates if the joint campaign activity clearly
21 indicates that a judicial candidate conducting the activity does
22 not endorse another judicial or nonjudicial candidate.

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

25 (a) A [~~Subject to Section 253.1621, a~~] judicial candidate or
26 officeholder who makes political expenditures from the person's
27 personal funds or who accepts one or more political contributions

1 in the form of a loan, including an extension of credit or guarantee
2 of a loan or extension of credit, from one or more persons related
3 to the candidate or officeholder within the second degree of
4 affinity or consanguinity, as determined under Subchapter B,
5 Chapter 573, Government Code, may not reimburse those [the]
6 personal funds or repay those loans from political contributions in
7 amounts that in the aggregate exceed, for each election in which the
8 person's name appears on the ballot:

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

10 (2) for an office other than a statewide judicial
11 office, five times the applicable contribution limit under Section
12 253.155.

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

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

17 Sec. 253.1621. APPLICATION OF CONTRIBUTION AND
18 REIMBURSEMENT LIMITS TO CERTAIN CANDIDATES. (a) For purposes of
19 the [a] contribution limits [limit] prescribed by Section 253.155
20 or [7] 253.157 [7 or 253.160] and the limit on reimbursement of
21 personal funds and repayment of certain loans prescribed by Section
22 253.162, the general and primary elections [election and general
23 election for state and county officers] are considered separate
24 elections for a candidate whose name appears on the ballot [to be a
25 single election in which a judicial candidate is involved if the
26 candidate.

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

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

3 (b) For purposes of the ~~[a candidate to whom Subsection (a)~~
4 ~~applies, each applicable]~~ contribution limits ~~[limit]~~ prescribed
5 by Sections ~~[Section]~~ 253.155 and~~[7]~~ 253.157 and the limits on
6 reimbursement of personal funds and repayment of certain loans
7 prescribed by Section 253.162, a runoff election in which the
8 candidate's name is on the ballot is considered a separate
9 election~~[, or 253.160 is increased by 25 percent. A candidate who~~
10 ~~accepts political contributions from a person that in the aggregate~~
11 ~~exceed the applicable contribution limit prescribed by Section~~
12 ~~253.155, 253.157, or 253.160 but that do not exceed the adjusted~~
13 ~~limit as determined under this subsection may use the amount of those~~
14 ~~contributions that exceeds the limit prescribed by Section 253.155,~~
15 ~~253.157, or 253.160 only for making an officeholder expenditure].~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (b) In this section:

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

11 (2) "Member" has ~~["Law firm" and "member" have]~~ the
12 meaning ~~[meanings]~~ assigned to "member of a law firm" by Section
13 253.152 ~~[253.157]~~.

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

- 16 (1) Section 253.155(d);
- 17 (2) Sections 253.157(d) and (e);
- 18 (3) Section 253.160;
- 19 (4) Section 253.161(c);
- 20 (5) Section 253.162(b);
- 21 (6) Sections 253.163, 253.164, 253.165, 253.166,
22 253.168, 253.169, 253.170, 253.172, 253.173, 253.174, and 253.175;
23 and
- 24 (7) Section 253.176(c).

25 SECTION 18. This Act takes effect immediately if it
26 receives a vote of two-thirds of all the members elected to each
27 house, as provided by Section 39, Article III, Texas Constitution.

H.B. No. 3233

1 If this Act does not receive the vote necessary for immediate
2 effect, this Act takes effect September 1, 2019.