

By: Anchia

H.B. No. 1656

A BILL TO BE ENTITLED

AN ACT

relating to public financing of campaigns for appellate judicial
offices; providing civil penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 15, Election Code, is amended by adding
Chapter 259 to read as follows:

CHAPTER 259. PUBLIC FINANCING OF CAMPAIGNS FOR

APPELLATE JUDICIAL OFFICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 259.001. APPLICABILITY OF CHAPTER. This chapter
applies only to the offices of:

(1) chief justice and justice, supreme court;

(2) presiding judge and judge, court of criminal
appeals; and

(3) chief justice and justice, court of appeals.

Sec. 259.002. DEFINITIONS. In this chapter:

(1) "Election cycle" means:

(A) the general primary election, runoff primary
election, if any, and general election for state and county
officers; or

(B) a special election and runoff election, if
any.

(2) "Fund" means the campaign financing fund
established under Subchapter C.

1 Sec. 259.003. EFFECT OF ACCEPTING PUBLIC MONEY. By
2 accepting money from the fund, a candidate agrees to not accept
3 political contributions not authorized by this chapter.

4 SUBCHAPTER B. ELIGIBILITY FOR PUBLIC FINANCING

5 Sec. 259.011. REQUIREMENTS FOR ELIGIBILITY GENERALLY. To be
6 eligible to receive public financing under this chapter, a
7 candidate must:

8 (1) receive political contributions in the applicable
9 amount and within the applicable period prescribed by Section
10 259.017; and

11 (2) file with the commission a petition that satisfies
12 the applicable requirements prescribed by:

13 (A) Subchapter C, Chapter 141, as if the petition
14 were a petition filed in connection with a candidate's application
15 for a place on the ballot; and

16 (B) Sections 259.013, 259.014, 259.015, and
17 259.016.

18 Sec. 259.012. CERTIFICATION OF CANDIDATE AS CONDITIONALLY
19 ELIGIBLE. (a) Not later than the 15th day after the date an
20 application for a place on the ballot is required to be filed, the
21 secretary of state shall certify in writing to the commission each
22 person who is a candidate for an office covered by this chapter as
23 conditionally eligible for public financing.

24 (b) Not later than the fifth day after the date the
25 secretary of state certifies a candidate for placement on the list
26 of write-in candidates as a candidate for an office covered by this
27 chapter, the secretary shall certify the candidate in writing to

1 the commission as conditionally eligible for public financing.

2 (c) The secretary of state shall deliver a copy of a
3 certification under this section to the affected candidate.

4 Sec. 259.013. CIRCULATION PERIOD FOR PETITION; HEADING AND
5 STATEMENT. (a) A petition under this subchapter may not be
6 circulated before the beginning of the applicable period prescribed
7 by Section 259.017(a).

8 (b) Each page of a petition under this subchapter must:

9 (1) be headed "Petition for Public Campaign Financing
10 for (Name of Candidate), a Candidate for (Name of Office Sought and
11 Place Number, if Applicable)."; and

12 (2) contain a statement just ahead of the signatures
13 of the petitioners, as follows: "I know that the purpose of this
14 petition is to enable (name of candidate) to receive public
15 financing in connection with (his or her) campaign for (name of
16 office sought and place number, if applicable)."

17 (c) The circulation of a petition to be filed under this
18 subchapter does not constitute candidacy or an announcement of
19 candidacy for purposes of the automatic resignation provisions of
20 Section 11, Article XI, or Section 65, Article XVI, Texas
21 Constitution.

22 Sec. 259.014. REQUIRED SIGNATURES FOR PETITION. (a) A
23 candidate's petition under this subchapter must be signed by at
24 least:

25 (1) 2,500 registered voters, if the candidate seeks a
26 statewide judicial office; or

27 (2) 1,000 registered voters of the court of appeals

district for which the candidate seeks the office of chief justice or justice of a court of appeals.

(b) Not more than 20 percent of the required number of signers may be residents of:

(1) the same county, if the candidate seeks a statewide judicial office; or

(2) the same commissioners court precinct, if the candidate seeks the office of chief justice or justice of a court of appeals.

(c) A petition that violates Subsection (b) is not invalid if the petition would otherwise be valid if the signatures of residents of the same county or precinct, as applicable, in excess of the applicable number specified by Subsection (b) were disregarded.

(d) A person may not sign a petition under this subchapter for more than one candidate for the same office. For purposes of this subsection, each numbered place on an appellate court is a separate office.

Sec. 259.015. REQUIRED POLITICAL CONTRIBUTIONS FROM PETITION SIGNERS. (a) A person who signs a petition under this subchapter must, at the time of signing, make a political contribution to the candidate in the form of cash or a check of \$5.

