

1-1 By: Klick, et al. (Senate Sponsor - Fallon) H.B. No. 3233
 1-2 (In the Senate - Received from the House May 6, 2019;
 1-3 May 7, 2019, read first time and referred to Committee on State
 1-4 Affairs; May 16, 2019, reported favorably by the following vote:
 1-5 Yeas 9, Nays 0; May 16, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the Judicial Campaign Fairness Act.
 1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-21 SECTION 1. Section [253.152](#), Election Code, is amended to
 1-22 read as follows:
 1-23 Sec. 253.152. DEFINITIONS. In this subchapter:
 1-24 (1) "Child" means a person under 18 years of age who is
 1-25 not and has not been married or who has not had the disabilities of
 1-26 minority removed for general purposes [~~"Complying candidate" or~~
 1-27 ~~"complying officeholder" means a judicial candidate who files a~~
 1-28 ~~declaration of compliance under Section [253.164\(a\)\(1\)](#)].
 1-29 (2) "In connection with an election" means:
 1-30 (A) with regard to a contribution that is
 1-31 designated in writing for a particular election, the election
 1-32 designated; or
 1-33 (B) with regard to a contribution that is not
 1-34 designated in writing for a particular election [~~or that is~~
 1-35 ~~designated as an officeholder contribution~~], the next election for
 1-36 that office occurring after the contribution is made.
 1-37 (3) "Judicial district" means the territory from which
 1-38 a judicial candidate is elected or appointed.
 1-39 (4) "Law firm" means a partnership, limited liability
 1-40 partnership, limited liability company, professional corporation,
 1-41 or other entity organized for the practice of law.
 1-42 (5) "Law firm group" means:
 1-43 (A) a law firm;
 1-44 (B) a general-purpose committee established or
 1-45 controlled by the law firm or a member of the law firm;
 1-46 (C) a member of the law firm; and
 1-47 (D) the spouse of a member of the law firm.
 1-48 (6) "Member of a law firm" means:
 1-49 (A) a person designated "of counsel" or "of the
 1-50 firm";
 1-51 (B) a partner of the law firm, whether an
 1-52 individual or an entity;
 1-53 (C) an associate of the law firm;
 1-54 (D) a shareholder of the law firm, whether an
 1-55 individual or an entity; or
 1-56 (E) an employee of the law firm [~~"Noncomplying~~
 1-57 ~~candidate" means a judicial candidate who:~~
 1-58 [~~(A) files a declaration of intent to exceed the~~
 1-59 ~~limits on expenditures under Section [253.164\(a\)\(2\)](#);~~
 1-60 [~~(B) files a declaration of compliance under~~
 1-61 ~~Section [253.164\(a\)\(1\)](#) but later exceeds the limits on expenditures;~~~~

2-1 ~~[(C) fails to file a declaration of compliance~~
 2-2 ~~under Section 253.164(a)(1) or a declaration of intent under~~
 2-3 ~~Section 253.164(a)(2); or~~

2-4 ~~[(D) violates Section 253.173 or 253.174].~~

2-5 (7) ~~[(5)]~~ "Statewide judicial office" means the
 2-6 office of chief justice or justice, supreme court, or presiding
 2-7 judge or judge, court of criminal appeals.

2-8 SECTION 2. The heading to Section 253.1541, Election Code,
 2-9 is amended to read as follows:

2-10 Sec. 253.1541. ACCEPTANCE OF POLITICAL ~~[OFFICEHOLDER]~~
 2-11 CONTRIBUTIONS BY PERSON APPOINTED TO FILL VACANCY.

2-12 SECTION 3. Section 253.1541(b), Election Code, is amended
 2-13 to read as follows:

2-14 (b) Notwithstanding Section 253.153, a person to whom this
 2-15 section applies may accept political ~~[officeholder]~~ contributions
 2-16 beginning on the date the person assumes the duties of office and
 2-17 ending on the 60th day after that date.

