

BILL ANALYSIS

Senate Research Center

H.B. 4
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State Affairs
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Engrossed

DIGEST

The amount of money invested in campaigns is a significant factor in many elections. Some candidates have taken full advantage of existing provisions regarding fund raising, especially when receiving funds from national political organizations. H.B. 4 will provide more definite guidelines for candidates and office holders to follow when raising and spending money during campaigns, with an emphasis on rules for disclosure of campaign funds. This bill regulates campaign committee formation, and the reporting of contributions, loans, and gifts.

PURPOSE

As proposed, H.B. 4 establishes regulations regarding the regulation of certain political contributions, political expenditures, and political advertising, and provides a civil penalty.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 84.001, Election Code, as follows:

Sec. 84.001. APPLICATION REQUIRED. Prohibits an applicant from using an application form for an early voting ballot by mail that is part of or included with a campaign communication or political advertising, as defined by Section 251.001, unless the application form is printed with the return address of the early voting clerk. Makes conforming changes.

SECTION 2. Amends Section 251.001, Election Code, to redefine "contribution," "campaign contribution," "officeholder contribution," and "general-purpose committee," and to define "unidentified measure" and "principal political committee of a candidate or officeholder."

SECTION 3. Amends Chapter 251A, Election Code, by adding Sections 251.010 and 251.011, as follows:

Sec. 251.010. PRINCIPAL POLITICAL COMMITTEE. Sets forth individuals to whom this section only applies. Requires a candidate or officeholder to designate in writing a political committee to serve as the person's principal political committee. Provides that the designation under Subsection (b) must be made within 15 days of the date the person becomes a candidate or officeholder and be filed with the Texas Ethics Commission (commission). Prohibits a candidate or officeholder from having more than one principal political committee at a time and from having more than one principal committee. Provides that a candidate who becomes an office holder is not required to designate a new principal political committee. Authorizes an officeholder, other than a judicial officeholder, who becomes a candidate for a judicial office, to designate a second principal political committee in connection with that candidacy. Authorizes a judicial officeholder who becomes a candidate for a nonjudicial office to designate a second principal political committee in connection with that candidacy. Provides that a prohibition or restriction imposed by this title on a candidate or officeholder applies to the principal political committee of a candidate or officeholder. Provides that this section does not require a candidate for or holder of an office other than an office listed in Subsection (a) to designate a principal political committee.

Sec. 251.011. LIABILITY OF CANDIDATE OR OFFICEHOLDER FOR ACT OR

OMISSION OF PRINCIPAL POLITICAL COMMITTEE. Provides that a candidate or office holder is civilly liable for an act or omission by the person's principal political committee in connection with a requirement or prohibition prescribed by this title only if the person authorized, requested, commanded, performed, or recklessly or negligently tolerated the act or omission. Provides that this section does not preclude the imposition of other civil or criminal penalties against a candidate, officeholder, political committee, or an agent of a candidate, officeholder, or political committee. Authorizes the commission, subject to the approval of the attorney general, to contract with a nongovernmental entity to collect a penalty, if imposed by the commission for a violation of this title and the penalty is not paid before the 120th day after the date it is imposed. Requires the penalty to be trebled, not to exceed the maximum provided in the rules of the commission, and interest, pre-judgment and post-judgment fees, private attorney's fees, costs incurred by the attorney general, and court costs to be assessed.

SECTION 4. Amends Chapter 252, Election Code, by adding Section 252.0033, as follows:

Sec. 252.0033. CONTENTS OF APPOINTMENT BY PRINCIPAL POLITICAL COMMITTEE. Provides that in addition to the information required by Section 252.002, a campaign treasurer appointment by a principal political committee of a candidate or officeholder must include the candidate's or officeholder's telephone number and a statement, signed by the candidate or officeholder, that the candidate or officeholder is aware of the nepotism law. Provides that a campaign treasurer appointment that is filed without using the officially prescribed form is not invalid because it does not contain a statement, signed by the candidate or officeholder, that the candidate or officeholder is aware of the nepotism law.

