

## BILL ANALYSIS

Senate Research Center

S.B. 649  
By: Hinojosa  
State Affairs  
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### AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current Texas law does not define administrative expenses or electioneering communication. It prohibits corporate and union money and requires individual and political action committee (PAC) disclosure for direct campaign expenditures. The definition of direct campaign expenditure, however, is vague. These clarifications to current law ensure that Texas keeps corporate and union money out of its elections and informs the public about individuals funding specific ads.

S.B. 649 clarifies Texas' prohibition on corporate and union prohibition contributions to political campaigns. It follows established federal law and definitions to clarify prohibited contributions. S.B. 640 also requires individual and PAC donations for last-minute election ads to be disclosed.

### RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Ethics Commission is modified in SECTION 26 (Section 257.007, Election Code) of this bill.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 251.001, Election Code, by amending Subdivisions (2) and (8) to redefine "contribution" and "direct campaign expenditure," and adding Subdivisions (21)-(33) to define "membership organization," "member," "connected organization," "establishment or administration expense," "restricted class," "executive or administrative personnel," "separate segregated fund," "coordinated expenditure," "electioneering communication," "targeted to the relevant electorate," "mass mailing," "telephone bank," and "express advocacy."

SECTION 2. Amends Subchapter A, Chapter 251, Election Code, by adding Section 251.010, as follows:

Sec. 251.010. COORDINATED EXPENDITURES. Sets forth conditions which can be classified as a coordinated expenditure with a candidate, officeholder, political party, or political committee.

SECTION 3. Amends Section 253.002(a), Election Code, to prohibit a person from knowingly making, authorizing, or aiding the making of a direct campaign expenditure.

SECTION 4. Amends Section 253.061, Election Code, as follows:

Sec. 253.061. New Heading: DIRECT EXPENDITURE OF \$1,000 OR LESS. Authorizes an individual not acting in concert with another person to make one or more direct campaign expenditures in an election from the individual's own property if the total expenditures on any one or more candidates or measures do not exceed \$1,000, rather than \$100, except as otherwise provided by law.

SECTION 5. Amends the heading to Section 253.062, Election Code, to read as follows:

Sec. 253.062. DIRECT EXPENDITURE EXCEEDING \$1,000.

SECTION 6. Amends Section 253.062(a), Election Code, to authorize an individual to make a contribution of \$1,000, rather than \$100, provided the individual meets specific guidelines.

SECTION 7. Amends the heading to Subchapter D, Chapter 253, Election Code, to read as follows:

SUBCHAPTER D. CORPORATIONS, LABOR ORGANIZATIONS, AND MEMBERSHIP ORGANIZATIONS

SECTION 8. Amends Section 253.091, Election Code, to include that this subchapter applies to an entity with a parent, subsidiary, division, or affiliate described by Subdivision (1) (regarding corporations organized under state and federal laws).

SECTION 9. Amends Section 253.095, Election Code, to include that a representative of or a person who aids a corporation or labor organization that commits an offense under this subchapter is punishable for the grade of offense applicable to the corporation or labor organization.

SECTION 10. Amends the heading to Section 253.098, Election Code, to read as follows:

Sec. 253.098. COMMUNICATION WITH RESTRICTED CLASS

SECTION 11. Amends Section 253.098(a), Election Code, to authorize a membership organization to make one or more direct campaign expenditures from its own property for the purpose of communicating directly with its restricted class, rather than stockholders or members or their families.

SECTION 12. Amends Section 253.099(a), Election Code, to authorize a membership organization to make one or more expenditures from its own property to finance nonpartisan voter registration and get-out-the-vote campaigns aimed at its restricted class, rather than stockholders or members or their families.

SECTION 13. Amends Subchapter D, Chapter 253, Election Code, by adding Sections 253.1001 and 253.1002, as follows:

Sec. 253.1001. EXPENDITURES FOR SEPARATE SEGREGATED FUND. (a) Authorizes a corporation, labor organization, or membership organization, other than a political committee, to make political expenditures from its own treasury funds and property to finance the establishment or administration expenses of not more than one separate segregated fund.

(b) Provides that for purposes of this section, all parents, subsidiaries, branches, divisions, and affiliates of a corporation or membership organization count as a single entity.

(c) Authorizes a corporation or labor organization to make a political expenditure from its own treasury funds or property for establishment or administration expenses of one membership organization of which it is a member.

(d) Requires money in a separate segregated fund from corporate, labor organization, or membership organization treasury funds to be kept in a separate account and prohibits them from being commingled with any other funds. Provides that a person who knowingly violates this subsection commits a Class A misdemeanor.

(e) Requires a separated segregated fund to be treated as a general-purpose committee and requires compliance with the provisions of this title applicable to a general-purpose committee as if the separate segregated fund were a general-purpose committee.

Sec. 253.1002. SOLICITATION FOR SEPARATE SEGREGATED FUNDS. (a) Authorizes a connected organization, subject to Subsection (c), to make a political

expenditure from its own treasury funds for expenses to solicit or facilitate political contributions from its restricted class for the organization's separate segregated fund.

(b) Authorizes a connected organization to facilitate a political contribution from its restricted class under Subsection (a) by enabling a contribution from a payroll deduction, checking a form to indicate a contribution is authorized, instituting a periodic payment plan, or enclosing a return envelope in a solicitation request. Authorizes a connected organization to solicit a voluntary political contribution from its restricted class under Subsection (a) by mailings, oral requests, pamphlets, and other means.