2-18 SECTION 4. Section 253.155, Election Code, is amended by
 2-19 amending Subsections (a), (b), and (e) and adding Subsection (d-1)
 2-20 to read as follows:

2-21 (a) A ~~[Subject to Section 253.1621, a]~~ judicial candidate or
 2-22 ~~officeholder~~ may not ~~[, except as provided by Subsection (c),]~~
 2-23 knowingly accept political contributions from a person that, in the
 2-24 aggregate, exceed the contribution limits prescribed by Subsection
 2-25 (b) in connection with each election in which the judicial
 2-26 candidate's name appears on the ballot ~~[person is involved].~~

2-27 (b) The contribution limits under this section are:

2-28 (1) for a statewide judicial office, \$5,000; or

2-29 (2) for any other judicial office:

2-30 (A) \$1,000, if the population of the judicial
 2-31 district is less than 250,000;

2-32 (B) \$2,500, if the population of the judicial
 2-33 district is 250,000 to one million; or

2-34 (C) \$5,000, if the population of the judicial
 2-35 district is more than one million.

2-36 (d-1) In addition to the contribution limits imposed on each
 2-37 contributor under this section, a judicial candidate or
 2-38 officeholder may not accept a political contribution in excess of
 2-39 \$50 from a person if:

2-40 (1) the person is part of a law firm group; and

2-41 (2) the contribution, when aggregated with all
 2-42 political contributions accepted by the candidate or officeholder
 2-43 from the same law firm group in connection with the election, would
 2-44 exceed six times the applicable contribution limit under this
 2-45 section.

2-46 (e) A person who receives a political contribution that
 2-47 violates this section ~~[Subsection (a)]~~ shall return the
 2-48 contribution to the contributor not later than the later of:

2-49 (1) the last day of the reporting period in which the
 2-50 contribution is received; or

2-51 (2) the fifth day after the date the contribution is
 2-52 received.

2-53 SECTION 5. The heading to Section 253.157, Election Code,
 2-54 is amended to read as follows:

2-55 Sec. 253.157. LIMIT ON CONTRIBUTION BY ~~[LAW FIRM OR MEMBER~~
 2-56 ~~OR] GENERAL-PURPOSE COMMITTEES~~ ~~[COMMITTEE OF LAW FIRM].~~

2-57 SECTION 6. Section 253.157, Election Code, is amended by
 2-58 adding Subsections (a-1) and (a-2) and amending Subsections (b) and
 2-59 (c) to read as follows:

2-60 (a-1) A judicial candidate or officeholder may not
 2-61 knowingly accept political contributions from a general-purpose
 2-62 committee that, in the aggregate, exceed the contribution limits
 2-63 prescribed by this subsection in connection with an election in
 2-64 which the judicial candidate's name appears on the ballot. The
 2-65 contribution limits under this subsection are:

2-66 (1) for a statewide judicial office, \$25,000; or

2-67 (2) for any other judicial office, \$5,000.

2-68 (a-2) In addition to the contribution limits imposed on each
 2-69 contribution in Subsection (a-1), a judicial candidate or

3-1 officeholder may not accept a political contribution in excess of
 3-2 \$50 from a general-purpose committee if the contribution, when
 3-3 aggregated with all political contributions from all
 3-4 general-purpose committees in connection with an election, would
 3-5 exceed:

3-6 (1) for a statewide judicial office, \$300,000;
 3-7 (2) for the office of chief justice or justice, court
 3-8 of appeals:

3-9 (A) \$75,000, if the population of the judicial
 3-10 district is more than one million; or

3-11 (B) \$52,500, if the population of the judicial
 3-12 district is one million or less; or

3-13 (3) for an office other than an office included under
 3-14 Subdivision (1) or (2):

3-15 (A) \$52,500, if the population of the judicial
 3-16 district is more than one million;

3-17 (B) \$30,000, if the population of the judicial
 3-18 district is 250,000 to one million; or

3-19 (C) \$15,000, if the population of the judicial
 3-20 district is less than 250,000.