SECTION 5. Amends Section 253.031, Election Code, to prohibit a candidate for an office other than an office covered by Section 251.010 from knowingly accepting a campaign contribution or making or authorizing a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect. Prohibits a candidate for or holder of an office covered by Section 251.010 from knowingly accepting a political contribution as authorized by Section 253.0311 or making or authorizing a political expenditure as authorized by Section 253.0312 at a time when a campaign treasurer appointment for the principal political committee of the candidate or officeholder is not in effect. Makes conforming changes.

SECTION 6. Amends Subchapter B, Chapter 253, Election Code, by adding Sections 253.0311 and 253.0312, as follows:

Sec. 253.0311. ACCEPTANCE OF POLITICAL CONTRIBUTIONS BY CERTAIN CANDIDATES AND OFFICEHOLDERS. Prohibits a candidate or officeholder who is required to designate a principal political committee from knowingly accepting a political contribution in connection with the person's own candidacy or office. Authorizes a candidate or officeholder who is required to designate a principal political committee to accept a political contribution on behalf of the person's principal political committee unless the committee itself would be prohibited from accepting the contribution. Provides that a person who violates this section is liable for a civil penalty up to \$4,000.

Sec. 253.0312. CONTRIBUTIONS OR EXPENDITURES BY CERTAIN CANDIDATES AND OFFICEHOLDERS FROM PERSONAL FUNDS. Prohibits a candidate or officeholder who is required to designate a principal political committee from knowingly making a political contribution or political expenditure from the person's personal funds in connection with the person's own candidacy or office. Authorizes a candidate or officeholder who is required to designate a principal political committee to make a political expenditure from the person's personal funds if the person reports the expenditure as an expenditure that may, but is not required, to be reported as provided by Section 253.035(h) or as a loan as provided by Section 253.0351. Authorizes a candidate or officeholder who is required to designate a principal political committee to make a political contribution, including but not limited to, in-kind contributions, from the person's personal funds to the person's principal political committee. Provides that a person who violates this section is liable for a civil penalty not to exceed \$4,000.

SECTION 7. Amends Sections 253.034(a)-(c), Election Code, to specify that a person is prohibited from knowingly making a political contribution to the principal political committee of a statewide officeholder or a member of the legislature during the period beginning 30 days before the convening of a regular legislative session, continuing through its final adjournment. Makes conforming and nonsubstantive

changes.

SECTION 8. Amends Section 253.035(h), Election Code, to include Section 253.162 among the specified exceptions to this section.

SECTION 9. Amends Section 253.037(c), Election Code, to define “multicandidate political committee.”

SECTION 10. Amends Section 253.038(a), Election Code, to subject the principal political committee of a candidate or officeholder to the restrictions imposed by this section.

SECTION 11. Amends Section 253.041(a), Election Code, to make conforming changes.

SECTION 12. Amends the heading to Subchapter A, Chapter 254, Election Code, as follows:

SUBCHAPTER A. New heading: RECORD KEEPING; GENERAL PROVISIONS

SECTION 13. Amends Chapter 254A, Election Code, by adding Section 254.002, as follows:

Sec. 254.002. PRESUMPTION OF BEST EFFORTS. Provides that if a provision of this chapter requires a person to use the person's best efforts to obtain information to be included in a report under this chapter concerning a person making a political contribution, the person is presumed to have used the person's best efforts if the person can show that the person requested the required information at the time the contribution was solicited or accepted. Requires a person who receives an unsolicited political contribution to, within 30 days of receiving the contribution, request in writing that the person making the contribution provide any information required by Section 254.031 that was not provided with the contribution. Provides that a request is not necessary if the person provides all the required information.

