

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 418
By: Moncrief
State Affairs
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Committee Report (Substituted)

DIGEST

Currently, the Election Code does not require the Texas Ethics Commission (commission) to maintain a database of campaign finance disclosures available electronically to the public. In addition, there are no exemptions to candidates with less than \$5,000 of contributions or candidates who use no computer equipment to solicit or record contributions and expenditures. C.S.S.B. 418 restates certain procedures for access to reports of political contributions and expenditures.

PURPOSE

As proposed, C.S.S.B. 418 restates certain procedures for access to reports of political contributions and expenditures, and provides a civil penalty for violations of this Act.

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 Chapter 251B, Election Code, by adding Section 251.031, as follows:

Sec. 251.031. INDEX OF REPORTS; PUBLICATIONS. Requires the Texas Ethics Commission (commission) to maintain certain indexes of reports on file and to publish the indexes on a regular basis. Sets forth requirements for maintaining and publishing the indexes.

SECTION 2. Amends Chapter 254B, Election Code, by adding Section 254.0312, as follows:

Sec. 254.0312. USE OF FICTITIOUS CONTRIBUTIONS. Authorizes a candidate, officeholder, or a political committee (political actor) to report political contributions as received from fictitious contributors to permit the person to determine whether information regarding the person's contributors is being used in violation of Section 254.0402. Authorizes a political actor to list not more than 10 fictitious names on each report to be filed. Requires a political actor that uses fictitious names to subtract the total dollar amount of the fictitious political contributions from the total amount of contributions listed under Section 254.031(a)(5). Prohibits a candidate, officeholder, or specific-purpose committee from attributing more than \$1,000 in contributions to the same fictitious contributor in any calendar year. Prohibits a general-purpose committee from attributing more than \$5,000 in political contributions to the same fictitious contributor in any calendar year. Requires a political actor that uses fictitious contributors to send a list of the contributors under separate cover directly to the authority with whom the person's campaign treasurer appointment is required to be filed, before any report containing those fictitious contributors is filed. Requires the authority to maintain the list but is required to exclude it from the public record. Provides that a list submitted under this section is excepted from the requirements of Section 552.021, Government Code. Prohibits a political actor from using fictitious contributors to circumvent a reporting requirement or a limitation or prohibition prescribed by this title.

SECTION 3. Amends Section 254.036, Election Code, to require a report filed with an authority other than the commission under this chapter to be in a specific format. Requires each report filed with the commission under this chapter to be filed by direct electronic transfer through the Internet using computer software provided by the commission, except as provided by Subsections (c)-(e) and (g). Authorizes a political actor that is required to file reports with the commission under this chapter to file reports that comply with Subsection (a) if the political actor does not intend to accept political contributions or make

political expenditures in the aggregate that exceed \$15,000 respectively (contributions or expenditures maximum), in a calendar year. Excludes the amount of a filing fee from the maximum permitted expenditure. Requires a political actor that exceeds the contributions or expenditures maximum to file reports as required by Subsection (b). Requires a candidate or political committee to file a written declaration of intent not to exceed the contributions or expenditures maximum with the campaign treasurer appointment, to be entitled to file reports under Subsection (c). Requires an officeholder to file a written declaration of intent not to exceed the contributions or expenditures maximum with the commission, to be entitled to file reports under Subsection (c). Requires a declaration of intent to be filed not later than January 1 of the calendar year to which it is intended to apply or the 30th day after the date the officeholder becomes subject to this chapter, if the officeholder was not subject to this chapter on January 1. Requires a declaration of intent to include a statement acknowledging the consequences of exceeding the contributions or expenditures maximum. Requires all entities who filed under Subsection (a) to sign an affidavit stating that the person or committee did not use computer equipment to keep records of political contributions, expenditures, or persons making contributions to the entity or that computer equipment used does not have access to the Internet, and stating that the use of computer equipment or the acquisition of Internet access would require the person or committee to file under Subsection (b). Authorizes a candidate described by Section 252.005(5) or certain specific-purposes committees to file reports that comply with Subsection (a). Authorizes an individual required to file a report with the commission in connection with a direct campaign expenditure to which Section 253.062 applies to file a report that complies with Subsection (a). Requires each report that is not filed by direct electronic transfer through the Internet to be accompanied by an affidavit. Requires each report filed by direct electronic transfer through the Internet to be under oath and contain the digitized signature of the person required to file the report. Considers reports under this chapter to be under oath by the person required to file the report, and the person is subject to prosecution under Chapter 37, Penal Code, regardless of the absence of or a defect in the affidavit. Authorizes a political actor to file reports to the commission that comply with Subsection (a) if the software needed to file reports under Subsection (b) has not been provided by the 30th day before the last day of the reporting period for which the report is required. Provides that this subsection expires September 1, 2001. Deletes text regarding a defect in an affidavit of verification. Makes conforming changes.

SECTION 4. Amends Chapter 254B, Election Code, by adding Sections 254.0401 and 254.0402, as follows:

Sec. 254.0401. PUBLIC INSPECTION OF REPORTS. Requires a report filed under this chapter to be made available to the public within a certain time period at the office of the authority with whom the report is filed. Prohibits the authority with the report from requiring a person to produce identification for viewing the report, notwithstanding Section 552.222(a), Government Code. Requires commission to make the information available via certain electronic means.

Sec. 254.0402. RESTRICTION ON USE, SALE, OR DISTRIBUTION OF CONTRIBUTOR INFORMATION. Defines "contributor information." Provides that a person may not use report information for soliciting for commercial purposes, but a person may solicit political contributions from a political committee whose contributor information the person obtains from the report. Authorizes a person to use information obtained from the report in a newspaper, magazine, or similar publication, if the purpose of the publication is not to solicit for commercial purposes. Establishes that a person who violates this section is civilly liable to the state for certain amounts.

SECTION 5. Repealer: Section 254.040(b), Election Code (Preservation of Reports; Record of Inspection).

SECTION 6. Effective date: July 1, 2000.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Relating clause.

Provides a civil penalty for violations of this Act.

SECTION 2.

Amends Chapter 254B, Election Code, by adding Section 254.0312 to set forth guidelines for the use and reporting of contributions by fictitious contributors. Moves text of proposed SECTION 2 to SECTION 3.

SECTION 3.

Amends Section 254.036, Election Code, to require each report filed with the commission under this chapter to be filed by direct electronic transfer through the Internet using computer software provided by the commission, except as provided by Subsections (c)-(e) and (g). Increases the contributions and expenditures maximum to \$15,000. Requires a declaration of intent not to exceed the contributions or expenditures maximum to be filed within certain dates. Requires all entities who filed under Subsection (a) to sign an affidavit stating that the person or committee did not use computer equipment to keep records of political contributions, expenditures, or persons making contributions to the entity or that computer equipment used does not have access to the Internet, and stating that the use of computer equipment or the acquisition of Internet access would require the person or committee to file under Subsection (b). Authorizes a political actor to file reports to the commission that comply with Subsection (a) if the software needed to file reports under Subsection (b) has not been provided by the 30th day before the last day of the reporting period for which the report is required. Provides that this subsection expires September 1, 2001. Makes conforming changes.

SECTION 4.

Amends Section 254.0402, Election Code, to delete text prohibiting a person using report information for soliciting for political or charitable contributions.

SECTION 5.

Repeals Section 254.040(b), Election Code.

SECTION 6.

Effective date: July 1, 2000.

SECTION 7.

Makes application of this Act prospective.