3-21 (b) A person who receives a political contribution that
 3-22 violates this section [~~Subsection (a)~~] shall return the
 3-23 contribution to the contributor not later than the later of:

3-24 (1) the last day of the reporting period in which the
 3-25 contribution is received; or

3-26 (2) the fifth day after the date the contribution is
 3-27 received.

3-28 (c) A person who violates this section [~~fails to return a~~
 3-29 ~~political contribution as required by Subsection (b)~~] is liable for
 3-30 a civil penalty not to exceed three times the [~~total~~] amount of the
 3-31 political contributions accepted in violation of this section [~~from~~
 3-32 ~~the law firm, members of the law firm, or general-purpose~~
 3-33 ~~committees established or controlled by the law firm in connection~~
 3-34 ~~with the election~~].

3-35 SECTION 7. Sections 253.158, 253.159, and 253.1601,
 3-36 Election Code, are amended to read as follows:

3-37 Sec. 253.158. CONTRIBUTION BY SPOUSE OR CHILD [~~CONSIDERED~~
 3-38 ~~TO BE CONTRIBUTION BY INDIVIDUAL~~]. (a) For purposes of this
 3-39 subchapter [~~Sections 253.155 and 253.157~~], a contribution by the
 3-40 spouse [~~or child~~] of an individual is not considered to be a
 3-41 contribution by the individual.

3-42 (b) For purposes of this subchapter, a contribution by a
 3-43 child of an individual is considered to be a contribution by the
 3-44 individual [~~In this section, "child" means a person under 18 years~~
 3-45 ~~of age who is not and has not been married or who has not had the~~
 3-46 ~~disabilities of minority removed for general purposes~~].

3-47 Sec. 253.159. EXCEPTION TO CONTRIBUTION LIMITS. Section
 3-48 [~~Sections~~] 253.155 does [~~and 253.157 do~~] not apply to an individual
 3-49 who is related to the candidate or officeholder within the second
 3-50 degree by consanguinity, as determined under Subchapter B, Chapter
 3-51 573, Government Code.

3-52 Sec. 253.1601. CONTRIBUTION TO CERTAIN COMMITTEES
 3-53 CONSIDERED CONTRIBUTION TO CANDIDATE OR OFFICEHOLDER. For purposes
 3-54 of Sections 253.155 and [~~7~~] 253.157, [~~and 253.160~~], a contribution
 3-55 to a specific-purpose committee for the purpose of supporting a
 3-56 judicial candidate, opposing the candidate's opponent, or
 3-57 assisting a judicial [~~the candidate as an~~] officeholder is
 3-58 considered to be a contribution to the candidate or officeholder.

3-59 SECTION 8. Sections 253.161(a) and (b), Election Code, are
 3-60 amended to read as follows:

3-61 (a) A judicial candidate or officeholder, a
 3-62 specific-purpose committee for supporting or opposing a judicial
 3-63 candidate, or a specific-purpose committee for assisting a judicial
 3-64 officeholder may not use a political contribution to make a
 3-65 campaign expenditure for judicial office or to make an officeholder
 3-66 expenditure in connection with a judicial office if the
 3-67 contribution was accepted while the candidate or officeholder:

3-68 (1) was a candidate for an office other than a judicial
 3-69 office; or

4-1 (2) held an office other than a judicial office,
 4-2 unless the person had become a candidate for judicial office and the
 4-3 contribution was made in connection with an election for judicial
 4-4 office.