SECTION 14. Amends Section 254.031, Election Code, to provide that each report filed under this chapter must include the amount of political contributions from each person that exceed \$100, rather than \$50, and in addition to the information already required, if the contributor is an individual, the individual's principal occupation or job title and the full name of the individual's employer and if the contribution is an in-kind contribution, a description of the property or services contributed. Provides that each report filed under this chapter must include the amount of loans that are made during the reporting period that exceed \$100, rather than \$50. Provides that each report filed under this chapter must include the amount of expenditures that are made during the reporting period that exceed \$100, rather than \$50, and if the expenditure is an in-kind contribution, a description of the property or services contributed. Provides that each report filed under this chapter must include the total amount or a specific listing of the political contributions of \$100 or less accepted and the total amount or a specific listing of the political expenditures of \$100 or less made. Sets forth additional information that must be included in reports regarding loans in excess of \$100 that are outstanding as of the last day of the reporting period, other than a loan reported under Subdivision (2). Provides that a person is considered to be in compliance with the requirements concerning reporting contributions in excess of \$100 if the person or the person's campaign treasurer shows that best efforts have been used to obtain and report the principal occupation or job title of a person making a political contribution. Requires a person required to file a report to report an accepted in-kind political contribution as both a political contribution accepted and a political expenditure made.

SECTION 15. Amends Section 254.036, Election Code, by amending Subsection(a) and adding Subsection (h), to provide that a report filed under this chapter must be hand-delivered to the authority with whom it is required to be filed or mailed from and postmarked in the city in which the candidate or officeholder resides, the city in which the candidate's, officeholder's, or committee's campaign headquarters are located, or the city in which the office the candidate or officeholder seeks or holds is located, unless the person filing the report is not a candidate or officeholder, the principal political committee of a candidate or officeholder, or a specific purpose committee for supporting or opposing a candidate or assisting an officeholder, in which case the report may be mailed in any city. Provides that a report filed in any other manner is not considered to have been filed in violation of these provisions if the report is received by the authority with whom it is required to be filed before the applicable deadline.

SECTION 16. Amends Section 254.038, Election Code, as follows:

Sec. 254.038. New heading: ADDITIONAL REPORTS BY CERTAIN POLITICAL

COMMITTEES. Requires persons, who are candidates for statewide office, state senator, or state representative and have an opponent whose name is to appear on the ballot and whose principal political committee accepts political contributions from a person that in the aggregate exceed \$1,000 during the reporting period beginning the ninth day before election day and ending at 12 noon the second day before election day, to file additional reports. Requires a general-purpose committee, that accepts political contributions from a person in excess of \$5,000 or makes direct campaign expenditures supporting or opposing a single candidate that in the aggregate exceed \$5,000 or a group of candidates that in the aggregate exceed \$15,000 during the reporting period beginning, the ninth day before election day and ending at 12 noon the second day before election day, to file additional reports. Requires a principal political committee of a candidate or officeholder or a specific-purpose committee that is required to file reports under this chapter and accepts political contributions from a person that in the aggregate exceed \$5,000, other than previously listed political committees, a principal political committee required to file reports with the commission in connection with an office described by Section 252.005(5), or a specific-purpose committee required to file reports with the commission in connection with a measure described by Section 252.007(5), during the reporting period beginning the ninth day before election day and ending at 12 noon the second day before election day, to file additional reports. Makes conforming changes.

SECTION 17. Amends Subchapter B, Chapter 254, Election Code, by adding Section 254.0381, as follows:

Sec. 254.0381. ADDITIONAL REPORTS OF CERTAIN DIRECT CAMPAIGN EXPENDITURES. Requires a person other than the principal political committee of the state executive committee or a county executive committee of a political party that makes direct campaign expenditures that in the aggregate exceed \$5,000 for the purpose of supporting or opposing one or more candidates covered by Section 251.010 during the period beginning the ninth day before election day and ending at 12 noon on the second day before election day to file a report. Sets forth the required contents of each required report. Requires a report filed under this section to be filed electronically or by telephonic facsimile machine or overnight mail within 24 hours of making the expenditure. Authorizes the making of a direct campaign expenditure by a political committee or other association that consists only of costs incurred in contacting the committee's or association's dues-paying membership without the report required by Subsection (a). Provides that this section does not apply to a political expenditure made by a candidate's principal political committee in connection with the candidate's campaign. Provides that Section 254.036 does not apply to a report required by this section.

SECTION 18. Amends Section 254.039, Election Code, by amending Subsection (c) and adding Subsection (d), to provide that a general-purpose committee that is required to file a report under this Section 254.0381 is not required to file a report under this section. Makes a conforming change.

