

By: Hughes, et al.

S.B. No. 2035

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting contributions, expenditures, and related activities involving political committees that support or oppose a ballot measure; creating a criminal offense; providing a civil penalty.

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

SECTION 1. Section 51.014(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) A person may appeal from an interlocutory order of a district court, county court at law, statutory probate court, or county court that:

(1) appoints a receiver or trustee;

(2) overrules a motion to vacate an order that appoints a receiver or trustee;

(3) certifies or refuses to certify a class in a suit brought under Rule 42 of the Texas Rules of Civil Procedure;

(4) grants or refuses a temporary injunction or grants or overrules a motion to dissolve a temporary injunction as provided by Chapter 65;

(5) denies a motion for summary judgment that is based on an assertion of immunity by an individual who is an officer or employee of the state or a political subdivision of the state;

(6) denies a motion for summary judgment that is based in whole or in part upon a claim against or defense by a member of

1 the electronic or print media, acting in such capacity, or a person
2 whose communication appears in or is published by the electronic or
3 print media, arising under the free speech or free press clause of
4 the First Amendment to the United States Constitution, or Article
5 I, Section 8, of the Texas Constitution, or Chapter 73;

6 (7) grants or denies the special appearance of a
7 defendant under Rule 120a, Texas Rules of Civil Procedure, except
8 in a suit brought under the Family Code;

9 (8) grants or denies a plea to the jurisdiction by a
10 governmental unit as that term is defined in Section 101.001;

11 (9) denies all or part of the relief sought by a motion
12 under Section 74.351(b), except that an appeal may not be taken from
13 an order granting an extension under Section 74.351;

14 (10) grants relief sought by a motion under Section
15 74.351(1);

16 (11) denies a motion to dismiss filed under Section
17 90.007;

18 (12) denies a motion to dismiss filed under Section
19 27.003;

20 (13) denies a motion for summary judgment filed by an
21 electric utility regarding liability in a suit subject to Section
22 75.0022;

23 (14) denies a motion filed by a municipality with a
24 population of 500,000 or more in an action filed under Section
25 54.012(6) or 214.0012, Local Government Code;

26 (15) makes a preliminary determination on a claim
27 under Section 74.353;

(16) overrules an objection filed under Section 148.003(d) or denies all or part of the relief sought by a motion under Section 148.003(f); ~~or~~

(17) grants or denies a motion for summary judgment filed by a contractor based on Section 97.002; or

(18) makes a determination of probable cause under Section 253.206(b), Election Code.

SECTION 2. Chapter 252, Election Code, is amended by adding Section 252.0033 to read as follows:

Sec. 252.0033. CONTENTS OF APPOINTMENT BY POLITICAL COMMITTEES THAT SUPPORT OR OPPOSE BALLOT MEASURE. (a) In addition to the information required by Section 252.002, a campaign treasurer appointment by a political committee that supports or opposes a ballot measure must include an affidavit certifying that the committee, acting alone or jointly with, through, or on behalf of another person, did not receive direct or indirect funding from a foreign national, as defined by Section 253.201, for a preliminary activity in connection with the ballot measure.

(b) For purposes of this section, a preliminary activity in connection with a ballot measure includes:

(1) conducting a poll or focus group on the ballot measure;

(2) drafting sample ballot measure language;

(3) making telephone calls in relation to the ballot measure; or

(4) incurring travel expenses in relation to the ballot measure.

SECTION 3. Chapter 253, Election Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. RESTRICTIONS ON CONTRIBUTIONS, EXPENDITURES, AND
RELATED ACTIVITIES INVOLVING POLITICAL COMMITTEES THAT SUPPORT OR
OPPOSE BALLOT MEASURE

Sec. 253.201. DEFINITIONS. In this subchapter:

(1) "Directly or indirectly" means, with respect to an act by a person, the person acting alone or jointly with, through, or on behalf of another person.

(2) "Foreign national" means:

(A) an individual who is not a United States citizen or national;

(B) a government of a foreign country or of a political subdivision of a foreign country;

(C) a foreign political party;

(D) a person that is organized under the law of or has the person's principal place of business in a foreign country; and

(E) a person organized under the laws of the United States, including the laws of each state of the United States, that is wholly or mostly owned by a person described by Paragraph (A), (B), (C), or (D).

(3) "Revenue" means:

(A) employment income, including any salary, wages, allowances, overtime pay, pension, annuity, bonuses, or any other monetary income a person receives as compensation for employment or the provision of services;

1 (B) a gift; and

2 (C) an inheritance.

3 Sec. 253.202. APPLICABILITY. (a) A reference in this
4 subchapter to a political committee means a political committee
5 that supports or opposes a ballot measure.