(b) A political contribution accepted under this section is counted for purposes of Section 259.017.

Sec. 259.016. FILING OF PETITION. A candidate requesting public financing under this chapter must file the petition with the commission not later than the applicable deadline for filing an

1 application for a place on the ballot or a declaration of write-in
2 candidacy.

3 Sec. 259.017. REQUIRED CAMPAIGN CONTRIBUTIONS. (a) A
4 candidate seeking public financing under this chapter must accept
5 and receive at least the amount specified by Subsection (b) in
6 political contributions during the period:

7 (1) beginning on the 120th day before the date an
8 application for a place on the ballot or a declaration of write-in
9 candidacy, as applicable, is required to be filed; and

10 (2) ending on the fifth day before the date an
11 application for a place on the ballot or a declaration of write-in
12 candidacy, as applicable, is required to be filed.

13 (b) The required amount of campaign contributions is:

14 (1) \$12,500, if the candidate seeks a statewide
15 judicial office; or

16 (2) \$5,000 from residents of the court of appeals
17 district for which the candidate seeks the office of chief justice
18 or justice of a court of appeals.

19 (c) Not later than the fifth day after the date the
20 commission certifies a candidate as eligible for public financing
21 under Section 259.018, a candidate who received more in political
22 contributions under this section than the applicable amount under
23 Subsection (b) shall deliver to the commission an amount equal to
24 the difference between the amount of political contributions
25 received and the applicable amount under Subsection (b). The
26 commission shall deliver money received under this subsection to
27 the comptroller for deposit in the fund. A candidate who is not

certified as eligible for public financing is not required to deliver excess political contributions to the commission under this subsection.

(d) Notwithstanding Section 254.034, a candidate who is requesting public financing and who accepts a political contribution under this section but who does not receive the contribution until after the applicable date prescribed by Subsection (a)(2) shall return the contribution to the contributor not later than the fifth day after the date the candidate receives the contribution.

Sec. 259.018. CERTIFICATION OF CANDIDATE AS ELIGIBLE. (a) Not later than the fifth day after the date the commission determines a candidate is eligible, the commission shall certify to the comptroller as eligible for public financing each candidate who:

(1) meets the requirements prescribed by Section 259.011; and

(2) is certified to the commission as conditionally eligible under Section 259.012.

(b) A determination as to whether a candidate meets the requirements prescribed by Section 259.017 must be based on reports of political contributions and expenditures filed under Chapter 254. The commission is not required to make a determination as to whether a candidate is eligible until the candidate makes a written request for a determination. The commission shall make a determination not later than the 15th day after the later of:

(1) the date the commission receives the request for a

1 determination; or

2 (2) the date the candidate files a report under
3 Chapter 254 covering the period prescribed by Section 259.017.

4 (c) The commission shall deliver a copy of a certification
5 under this section to:

6 (1) the affected candidate; and

7 (2) each opponent of the affected candidate.

8 Sec. 259.019. VERIFICATION OF PETITION. (a) The
9 commission is not required to verify a petition filed under this
10 subchapter unless, not later than the 10th day after the date a
11 petition is required to be filed under Section 259.016, a person
12 alleges to the commission in writing that the petition does not meet
13 the requirements prescribed by this chapter.

14 (b) The commission shall verify a petition as promptly as
15 possible after receiving an allegation under Subsection (a).
16 Pending verification, the commission may not certify the candidate
17 to the comptroller as eligible for public financing.

18 (c) On request of the commission, a voter registrar shall
19 verify the voter registration status of a signer of a petition filed
20 with the commission who the petition indicates is registered or has
21 been approved for registration in the county served by the
22 registrar.

23 (d) If the commission verifies that the petition meets the
24 requirements prescribed by this chapter and the candidate is
25 eligible for public financing:

26 (1) the commission shall certify the candidate to the
27 comptroller as eligible for public financing; and

1 (2) the comptroller shall distribute to the candidate
2 from the fund any money to which the candidate would have been
3 entitled if the candidate had been eligible during the period in
4 which the verification was pending.

5 SUBCHAPTER C. CAMPAIGN FINANCING FUND

6 Sec. 259.051. CAMPAIGN FINANCING FUND. (a) The campaign
7 financing fund is in the state treasury.

8 (b) The fund consists of:

- 9 (1) amounts appropriated to the fund;
10 (2) amounts refunded to the fund under Section 259.055
11 or 259.056;
12 (3) amounts delivered to the commission under Section
13 259.017(c);
14 (4) amounts received by the commission or comptroller
15 as a gift or grant to the fund; and
16 (5) civil penalties collected by the commission for a
17 violation of this chapter or Section 253.155.

18 (c) For a person to be eligible to receive public financing,
19 the commission must certify to the comptroller that the person is
20 eligible as provided by Section 259.018.