SECTION 19. Amends Section 254.0391(a), Election Code, to require the principal political committee of a statewide officeholder, a member of the legislature, or a candidate for statewide office or the legislature or a specific-purpose committee for supporting or opposing a candidate for statewide office or the legislature or for assisting a statewide officeholder or a member of the legislature that accepts political contributions during the period beginning on the date the governor signs a proclamation calling a special legislative session and continuing through the date of final adjournment, to report the contribution to the commission within 30 days of final adjournment. Makes conforming changes.

SECTION 20. Amends Section 254.042(a), Election Code, to require the commission to determine from any available evidence whether a report, other than a report under Section 254.038, as opposed to other than a telegram report under Sections 254.038 or 254.039, required to be filed with the commission under this chapter is late.

SECTION 21. Amends Subchapter C, Chapter 254, Election Code, as follows:

SUBCHAPTER C. New heading: REPORTING BY CANDIDATE OR OFFICEHOLDER

Sec. 254.061. ADDITIONAL CONTENTS OF REPORTS. Includes officeholders in the application of this section. Provides that a notation that the candidate or officeholder or an agent of the candidate or officeholder did not solicit the political contribution or political expenditure

from the committee must be included in certain reports. Provides that the report must include the name of any person who made an offer of money to the candidate or officeholder during the reporting period with the intent that it be used in connection with the candidate's campaign or to defray officeholder expenses that are not reimbursable with public money if the offer was accepted and the offer is for \$1,000 or more, the candidate or officeholder has reason to believe the offer is for \$1,000 or more, or the offer is to cover 10 percent or more of the total anticipated costs of the candidate's campaign. Provides that the report filed not later than January 15 of each odd-numbered year must also include the name of each person who made an offer of money to the candidate or officeholder with the intent that it be used in connection with the candidate's campaign or to defray officeholder expenses that are not reimbursable with public money, if the offer was accepted and the offered money was not received by the candidate or officeholder, and the amount of the offer. Provides that the information required by this subsection is for the period beginning January 1 of the preceding odd-numbered year or the date the candidate's campaign treasurer appointment is filed, as applicable, and continuing through December 31 of the preceding even-numbered year. Makes conforming changes.

Sec. 254.0611. New heading: **ADDITIONAL CONTENTS OF REPORTS BY CERTAIN JUDICIAL CANDIDATES AND OFFICEHOLDERS**. Includes officeholders in the application of the statute. Makes a conforming change.

Sec. 254.062. New heading: **REPORTS BY PRINCIPAL POLITICAL COMMITTEE OF EXECUTIVE OR LEGISLATIVE CANDIDATE; ADDITIONAL CONTENTS**. Requires the principal political committee of a candidate for an office covered by Section 251.010 to comply with this chapter as if the committee were a candidate or officeholder, and the candidate or officeholder is not required to file separate reports. Provides that each report by the principal political committee of a candidate for an office covered by Section 251.010 must include for each political expenditure made by the candidate from the candidate's personal funds or other assets, the information required by Section 254.031(a)(3). Defines "principal political committee of a candidate" for purposes of that section. Deletes the title and text of existing Section 254.062 relating to reportable activities of an officeholder who becomes a candidate.

Sec. 254.063. New heading: **SEMIANNUAL REPORTING SCHEDULE FOR CANDIDATE OR OFFICEHOLDER**. Includes an officeholder in the application of this section. Makes conforming changes.

Sec. 254.065. **FINAL REPORT**. Includes an officeholder in the application of this section. Makes conforming changes.

Sec. 254.066. **AUTHORITY WITH WHOM REPORTS FILED**. Includes an officeholder in the application of this section.