6 (b) For purposes of this subchapter, a prohibition under
7 this chapter related to contributions from and expenditures by a
8 foreign national that is a person described by Section
9 253.201(3)(E) does not apply if:

10 (1) the contribution or expenditure is derived
11 entirely from money generated by the person's operations in the
12 United States; and

13 (2) all decisions related to the contribution or
14 expenditure are made by individuals who are United States citizens
15 or nationals, except for decisions on setting overall budget
16 amounts.

17 Sec. 253.203. PROHIBITED CONTRIBUTIONS AND EXPENDITURES;
18 AFFIRMATION REQUIRED. (a) A political committee may not knowingly
19 and directly or indirectly:

20 (1) solicit or accept a contribution from a foreign
21 national;

22 (2) solicit or accept a contribution from a person
23 that in the four years preceding the date on which the contribution
24 is made knowingly accepted money, directly or indirectly and other
25 than revenue, from one or more foreign nationals that in the
26 aggregate exceeds \$100,000; or

27 (3) solicit a foreign national to make an expenditure

1 on the committee's behalf.

2 (b) On receipt of a contribution by a political committee,
3 the committee shall obtain from the person making the contribution
4 a written affirmation that the person:

5 (1) is not a foreign national; and

6 (2) has not in the four years preceding the date on
7 which the contribution is made knowingly accepted money other than
8 revenue from one or more foreign nationals that in the aggregate
9 exceeds \$100,000.

10 (c) For purposes of this section, a political committee that
11 solicits or accepts a contribution from a foreign national and has
12 accepted contributions from one or more foreign nationals that in
13 the aggregate exceed \$100,000 during the preceding four-year period
14 is presumed to have knowingly solicited or accepted the
15 contribution in violation of Subsection (a).

16 Sec. 253.204. PROHIBITED CONDUCT BY FOREIGN NATIONALS
17 RELATED TO CONTRIBUTIONS AND EXPENDITURES. (a) A foreign national
18 may not direct, dictate, control, or directly or indirectly
19 participate in a person's decision-making process with regard to
20 influencing a ballot measure, including the person's decision to
21 make a contribution or expenditure to influence a ballot measure.

22 (b) A foreign national may not directly or indirectly
23 solicit the making by a person of a donation, contribution, or
24 expenditure to influence a ballot measure.

25 Sec. 253.205. CERTIFICATION REQUIREMENTS RELATED TO
26 CERTAIN CONTRIBUTIONS AND EXPENDITURES; CRIMINAL OFFENSE. (a) On
27 the filing of a report required by Chapter [254](#) by a political

1 committee or by a person that has made a direct campaign expenditure
2 to support or oppose a ballot measure, the committee or the person
3 shall certify to the commission, in the form and manner the
4 commission requires, that the committee or person:

5 (1) has not in the four years preceding the date on
6 which the expenditure was made knowingly accepted money other than
7 revenue from one or more foreign nationals that in the aggregate
8 exceeds \$100,000; and

9 (2) will not for the remainder of the year during which
10 the ballot measure will appear on the ballot knowingly accept money
11 other than revenue from one or more foreign nationals that in the
12 aggregate exceeds \$100,000.

13 (b) A person commits an offense if the person violates this
14 section. An offense under this section is a Class B misdemeanor.

15 (c) In addition to the penalty under Subsection (b), a
16 person who violates this section is liable for a civil penalty in an
17 amount not to exceed twice the amount of the contribution or
18 expenditure for which the person failed to make a certification as
19 required by this section.

20 Sec. 253.206. ENFORCEMENT. (a) The attorney general may
21 bring a civil action to enforce this subchapter. In an action
22 brought under this section, the burden of proof is on the state.

23 (b) Before discovery in an action brought under this
24 section, the court must hold a hearing to determine whether there is
25 probable cause to believe that a person has violated this
26 subchapter.

27 (c) If, after the hearing required by Subsection (b), the

1 court determines that:

2 (1) probable cause does not exist to believe that a
3 violation of this subchapter occurred, the court shall dismiss the
4 action with prejudice; or

5 (2) probable cause exists to believe that a violation
6 of this subchapter occurred, the court shall:

7 (A) enter an order stating the court's findings;

8 (B) resume the action; and

9 (C) cause the action to be expedited.

10 (d) After an affirmative finding under Subsection (c), a
11 defendant may, at a time determined by the court and before the
12 scheduling of a trial date, present evidence sufficient to rebut
13 the probable cause finding by making an ex parte presentation of
14 records to the court for in camera review.

15 (e) If the court determines that a political committee has
16 accepted a contribution in violation of this subchapter, the
17 committee shall, not later than the 30th day after the date of the
18 court's determination, return to the person who made the
19 contribution the contribution accepted in violation of this
20 subchapter. If either party appeals the court's determination, the
21 court shall order the contribution at issue to be placed in escrow
22 pending the outcome of the appeal.