4-5 (b) A candidate, officeholder, or specific-purpose
 4-6 committee for supporting, opposing, or assisting the candidate or
 4-7 officeholder may not use a political contribution to make a
 4-8 campaign expenditure for an office other than a judicial office or
 4-9 to make an officeholder expenditure in connection with an office
 4-10 other than a judicial office if the contribution was accepted while
 4-11 the candidate or officeholder:

4-12 (1) was a candidate for a judicial office; or
 4-13 (2) held a judicial office, unless the person had
 4-14 become a candidate for another office and the contribution was made
 4-15 in connection with an election for nonjudicial office.

4-16 SECTION 9. Subchapter F, Chapter 253, Election Code, is
 4-17 amended by adding Section 253.1612 to read as follows:

4-18 Sec. 253.1612. CERTAIN CAMPAIGN ACTIVITIES AUTHORIZED. The
 4-19 Code of Judicial Conduct may not prohibit, and a judicial candidate
 4-20 may not be penalized for, a joint campaign activity conducted by two
 4-21 or more judicial candidates.

4-22 SECTION 10. Sections 253.162(a) and (c), Election Code, are
 4-23 amended to read as follows:

4-24 (a) A [Subject to Section 253.1621, a] judicial candidate or
 4-25 officeholder who makes political expenditures from the person's
 4-26 personal funds or who accepts one or more political contributions
 4-27 in the form of a loan, including an extension of credit or guarantee
 4-28 of a loan or extension of credit, from one or more persons related
 4-29 to the candidate or officeholder within the second degree of
 4-30 affinity or consanguinity, as determined under Subchapter B,
 4-31 Chapter 573, Government Code, may not reimburse those [the]
 4-32 personal funds or repay those loans from political contributions in
 4-33 amounts that in the aggregate exceed, for each election in which the
 4-34 person's name appears on the ballot:

4-35 (1) for a statewide judicial office, \$100,000; or
 4-36 (2) for an office other than a statewide judicial
 4-37 office, five times the applicable contribution limit under Section
 4-38 253.155.

4-39 (c) A person who is both a candidate and an officeholder may
 4-40 reimburse the person's personal funds in only [in] one capacity.

4-41 SECTION 11. Section 253.1621, Election Code, is amended to
 4-42 read as follows:

4-43 Sec. 253.1621. APPLICATION OF CONTRIBUTION AND
 4-44 REIMBURSEMENT LIMITS TO CERTAIN CANDIDATES. (a) For purposes of
 4-45 the [a] contribution limits [limit] prescribed by Section 253.155
 4-46 or [7] 253.157 [7, or 253.160] and the limit on reimbursement of
 4-47 personal funds and repayment of certain loans prescribed by Section
 4-48 253.162, the general and primary elections [election and general
 4-49 election for state and county officers] are considered separate
 4-50 elections for a candidate whose name appears on the ballot [to be a
 4-51 single election in which a judicial candidate is involved if the
 4-52 candidate:

4-53 [(1) is unopposed in the primary election; or
 4-54 [(2) does not have an opponent in the general election
 4-55 whose name is to appear on the ballot].

4-56 (b) For purposes of the [a candidate to whom Subsection (a)
 4-57 applies, each applicable] contribution limits [limit] prescribed
 4-58 by Sections [Section] 253.155 and [7] 253.157 and the limits on
 4-59 reimbursement of personal funds and repayment of certain loans
 4-60 prescribed by Section 253.162, a runoff election in which the
 4-61 candidate's name is on the ballot is considered a separate
 4-62 election [7, or 253.160 is increased by 25 percent. A candidate who
 4-63 accepts political contributions from a person that in the aggregate
 4-64 exceed the applicable contribution limit prescribed by Section
 4-65 253.155, 253.157, or 253.160 but that do not exceed the adjusted
 4-66 limit as determined under this subsection may use the amount of those
 4-67 contributions that exceeds the limit prescribed by Section 253.155,
 4-68 253.157, or 253.160 only for making an officeholder expenditure].

4-69 SECTION 12. The heading to Section 253.167, Election Code,

5-1 is amended to read as follows:

5-2 Sec. 253.167. CERTIFICATION OF POPULATION; NOTICE OF
5-3 CONTRIBUTION ~~[AND EXPENDITURE]~~ LIMITS.