SECTION 22. Amends Section 254.121, Election Code, to provide that in addition to the contents for each report required by Section 254.031, each report must include the name of any person who made an offer of money to the committee during the reporting period with the intent that it be used in connection with a campaign for elective office or on a measure, or to defray officeholder expenses that are not reimbursable with public money, if the offer was accepted and the offer is for more than \$1,000, the campaign treasurer has reason to believe the offer is for more than \$1,000, or the offer is to cover 10 percent or more of the total anticipated costs of the campaign of a specific candidate supported by the committee or concerning a specific measure supported or opposed by the committee. Provides that the report filed not later than January 15 of each odd-numbered year must also include the name of each person who made an offer of money to the candidate or officeholder with the intent that it be used in connection with the candidate's campaign or to defray officeholder expenses that are not reimbursable with public money, if the offer was accepted and the offered money was not received by the candidate or officeholder, and the amount of the offer. Provides that the information required by this subsection is for the period beginning January 1 of the preceding odd-numbered year or the date the candidate's campaign treasurer appointment is filed, as applicable, and continuing through December 31 of the preceding even-numbered year.

SECTION 23. Amends Section 254.126(a), Election Code, to provide that if a specific-purpose committee for assisting only officeholders, rather than an officeholder, expects no reportable activity to occur after the period covered by a report the committee's campaign treasurer may designate the report

as a "dissolution" report.

SECTION 24. Amends Chapter 254E, Election Code, by adding Section 254.1281, as follows:

Sec. 254.1281. NOTICE TO CANDIDATE AND OFFICEHOLDER RELATING TO IN-KIND CONTRIBUTION. Requires the committee's campaign treasurer to deliver written notice of the amount of the contribution to the affected candidate or officeholder by the end of the period covered by the report in which the reportable activity occurs if a specific purpose committee makes an in-kind political contribution to a candidate or officeholder. Provides that the notice must include the full name and address of the political committee and its campaign treasurer and an indication that the committee is a specific-purpose committee.

SECTION 25. Amends Section 254.151, Election Code, to removes the amount of each political expenditure in the form of a political contribution made to a candidate or officeholder that is returned to the committee during the reporting period, from the list of information which must be included in a report. Provides that reports must contain the amount of expenditures from a corporation or labor organization under Section 253.100 that in the aggregate exceed \$100 and that are accepted during the reporting period by the committee, the full name and address of the corporation or labor organization making the expenditures, and the dates of the expenditures. Provides that also included in the report must be a separate page or pages identifying any contribution from a corporation or labor organization made and accepted under Subchapter D, Chapter 253, other than a contribution in the form of an expenditure required to be reported by Subdivision (7) of this section.

SECTION 26. Amends Chapter 254F, Election Code, by adding Section 254.1611, as follows:

Sec. 254.1611. NOTICE TO CANDIDATE AND OFFICEHOLDER RELATING TO IN-KIND CONTRIBUTION. Requires notice of the amount of a general-purpose committee's in-kind political contribution to a candidate or officeholder to be delivered to the affected candidate or officeholder as provided by Section 254.1281 for a specific-purpose committee.

SECTION 27. Amends Section 254.201, Election Code, to require a former officeholder or a person who was an unsuccessful candidate who has unexpended political contributions after filing the last report required to be filed by Subchapter C to file an annual report for each year in which the person retains unexpended contributions. Deletes existing text to make conforming changes.

SECTION 28. Amends Section 254.203(a), Election Code, to include a person's principal political committee within the application of this section.

SECTION 29. Amends Section 254.204(a), Election Code, to make conforming and nonsubstantive changes.

SECTION 30. Amends Section 255.001(b), Election Code, to provide that this section does not apply to a political site on the Internet that is maintained by a political party, if each page that is part of the site contains a statement that indicates that the site is political advertising, contains the party's name and address, and contains the name of a person at the party who can be contacted for information.

SECTION 31. Repealer: Sections 253.036, 253.100(d), and 254.039, Election Code, and Chapter 254D, Election Code.

SECTION 32. Effective date: January 1, 2000.

SECTION 33. Sets forth deadlines for the designation of a principal political committee, the transfer to the committee of assets, and the committee's assumption of liabilities of the person in the person's capacity as a candidate or officeholder.

SECTION 34. Makes application of Chapter 254, Election Code, as amended by this Act prospective, beginning January 1, 2000.

SECTION 35. Emergency clause.