

BILL ANALYSIS

Senate Research Center
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S.B. 1980
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2010, the United States Supreme Court ruled in *Citizens United v. Federal Elections Commission* that the free speech clause of the First Amendment prohibits the government from restricting independent expenditures for communications by non-profit corporations, for-profit corporations, labor unions, and other associations. To conform with that ruling, the Texas Legislature passed H.B. 2359 in 2011, eliminating the state's prohibition on those types of expenditures from the Elections Code.

However, beyond the addition of one brief subchapter describing reporting requirements should those direct (independent) expenditures be made, the legislature has not had any further debate on the parameters of direct campaign expenditures. Therefore, the Texas Ethics Commission has relied on its rulemaking process to establish the method of operations for direct campaign expenditure committees. This has resulted in confusion and over burdensome requirements imposed on political committees seeking to exercise their First Amendment rights in Texas.

S.B. 1980 creates legislatively-determined definitions and processes for direct, independent campaign expenditures, and creates streamlined reporting requirements for those entities that engage in that activity. Also created in the bill is a clear statement on what constitutes political coordination, which was previously undefined in statute. S.B. 1980 encourages efficiency by allowing affiliated entities to file one easy-to-find campaign finance report that includes all contributions and expenditures.

As proposed, S.B. 1980 amends current law relating to direct campaign expenditures by political committees.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 251.001, Election Code, by amending Subdivision (12) and adding new Subdivisions (21) and (22), as follows:

(12) Redefines "political committee" to mean two or more persons acting in concert with a principal purpose of accepting political contributions or making political expenditures. Provides that the term does not include a group composed exclusively of two or more individual filers or political committees required to file reports under this title who make reportable expenditures for a joint activity.

(21) Defines "acting in concert."

(22) Defines "in-kind contribution."

SECTION 2. Amends Chapter 251, Election Code, by adding Section 251.0015, as follows:

Sec. 251.0015. AFFIDAVIT FOR MEETING. (a) Provides that, for purposes of Subsection 251.001(21), meeting with a candidate, or a candidate's agent or staff, is not evidence of acting in concert with the candidate for a person at the meeting who signs an affidavit in accordance with Subsection (b) within five days after the meeting, unless there is evidence that the person violated Section 37.02 (Perjury), Penal Code, in signing the affidavit under Subsection (b).

(b) Requires the affidavit to state that no person at the meeting provided to another person during the meeting:

- (1) mailing, email, or telephone lists;
- (2) dates for prospective campaign communications;
- (3) amounts being spent on prospective campaign communications; or
- (4) drafts or final proofs of prospective political advertising.

SECTION 3. Amends Section 252.003(a), Election Code, as follows:

(a) Requires a campaign treasurer appointment by a general-purpose committee, in addition to the information required by Section 252.002 (Contents of Appointment), to include:

- (1) makes no changes to this subdivision;
- (2) and (3) makes nonsubstantive changes to these subdivisions; and
- (4) if the committee intends to use a political contribution from a corporation or a labor organization to make any direct campaign expenditures in connection with a campaign for an elective office, an affidavit stating that:
 - (A) the committee is not established or controlled by a candidate or an officeholder; and
 - (B) the committee will not use any political contribution from a corporation or a labor organization to make a political contribution to any:
 - (i) candidate for elective office;
 - (ii) officeholder; or
 - (iii) political committee that has not filed an affidavit under this subdivision.

SECTION 4. Amends Section 252.0031, Election code, as follows:

Sec. 252.0031. CONTENTS OF APPOINTMENT BY SPECIFIC-PURPOSE COMMITTEE. (a) Makes a nonsubstantive change. Requires a campaign treasurer appointment by a specific-purpose committee for supporting or opposing a candidate for an office specified by Section 252.005(1) (relating to requiring an individual to file a campaign treasurer appointment for the individual's own candidacy with the Texas Ethics Commission (TEC) under certain conditions), in addition to the information required by Section 252.002, to include:

- (1) creates this subdivision from existing text and makes a nonsubstantive change; and
- (2) if the committee intends to use a political contribution from a corporation or a labor organization to make any direct campaign

expenditures in connection with a campaign for an elective office, an affidavit in accordance with the requirements of Section 252.003(a)(4).

(b) Creates this subsection from existing text. Requires the committee, if any of the information required to be included in a specific-purpose committee's appointment changes, to immediately file an amended appointment reflecting the change, rather than if that information required changes to immediately file an amended appointment reflecting the change.

(c) Creates this subsection from existing Subsection (b) and makes no further changes.

SECTION 5. Amends Subchapter D, Chapter 253, Election Code, by adding Section 253.097, as follows:

Sec. 253.097. CONTRIBUTION FOR DIRECT CAMPAIGN EXPENDITURES. Authorizes a corporation or labor organization to make campaign contributions from its own property to a political committee that has filed an affidavit with TEC in accordance with Section 252.003(a)(4) or 252.0031(a)(2).

SECTION 6. Amends Sections 253.100(a), (d), and (e), Election Code, as follows:

(a) Authorizes a corporation, in addition to any other expenditure that is considered permissible under this section (Expenditures For General-Purpose Committee), to make certain expenditures for the maintenance and operation of a general-purpose committee, including creation and maintenance of the committee's public Internet webpages that do not contain political advertising. Makes nonsubstantive changes.

(d) Makes no changes to this subsection.

(e) Provides that Subsection (d) (relating to prohibiting a corporation or labor organization from making certain expenditures) does not apply to a corporation or labor organization making an expenditure authorized by Section 253.097 or 253.098 (Communication With Stockholders or Members), rather than providing that Subsection (d) does not apply to a corporation or labor organization making an expenditure to communicate with its stockholders or members, as applicable, or with the families of its stockholders or members as provided by Section 253.098.

SECTION 7. Repealer: Section 253.101 (Unlawful Contribution or Expenditure by Committee), Election Code.

SECTION 8. Effective date: September 1, 2019.