23 (f) A person who violates this subchapter is liable for a
24 civil penalty in an amount not to exceed twice the amount of the
25 contribution accepted or expenditure made in violation of this
26 subchapter.

27 (g) If a political committee that was determined to have

1 accepted a contribution in violation of this subchapter is
2 financially unable to return all or part of the contribution as
3 required by Subsection (e) or pay a civil penalty imposed under
4 Subsection (f), the committee's directors, officers, and executive
5 members are jointly and severally liable for returning the
6 remaining part of the contribution or paying the civil penalty.

7 (h) In addition to the penalty under Subsection (f), the
8 court shall issue injunctive relief to prevent a person that
9 violates this subchapter from committing further violations of this
10 subchapter or from aiding and abetting a violation of this
11 subchapter. The attorney general may bring an action to enjoin a
12 person who violates this subchapter from engaging in activities
13 that would require registration as a lobbyist under Chapter 305,
14 Government Code, for a period to be determined by the court. In
15 determining the period to prohibit a person from engaging in those
16 activities, the court shall consider:

17 (1) the seriousness of the violation, including the
18 nature, circumstances, extent, and gravity of the violation;

19 (2) whether the person acted in bad faith when
20 engaging in conduct constituting a violation of this subchapter;

21 (3) whether the person has previously violated this
22 subchapter; and

23 (4) the duration of an injunction necessary to deter
24 future violations.

25 Sec. 253.207. PROHIBITED DISCLOSURE OF CERTAIN DONORS;
26 CRIMINAL OFFENSE. (a) In this section:

27 (1) "Nonprofit organization" means an organization

1 exempt from federal income taxation under Section 501(a), Internal
2 Revenue Code of 1986, as an organization described by Section
3 501(c) of that code.

4 (2) "Public servant" has the meaning assigned by
5 Section 1.07, Penal Code.

6 (b) An investigation of an alleged violation of this
7 subchapter must be conducted in a manner to ensure that the identity
8 of a person who makes a lawful donation to a nonprofit organization
9 is kept confidential. The attorney general or a court may not
10 compel the disclosure of the identity of a person who makes a lawful
11 donation to a nonprofit organization unless the disclosure is
12 directly related to an alleged violation of this subchapter.

13 (c) A public servant may not disclose to the public the
14 identity of a person who makes a lawful donation to a nonprofit
15 organization unless the person is determined to have violated this
16 subchapter.

17 (d) A person commits an offense if the person is a public
18 servant and the person violates this section. An offense under this
19 section is a Class A misdemeanor.

20 (e) For the purposes of this section, a person is determined
21 to have violated this subchapter if a court has entered an order
22 finding that the person has violated this subchapter.

23 SECTION 4. Subchapter E, Chapter 254, Election Code, is
24 amended by adding Section 254.131 to read as follows:

25 Sec. 254.131. ADDITIONAL CONTENTS OF REPORTS OF POLITICAL
26 COMMITTEES THAT SUPPORT OR OPPOSE BALLOT MEASURE. (a) In this
27 section, "directly or indirectly," "foreign national," and

1 "revenue" have the meanings assigned by Section 253.201.

2 (b) In addition to the contents required by Section 254.031,
3 the campaign treasurer of a political committee that supports or
4 opposes a ballot measure must include an affirmation that:

5 (1) the committee did not knowingly and directly or
6 indirectly:

7 (A) solicit or accept a contribution from a
8 foreign national; or

9 (B) solicit a foreign national to make an
10 expenditure on the committee's behalf; and

11 (2) no contribution included in the report was made
12 by:

13 (A) a foreign national; or

14 (B) a person that in the four years preceding the
15 date on which the contribution is made knowingly accepted money,
16 directly or indirectly and other than revenue, from one or more
17 foreign nationals that in the aggregate exceeds \$100,000.

18 SECTION 5. The changes in law made by this Act to Chapters
19 252 and 254, Election Code, apply only to a campaign treasurer
20 appointment required to be filed under Chapter 252 or a report
21 required to be filed under Chapter 254 on or after the effective
22 date of this Act. A campaign treasurer appointment or report
23 required to be filed before the effective date of this Act is
24 governed by the law in effect at the time the appointment or report
25 was filed, and the former law is continued in effect for that
26 purpose.

27 SECTION 6. Subchapter G, Chapter 253, Election Code, as

1 added by this Act, applies only to a contribution or expenditure
2 made or an activity related to the making of a contribution or
3 expenditure that occurs on or after the effective date of this Act.
4 A contribution or expenditure made or a related activity that
5 occurs before the effective date of this Act is governed by the law
6 in effect at the time the contribution or expenditure was made or
7 the activity occurred, and the former law is continued in effect for
8 that purpose.

9 SECTION 7. This Act takes effect September 1, 2025.