

BILL ANALYSIS

C.S.H.B. 3233
By: Klick
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been noted that certain provisions of the Judicial Campaign Fairness Act are out of date and in need of updating. C.S.H.B. 3233 seeks to revise and update those provisions regarding, among other things, certain contribution and expenditure limits for judicial candidates.

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. 3233 amends the Election Code to revise provisions regarding certain restrictions on contributions and expenditures set out in the Judicial Campaign Fairness Act. The bill, among other revisions:

- changes from officeholder contributions to political contributions the type of contribution that may be accepted by a person appointed to fill a vacancy in an office covered by that act who, at the time of appointment, does not hold another such office;
- replaces a specification that the applicable contribution limits with respect to a judicial candidate or officeholder are in connection with each election in which the person is involved with a specification that the applicable contribution limits are in connection with each election in which the judicial candidate's name appears on the ballot;
- specifies that the definition of "judicial district" applies also to the territory from which a judicial candidate is appointed;
- defines "law firm group" as a law firm, a general-purpose committee established or controlled by the law firm or a member of the law firm, a member of the law firm, and the spouse of a member of the law firm and sets out definitions for "law firm" and "member of a law firm";
- replaces applicable references, with respect to limits on contributions to a judicial candidate or officeholder, to a member of a law firm and to a general-purpose committee established or controlled by a law firm with references to a law firm group; and
- repeals the provision that establishes, for purposes of those contribution limits, that a contribution by a law firm whose members are each members of a second law firm is considered to be a contribution by the law firm that has members other than the members the firms have in common.

C.S.H.B. 3233 revises the aggregate limits, with regard to a judicial candidate or officeholder, on political contributions from and direct campaign expenditures by a general-purpose committee by repealing the provision setting those aggregate limits as a percentage of certain candidate expenditure limits and replacing those aggregate limits with specific aggregate limits, with respect to contributions by law firm groups and general-purpose committees and in connection with an election in which the judicial candidate's name appears on the ballot, at the following:

- \$25,000 for a statewide judicial office; or
- \$5,000 for any other judicial office.

C.S.H.B. 3233 sets out additional specific contribution limits on a political contribution in excess of \$50 to a judicial candidate or officeholder by a general-purpose committee that, when aggregated with all political contributions from all general-purpose committees in connection with an election, would exceed the following:

- \$300,000 for a statewide judicial office;
- certain specified amounts ranging from \$52,500 to \$75,000, depending on the population of the applicable judicial district, for the office of chief justice or justice, court of appeals; and
- certain specified amounts ranging from \$15,000 to \$52,500, depending on the population of the applicable judicial district, for an office other than the foregoing offices.

C.S.H.B. 3233 establishes that a political contribution by the spouse of an individual is not considered to be a contribution by the individual for the purposes of the Judicial Campaign Fairness Act, as amended by the bill.

C.S.H.B. 3233 revises the exemptions from the prohibition against the use of political contributions for certain expenditures by a person who accepted the contribution while the person was a candidate for or officeholder of a judicial or nonjudicial office to add as a condition for the exemption that the contribution was made in connection with an election for judicial office. The bill repeals a provision establishing that such a prohibition does not prohibit a candidate or officeholder from making a political contribution to another candidate or officeholder.

C.S.H.B. 3233 prohibits the Code of Judicial Conduct from prohibiting, and a judicial candidate from being penalized for, a joint campaign activity conducted by two or more judicial candidates.

C.S.H.B. 3233 revises provisions relating to the application of contribution and reimbursement limits to establish, for purposes of certain political contribution limits and a certain limit on reimbursement of personal funds and repayment of certain loans, that the general and primary elections are considered separate elections for a candidate whose name appears on the ballot and that a runoff election in which the candidate's name is on the ballot is considered a separate election.

C.S.H.B. 3233 repeals the provision establishing the judicial campaign fairness fund and repeals certain provisions of the Judicial Campaign Fairness Act relating to voluntary expenditure limits for judicial candidates, including provisions relating to:

- the notice required for certain political expenditures;
- a sworn declaration of voluntary compliance;
- the effect of a noncomplying candidate on limits applicable to a complying candidate;
- the entitlement of a complying candidate to make statements regarding that compliance

in political advertising;

- certain expenditure limits and the related civil penalty for violating those limits;
- the consideration of an expenditure by certain committees as a candidate expenditure;
- the effect of certain political expenditures for the purpose of supporting the candidate's opponent, opposing the candidate, or assisting the candidate's opponent as an officeholder on limits applicable to a complying candidate;
- a prohibition on exceeding expenditure limits before a certain date with respect to a complying candidate who filed a declaration of intent to exceed certain limits and a specific-purpose committee supporting such a candidate;
- a prohibition on agreements to evade limits; and
- the prohibition against misrepresentation of an opponent's compliance with or violation of the act.

C.S.H.B. 3233 requires the Texas Ethics Commission (TEC) to post on the TEC website the required written certification of the population of each judicial district for which a candidate for judge or justice must file a campaign treasurer appointment with the TEC. The bill revises provisions relating to contribution from or direct campaign expenditure by a political party to establish that a political expenditure that is made by the principal political committee of the state executive committee or a county executive committee of a political party for a generic get-out-the-vote campaign or to create and distribute a written list of two or more candidates is not considered a contribution to a judicial candidate who benefits from the get-out-the-vote campaign or is included in the written list and is not subject to certain contribution limits if the get-out-the-vote campaign or written list meets certain requirements.

C.S.H.B. 3233 repeals the following provisions of the Election Code:

- Section 253.155(d)
- Sections 253.157(a), (d), and (e)
- Section 253.160
- Section 253.161(c)
- Section 253.162(b)
- Sections 253.163, 253.164, 253.165, 253.166, 253.168, 253.169, 253.170, 253.172, 253.173, 253.174, and 253.175
- Section 253.176(c)

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3233 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises a definition of "law firm" to include any entity organized for the practice of law.

The substitute does not include a condition on the prohibition against the Code of Judicial Conduct prohibiting, and a judicial candidate being penalized for, a joint campaign activity

conducted by two or more judicial candidates based on whether the activity clearly indicates a judicial candidate does not endorse another judicial or nonjudicial candidate.

The substitute includes the repeal of Section 253.157(a), Election Code.