(c) Prohibits a corporation or labor organization from making more than two written solicitations for contributions to the separate segregated fund in a calendar year to employees who are not stockholders, executive or administrative personnel, or their respective families.

SECTION 14. Amends the heading to Section 253.101, Election Code, to read as follows:

Sec. 253.101. UNLAWFUL CONTRIBUTION OR EXPENDITURE.

SECTION 15. Amends Section 253.101, Election Code, by amending Subsection (a) and adding Subsections (a-1) and (a-2), as follows:

(a) Prohibits a person, including a connected organization, rather than a political committee assisted by a corporation or labor organization, from making a political contribution or political expenditure in whole or part from money that is known by the person or a member or officer of the person, rather than political committee, to be dues, fees, or other money required as a condition of employment, promotion, or condition of membership in a labor organization.

(a-1) Prohibits a person, including a connected organization, from using the establishment, administration, and solicitation process as a means of exchanging treasury money for voluntary contributions.

(a-2) Prohibits a person, including a connected organization, from paying another person for making a political contribution through a bonus, expense account, or other form of direct or indirect compensation or reimbursement.

SECTION 16. Amends Section 253.102(a) and (b), Election Code, as follows:

(a) Requires a stockholder's, employee's or labor organization member's contribution to be voluntary. Provides that a corporation, labor organization, membership organization, or other person commits an offense if the person uses or threatens to use physical force, job discrimination, financial reprisal, or gain against an employee or labor organization to obtain money or any other thing of value to benefit a candidate, officeholder, political committee, or separate segregated fund or to be used to influence the result of an election or to assist an officeholder. Deletes text referring to political committees assisted by a corporation or labor organization. Makes nonsubstantive changes.

(b) Deletes text referring to Section 253.100 (Expenditures for General Purpose Committee, Election Code).

SECTION 17. Amends Section 253.104(b), Election Code, to prohibit a corporation or labor organization from knowingly making a contribution during a period beginning on the 60th day before the date of a general election for state and county officers or a primary election and continuing through the day of the election.

SECTION 18. Amends Section 254.031(a), Election Code, to increase the contribution amount required to be included in a report filed under this chapter from \$50 to \$100. Makes conforming changes.

SECTION 19. Amends Section 254.151, Election Code, to increase the contribution amount required to be included in a report filed under this chapter from \$50 to \$100. Makes a conforming change.

SECTION 20. Amends Subchapter F, Chapter 254, Election Code, by adding Section 254.1511, as follows:

Sec. 254.1511. REPORTING OF EXPENDITURES BY SEPARATE SEGREGATED FUND. Requires a separate segregated fund to report expenditures made under Sections 253.098 (Communication with Stockholders or Members), 253.099 (Nonpartisan Voter Registration and Get-Out-the-Vote Campaign), 253.1001 and 253.1002 on a separate schedule.

SECTION 21. Amends Section 254.156, Election Code, to provide that a maximum amount of a political contribution, expenditure, or loan under \$20, rather than \$10, is not required to be individually reported.

SECTION 22. Amends Section 257.001, Election Code, to authorize a state or county executive committee of a political party to designate not more than one general-purpose committee as the principal committee for that party in the state or county.

SECTION 23. Amends Section 257.002, Election Code, as follows:

(a) Authorizes a political party that accepts a contribution to be used only for its own establishment or administrative expenses, to administer a primary election, the establishment or administrative expenses of a convention held by the party, or for expenses related to redistricting.

(b) Requires a political party that accepts contributions authorized by Section 253.104 (Contribution to a Political Party) to maintain the contributions in a separate account and pay all allowable expenditures under Subsection (a) owed to a third-party vendor or contractor directly from the separate account. Prohibits a political party from transferring a contribution authorized by Section 253.104 to a political committee or another entity directly or indirectly under the party's direction or control.

SECTION 24. Amends Section 257.003, Election Code, by adding Subsection (e), to provide that Sections 254.153 (Semiannual Reporting Schedule for Committee) and 254.154 (Additional Reports of Committee Involved in Election) govern the reporting schedule for a report required by this section.

SECTION 25. Amends Section 257.004, Election Code, by amending Subsection (a) and adding Subsection (b-1), as follows:

(a) Prohibits a political party, beginning on the 60th day before the date of a primary election, from knowingly accepting a contribution authorized by Section 253.104.

(b-1) Provides that a contribution is accepted under this section when it is received by or on behalf of the party, unless the contribution is returned to the contributor no later than the fifth day after it is received. Provides that an expenditure is made from the account established when any funds are expended or obligated, whichever is earlier.

SECTION 26. Amends Section 257.007, Election Code, as follows:

Sec. 257.007. RULES. Requires the Texas Ethics Commission to adopt rules to ensure that corporate or labor organization funds are not used for political activity in circumvention of this chapter.

SECTION 27. Repealer: Sections 253.098(b) (regarding expenditures reported under Chapter 254), 253.099(b) (regarding expenditures reported under Chapter 254), 253.100 (Expenditures for General-Purpose Committee), and 257.003(d) (regarding the Ethics Commission's rulemaking authority over reporting schedules for primary and general elections), Election Code.

SECTION 28. Makes application of this Act prospective.

SECTION 29. Provides that the amendment of Subdivision (2), Section 251.001, Election Code, by the addition of Subparagraph (A)(iv) to that subdivision is intended to clarify rather than change existing law.

SECTION 30. Effective date: September 1, 2005.