

BILL ANALYSIS

C.S.H.B. 37
By: Cook
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested observers contend that Texas voters have a right to know who is influencing elections and that transparency of the person or persons who fund efforts to influence elections is a crucial first step in restoring public confidence in the campaign finance system. These observers go on to explain that when the public cannot determine who or what organization is behind a political message, it can create the perception that the democratic process has become corrupted. The observers believe that voters can better measure the authenticity of a political message if they know who is behind that message and believe that the law should clarify the reporting of certain contributions used to make political expenditures by certain persons who are not political committees in order to increase transparency. C.S.H.B. 37 seeks to provide this clarification.

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. 37 amends the Election Code to establish reporting requirements for certain contributions and political expenditures by a person or group that is not a political committee, that accepts one or more contributions in connection with campaign activity from a person that in the aggregate exceed \$2,000 during a reporting period, and that makes one or more political expenditures, excluding certain authorized expenditures made by a corporation or labor organization, that in the aggregate exceed \$25,000 during a calendar year. The bill exempts a person to whom the bill's provisions apply from statutory provisions relating to the reporting of a direct campaign expenditure exceeding \$100.

C.S.H.B. 37 defines, for purposes of its provision regarding reporting by certain persons who are not political committees, "contribution" by reference to the meaning assigned that term in Election Code provisions generally regulating political funds and campaigns and specifies that the term includes dues and gifts but does not include a commercial transaction involving the transfer for consideration of anything of value pursuant to a contract or agreement that reflects the usual and normal business practice of an industry. The bill defines, for those same purposes, "contribution in connection with campaign activity" as a contribution from a donor to a person or group that, at the time that the donor makes the contribution, the donor knows or has reason to know may be used to make a political contribution or political expenditure or may be commingled with other funds used to make a political contribution or political expenditure and establishes that a donor who signs a statement indicating that the donor's contribution to the

person or group may not be used to make a political contribution or political expenditure does not have reason to know that the donor's contribution may be used to make a political contribution or political expenditure. The bill defines, for those same purposes, "donor" as a person who makes a contribution to a person or group to whom the bill's provisions apply, regardless of whether the person making the contribution is a member of the person or group that accepts the contribution.

C.S.H.B. 37 requires a person or group to whom the bill's provisions apply to comply with statutory provisions relating to political reporting as if the person or group were the campaign treasurer of a general-purpose committee that does not file monthly reports under the statutory provisions authorizing a general-purpose committee to file monthly reports as an alternative to filing certain other semiannual or additional reports. The bill exempts such a person or group from the requirement to file a campaign treasurer appointment for accepting contributions or making political expenditures for which reporting is required under the bill's provisions unless the person or group is otherwise required to file a campaign treasurer appointment under statutory provisions generally regulating political funds and campaigns. The bill exempts a person or group from the requirement to file a report that otherwise is required under the bill's provisions if the person or group is required to disclose the contributions and political expenditures in another report required under statutory provisions generally regulating political funds and campaigns within the time applicable under the bill's provisions for reporting those contributions and expenditures or if no reportable activity occurs during the reporting period.

C.S.H.B. 37 establishes that disclosure of a contribution as provided by statutory provisions governing the general contents of reports for purposes of political reporting generally and as provided by statutory provisions governing the additional contents of reports for purposes of reporting by a general-purpose committee is required in a report under the bill's provisions only if the contribution is a contribution in connection with campaign activity and the aggregate amount of contributions in connection with campaign activity accepted from a person exceeds \$2,000 during the reporting period. The bill establishes that a report required under the bill's provisions is not required to include any contributions accepted by the person or group that are not contributions in connection with campaign activity; the total amount of unitemized political contributions accepted by the person or group; the total amount of political contributions maintained by the person or group; any expenditures made by the person or group that are not political expenditures; the total amount of unitemized political expenditures made by the person or group; or the principal amount of all of the person's or group's outstanding loans. The bill requires the first report that is to be filed in a calendar year in which the \$2,000 or \$25,000 threshold set by the bill's provisions is exceeded to include all contributions in connection with campaign activity accepted from a person that in the aggregate exceed \$2,000 and all political expenditures made in the 12 months immediately preceding the acceptance of the contribution in connection with campaign activity or the making of the political expenditure that triggers the reporting requirements of the bill's provisions and not previously reported as required under the bill's provisions.

C.S.H.B. 37 establishes that a contribution consisting of personal travel expense incurred by an individual is not required to be reported under the bill's provisions if the individual receives no reimbursement for the expense and that a contribution consisting of an individual's personal service is not required to be reported under the bill's provisions if the individual receives no compensation for the service.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 37 may differ from the original in minor or nonsubstantive ways, the following

comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 254.261, Election Code, is amended by adding Subsection (e) to read as follows:

(e) This section does not apply to a person to whom Subchapter K applies.

SECTION 2. Chapter 254, Election Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. REPORTING BY CERTAIN PERSONS WHO ARE NOT POLITICAL COMMITTEES

Sec. 254.281. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies only to a person or group of persons that:

- (1) is not a political committee;
- (2) accepts political contributions as

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Chapter 254, Election Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. REPORTING BY CERTAIN PERSONS WHO ARE NOT POLITICAL COMMITTEES

Sec. 254.281. DEFINITIONS. In this subchapter:

(1) "Contribution" has the meaning assigned by Section 251.001 and includes dues and gifts, except that the term does not include a commercial transaction involving the transfer for consideration of anything of value pursuant to a contract or agreement that reflects the usual and normal business practice of an industry.