5-4 SECTION 13. Section 253.167, Election Code, is amended by
5-5 amending Subsection (b) and adding Subsection (c) to read as
5-6 follows:

5-7 (b) Following certification of population under Subsection
5-8 (a), the commission or county clerk, as appropriate, shall make
5-9 available to each candidate for an office covered by this
5-10 subchapter written notice of the contribution ~~[and expenditure]~~
5-11 limits applicable to the office the candidate seeks.

5-12 (c) The commission shall post the written certification
5-13 required by this section on the commission's Internet website.

5-14 SECTION 14. Section 253.171, Election Code, is amended to
5-15 read as follows:

5-16 Sec. 253.171. CONTRIBUTION FROM OR DIRECT CAMPAIGN
5-17 EXPENDITURE BY POLITICAL PARTY. A political expenditure
5-18 ~~[(a) Except as provided by Subsection (b), a political~~
5-19 ~~contribution to or a direct campaign expenditure on behalf of a~~
5-20 ~~complying candidate]~~ that is made by the principal political
5-21 committee of the state executive committee or a county executive
5-22 committee of a political party ~~[is considered to be a political~~
5-23 ~~expenditure by the candidate for purposes of the expenditure limits~~
5-24 ~~prescribed by Section 253.168.~~

5-25 ~~[(b) Subsection (a) does not apply to a political~~
5-26 ~~expenditure]~~ for a generic get-out-the-vote campaign or to create
5-27 and distribute [for] a written list of two or more candidates is not
5-28 considered a contribution to a judicial candidate who benefits from
5-29 the get-out-the-vote campaign or is included in the written list
5-30 and is not subject to the limits of Section 253.155 or 253.157 if
5-31 the get-out-the-vote campaign or written list [that]:

5-32 (1) identifies the party's candidates by name and
5-33 office sought, office held, or photograph;

5-34 (2) does not include any reference to the judicial
5-35 philosophy or positions on issues of the party's judicial
5-36 candidates; and

5-37 (3) is not broadcast, cablecast, published in a
5-38 newspaper or magazine, or placed on a billboard.

5-39 SECTION 15. Section 253.176(a), Election Code, is amended
5-40 to read as follows:

5-41 (a) The commission may impose a civil penalty against a
5-42 person as provided by this subchapter only after a formal hearing as
5-43 provided by Subchapter E, Chapter 571, Government Code.

5-44 SECTION 16. Section 254.0611(b), Election Code, is amended
5-45 to read as follows:

5-46 (b) In this section:

5-47 (1) "Child" and "law firm" have ~~[has]~~ the meanings
5-48 ~~[meaning]~~ assigned by Section 253.152 ~~[253.158]~~.

5-49 (2) "Member" has ~~["Law firm" and "member" have]~~ the
5-50 meaning [meanings] assigned to "member of a law firm" by Section
5-51 253.152 [253.157].

5-52 SECTION 17. The following provisions of the Election Code
5-53 are repealed:

5-54 (1) Section 253.155(d);

5-55 (2) Sections 253.157(a), (d), and (e);

5-56 (3) Section 253.160;

5-57 (4) Section 253.161(c);

5-58 (5) Section 253.162(b);

5-59 (6) Sections 253.163, 253.164, 253.165, 253.166,
5-60 253.168, 253.169, 253.170, 253.172, 253.173, 253.174, and 253.175;
5-61 and

5-62 (7) Section 253.176(c).

5-63 SECTION 18. This Act takes effect immediately if it
5-64 receives a vote of two-thirds of all the members elected to each
5-65 house, as provided by Section 39, Article III, Texas Constitution.
5-66 If this Act does not receive the vote necessary for immediate
5-67 effect, this Act takes effect September 1, 2019.

5-68

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