

SUBJECT: Allowing political contributions and expenditures by corporations, unions

COMMITTEE: Elections — committee substitute recommended

VOTE: 8 ayes — Klick, Cortez, Bucy, Burrows, Cain, Israel, Middleton, Swanson

0 nays

1 absent — Fierro

WITNESSES: For — Alan Vera, Harris County Republican Party Ballot Security Committee; Kelly Flanagan, Texas Realtors; (*Registered, but did not testify*: Daniel Gonzalez and Julia Parenteau, Texas Realtors; Russell Hayter; Ed Johnson; John Robertson; Bill Sargent)

Against — Dave Jones, Clean Elections Texas; (*Registered, but did not testify*: Joanne Richards, Common Ground for Texans; Lon Burnam, Public Citizen; Emily Cook, Texas Right to Life; Karen Collins; John Robertson)

On — Beth Cubriel, Combined Law Enforcement Associations of Texas; Donna Davidson; Trey Trainor

DIGEST: CSHB 2586 would allow a corporation or labor organization to make campaign contributions to political committees and a committee to use such a political contribution to make a direct campaign expenditure if certain requirements were met.

Corporation and labor organization contributions. The bill would allow a corporation or labor organization to make campaign contributions from its own property to a political committee that had filed an affidavit with its campaign treasurer appointment in accordance with the bill's requirements.

Affidavits. Before a general-purpose committee or a specific-purpose committee could use a political contribution from a corporation or labor

organization to make a direct campaign expenditure in connection with a campaign for an elective office, the campaign treasurer would have to submit an affidavit stating that:

- the committee was not established or controlled by a candidate or officeholder; and
- the committee would not use any political contribution from a corporation or labor organization to make a political contribution to a candidate for elective office, an officeholder, or a political committee that had not filed an affidavit under this provision as a general-purpose or specific-purpose committee.

Filing of such an affidavit would not create any additional reporting requirements with regard to a direct campaign expenditure exceeding \$100.

The bill would establish that the statutory prohibition against a political committee being assisted by expenditures made by a corporation or labor organization from contributions or expenditures required as a condition of employment or membership in a labor organization did not prohibit a political committee from making a political contribution or political expenditure wholly or partly from a campaign contribution made by a corporation or labor organization to the committee.

Communication with candidate. For purposes of determining a direct campaign expenditure, the bill would establish that a communication between a person and a candidate, officeholder, or an agent for the candidate or officeholder would not be evidence that the person had obtained the candidate's or officeholder's consent or approval for a campaign expenditure made after the communication unless the communication established that:

- the expenditure was incurred at the request or suggestion of the candidate, officeholder, or their agent;
- the candidate, officeholder, or their agent was materially involved in decisions regarding the creation, production, or distribution of a

- campaign communication related to the expenditure; or
- the candidate, officeholder, or their agent shared information about the candidate's or officeholder's plans or needs that was material to the creation, production, or distribution of a campaign communication related to the expenditure and was not available to the public.

Common vendor. A person using the same vendor as a candidate, officeholder, or political committee established or controlled by a candidate or officeholder would not be acting in concert with the candidate, officeholder, or committee to make a campaign expenditure unless the person made the expenditure using information from the vendor about the campaign's plans or needs that was material to the expenditure and not available to the public.

The bill would add the creation and maintenance of a general-purpose committee's public internet web pages that did not contain political advertising to the permissible political expenditures that a corporation, acting alone or with other corporations, could make to finance a general-purpose committee.

Definitions. The bill would expand the definition of "direct campaign expenditure" to specify that a campaign expenditure would not constitute a contribution by the person making the expenditure if it was made without the prior consent or approval of the candidate or officeholder on whose behalf it was made. A campaign expenditure made in connection with a measure would not constitute a contribution by the person making it if it was not made as a political contribution to a political committee supporting or opposing the measure.

The definition of "political committee" would be revised to include two or more persons acting in concert, instead of a group of persons, with a principal purpose of accepting political contributions and making political expenditures. The term would not include a group composed exclusively of two or more individual filers or political committees required to file disclosure reports who made reportable expenditures for a joint activity.

The bill would add a new definition of "in-kind contribution" as a contribution of goods, services, or any other thing of value that was not money, and included an agreement made or other obligation incurred, whether legally enforceable or not, to make the contribution. The term would not include a direct campaign expenditure.

The bill would take effect September 1, 2019, and would apply to an offense committed on or after that date.

**SUPPORTERS
SAY:**

CSHB 2586 would update Texas law to reflect the 2010 U.S. Supreme Court ruling in *Citizens United v. Federal Election Commission*, which said that the free speech clause of the First Amendment prohibits the government from restricting independent expenditures for communications by corporations, labor unions, and other associations.

The bill would permit a general-purpose or specific-purpose political action committee to use corporate funds to engage in political speech so long as the communications were not done at the request, suggestion, or with the knowledge of a candidate or a candidate's campaign.

Organizations are already allowed to make independent expenditures on behalf of candidates but are required to set up a separate political action committee (PAC) to do so. By allowing streamlined reporting of a PAC's activity, the bill would provide Texans with a clearer understanding of the source and use of political funds.

The bill would not allow corporations to directly contribute money to candidates or change any current limitations on how corporations and candidates can coordinate on campaign activity.

**OPPONENTS
SAY:**

CSHB 2586 should contain stronger requirements than the filing of an affidavit to prevent PACs from coordinating their spending with political candidates.