BILL ANALYSIS

BACKGROUND AND PURPOSE

When a campaign donation is made using a credit card, the credit card company will often deduct the processing fee from the donation. On October 30, 2013, the Texas Ethics Commission (TEC) issued an advisory opinion regarding the reporting of campaign contributions incurring a credit card processing fee. The TEC advises that in this scenario, the candidate must report the full amount the donor intended to contribute as a political contribution, and report the deducted processing fee as a political expenditure. However, this requirement has never been formally codified into law. Another related scenario occurs when the credit card company gives the donor the option to defray the processing fee at additional cost. Current law requires the candidate to report the full amount they intended to donate as one contribution and the defrayed processing fee as a separate, in-kind donation. Without clear guidance, the requirements involving the reporting of credit card processing fees are confusing to inexperienced candidates. C.S.H.B. 3372 seeks to address these issues by establishing explicit reporting requirements for political contributions made using a credit card and by allowing candidates to aggregate all in-kind donations involving defrayed processing fees for the reporting period into a single donation.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3372 amends the Election Code to require a candidate or officeholder who accepts a reportable political contribution made using a credit card to do the following with respect to a campaign finance report:
- if a processing fee is deducted by the credit card issuer from the political contribution amount:
  - report the full amount as a political contribution, including the deducted amount; and
  - report any such deducted amount as a political expenditure; and
- if a processing fee is paid by the person making the political contribution in excess of the political contribution amount:
  - report as a political contribution the full amount, not including the amount paid in excess of the political contribution amount; and
  - report as an in-kind contribution the amount paid in excess of the political contribution amount.

The bill authorizes a candidate or officeholder to aggregate those in-kind contributions for the reporting period during which the in-kind contributions are accepted for purposes of reporting in-kind contributions. The requirement applies only to a campaign finance report that is required to be filed on or after January 1, 2024.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3372 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a requirement absent from the introduced for a candidate or officeholder who accepts a political contribution made using a credit card for which a processing fee is paid by the person making the political contribution in excess of the political contribution amount to do the following:
- report the full amount as a political contribution, not including the amount paid in excess of the political contribution amount; and
- report as an in-kind contribution the amount paid in excess of the political contribution amount.

The substitute authorizes a candidate or officeholder to aggregate those in-kind contributions for the applicable reporting period, whereas the introduced did not include that authorization.