(2) "Contribution in connection with campaign activity" means a contribution from a donor to a person or group that, at the time that the donor makes the contribution, the donor knows or has reason to know may be used to make a political contribution or political expenditure or may be commingled with other funds used to make a political contribution or political expenditure. A donor who signs a statement indicating that the donor's contribution to the person or group may not be used to make a political contribution or political expenditure does not have reason to know that the donor's contribution may be used to make a political contribution or political expenditure.

(3) "Donor" means a person who makes a contribution to a person or group to whom this subchapter applies, regardless of whether the person making the contribution is a member of the person or group that accepts the contribution.

Sec. 254.282. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a person or group that:

- (1) is not a political committee;
- (2) accepts one or more contributions in

described by Subsection (b); and

(3) makes one or more political expenditures, excluding expenditures authorized by Sections 253.098, 253.099, 253.100, and 253.104, that in the aggregate exceed \$25,000 during a calendar year.

(b) A person or group of persons accepts political contributions if a member or donor of the person or group makes a payment, including dues, to the person or group and, at the time that the member or donor makes the payment, the member or donor knows or has reason to know that the payment may be used to make a political contribution or political expenditure or may be comingled with other funds used to make a political contribution or political expenditure. A member or donor who signs a statement indicating that the member's or donor's payment to the person or group may not be used to make a political contribution or political expenditure does not have reason to know that the payment may be used to make a political contribution or political expenditure.

Sec. 254.282. REPORTING REQUIREMENTS. (a) Except as otherwise provided by this subchapter, a person or group of persons shall comply with this subchapter as if the person or group were the campaign treasurer of a general-purpose committee that does not file monthly reports under Section 254.155.

(b) A person or group of persons is not required to file a campaign treasurer appointment for making political expenditures for which reporting is required under this subchapter, unless the person is otherwise required to file a campaign treasurer appointment under this title.

(c) A person or group of persons is not required to file a report under this subchapter if:

(1) the person or group is required to disclose political contributions and political expenditures in another report required under this title within the time applicable under this subchapter for reporting the contributions and expenditures; or

(2) no reportable activity occurs during the reporting period.

Sec. 254.283. CONTENTS OF REPORT.

connection with campaign activity from a person that in the aggregate exceed \$2,000 during a reporting period; and

(3) makes one or more political expenditures, excluding expenditures authorized by Sections 253.098, 253.099, 253.100, and 253.104, that in the aggregate exceed \$25,000 during a calendar year.

Sec. 254.283. REPORTING REQUIREMENTS. (a) Except as otherwise provided by this subchapter, a person or group shall comply with this chapter as if the person or group were the campaign treasurer of a general-purpose committee that does not file monthly reports under Section 254.155.

(b) A person or group is not required to file a campaign treasurer appointment for accepting contributions or making political expenditures for which reporting is required under this subchapter, unless the person or group is otherwise required to file a campaign treasurer appointment under this title.

(c) A person or group is not required to file a report under this subchapter if:

(1) the person or group is required to disclose the contributions and political expenditures in another report required under this title within the time applicable under this subchapter for reporting the contributions and political expenditures; or

(2) no reportable activity occurs during the reporting period.

Sec. 254.284. CONTENTS OF REPORT.

(a) Itemization of a political contribution as provided by Section 254.031(a)(1) is required in a report under this subchapter only if

the aggregate amount of contributions accepted from a person exceeds \$1,000 during the reporting period.

(b) The first report required to be filed in a calendar year in which the \$25,000 threshold under Section 254.281(a)(3) is exceeded must include all political contributions accepted and all political expenditures made in the 12 months immediately preceding the acceptance of the contribution or the making of the expenditure that triggers the reporting requirements of this subchapter and not previously reported as required under this subchapter.

(a) Disclosure of a contribution as provided by Sections 254.031 and 254.151 is required in a report under this subchapter only if:

(1) the contribution is a contribution in connection with campaign activity; and

(2) the aggregate amount of contributions in connection with campaign activity accepted from a person exceeds \$2,000 during the reporting period.

(b) A report required under this subchapter is not required to include:

(1) any contributions accepted by the person or group that are not contributions in connection with campaign activity;

(2) the total amount of unitemized political contributions accepted by the person or group;

(3) the total amount of political contributions maintained by the person or group;

(4) any expenditures made by the person or group that are not political expenditures;

(5) the total amount of unitemized political expenditures made by the person or group;

or
(6) the principal amount of all of the person's or group's outstanding loans.

(c) The first report required to be filed in a calendar year in which the \$2,000 or \$25,000 threshold under Section 254.282 is exceeded must include all contributions in connection with campaign activity accepted from a person that in the aggregate exceed \$2,000 and all political expenditures made in the 12 months immediately preceding the acceptance of the contribution in connection with campaign activity or the making of the political expenditure that triggers the reporting requirements of this subchapter and not previously reported as required under this subchapter.

Sec. 254.285. NONREPORTABLE PERSONAL TRAVEL EXPENSE. A contribution consisting of personal travel expense incurred by an individual is not required to be reported under this subchapter if the individual receives no reimbursement for the expense.

Sec. 254.286. NONREPORTABLE PERSONAL SERVICE. A contribution consisting of an individual's personal service is not required to be reported under this subchapter if the individual receives no compensation for the service.

SECTION 3. Subchapter K, Chapter 254, Election Code, as added by this Act, applies only to the reporting of a political contribution or political expenditure made on or after the effective date of this Act. A contribution or expenditure made before the effective date of this Act is governed by the law in effect when the contribution or expenditure was made, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2015.

SECTION 3. Subchapter K, Chapter 254, Election Code, as added by this Act, applies only to the reporting of a contribution in connection with campaign activity or political expenditure made on or after the effective date of this Act. A contribution or expenditure made before the effective date of this Act is governed by the law in effect when the contribution or expenditure was made, and the former law is continued in effect for that purpose.

SECTION 4. Same as introduced version.