21 (d) Money remaining in the fund at the end of an election
22 cycle is retained in the fund for the next election cycle. The
23 comptroller shall credit interest on money in the fund to the fund.
24 Money in the fund may be appropriated only for purposes of this
25 chapter.

26 Sec. 259.052. FUNDS FOR ELIGIBLE CANDIDATES. (a) In
27 connection with each general election for state and county

officers, the commission shall, not later than the 130th day before the date an application for a place on the primary election ballot is required to be filed, adopt rules prescribing the total amount of public financing to which a candidate for an office covered by this chapter whose name will appear on the ballot is entitled. The commission shall determine the amount under this subsection based on:

(1) the allocations prescribed by Subsections (b) and (c);

(2) the comptroller's certified estimation as to the amount that will be available in the fund for the calendar year in which the election occurs;

(3) the secretary of state's estimation, based on previous elections, of the number of candidates in each office covered by this chapter who will be on the primary election ballot or the general election ballot for that election; and

(4) the relative expense of a campaign for the office the candidate seeks, considering the population and geographic size of the office's jurisdiction and the price of advertising in that jurisdiction.

(b) The commission shall prescribe amounts under Subsection (a) to allocate:

(1) 25 percent to candidates for statewide judicial office; and

(2) 75 percent to candidates for chief justice or justice, court of appeals.

(c) The rules adopted under Subsection (a) must specify the

amount of each monthly distribution from the fund. The amount of a monthly distribution made for January, February, or March must be substantially greater than the amount of a monthly distribution made for any other month.

Sec. 259.053. DISTRIBUTIONS FROM FUND. (a) A certified candidate is entitled to a distribution from the fund for each month that begins or ends during the period:

(1) beginning on the date an application for a place on the ballot or a declaration of write-in candidacy, as applicable, is required to be filed; and

(2) except as provided by Subsection (b), ending on the 30th day after:

(A) the date an application for a place on the ballot is required to be filed, if the candidate will not have an opponent in the primary election or general election;

(B) the date of the primary election, if the candidate has an opponent in the primary election and:

(i) will not have an opponent in the general election; or

(ii) is not a candidate in the runoff primary election or the general election;

(C) the date of the runoff primary election, if the candidate is a candidate in that election and:

(i) will not have an opponent in the general election; or

(ii) is not a candidate in the general election; or

1 (D) the date of the general election.

2 (b) Notwithstanding Subsection (a)(2), after a person files
3 a declaration of write-in candidacy opposing a certified candidate
4 who would otherwise not have an opponent in the general election:

5 (1) the certified candidate is entitled to an amount
6 equal to 50 percent of each distribution from the fund scheduled to
7 be made after the date the candidate's opponent files the
8 declaration of write-in candidacy; and

9 (2) if the write-in candidate is certified as eligible
10 under Section 259.018, the write-in candidate is entitled to an
11 amount equal to 50 percent of each distribution from the fund
12 scheduled to be made after the date the candidate files the
13 declaration of write-in candidacy.

14 (c) The comptroller shall distribute money to certified
15 candidates as directed by the commission. If the amount in the fund
16 is insufficient to provide the amounts specified by rules adopted
17 under Section 259.052, the comptroller shall determine the amount
18 of available money and shall distribute the amount on a pro rata
19 basis.

20 Sec. 259.054. RESTRICTIONS ON USE OF MONEY FROM FUND. (a)
21 Money accepted by a candidate from the fund is considered to be a
22 campaign contribution to the candidate. Except as otherwise
23 provided by this chapter, the provisions of this title regulating
24 the use of political contributions apply to money accepted by a
25 candidate from the fund.

26 (b) A candidate may use money accepted from the fund only
27 for expenses related to the candidate's campaign for election. A

candidate may not use money accepted from the fund to make:

(1) a political contribution to another candidate, an officeholder, or a political committee;

(2) a campaign expenditure in connection with an office other than the office as to which the candidate accepted the money; or

(3) an officeholder expenditure.

(c) A candidate who uses money from the fund in violation of Subsection (b):

(1) is not eligible for any additional money from the fund; and

(2) is liable for a civil penalty not to exceed three times the amount of the money used in violation of Subsection (b).

Sec. 259.055. REFUND OF UNEXPENDED AMOUNTS. (a) Following the candidate's last election during the election cycle for which public financing is accepted, a candidate shall refund to the comptroller amounts accepted from the fund that have not been expended or contractually obligated.

(b) A refund under this section must be made not later than the 30th day after the date of:

(1) the primary election, if the candidate is not a candidate in the runoff primary election or the general election;

(2) the runoff primary election, if the candidate is a candidate in that election and is not a candidate in the general election; or

(3) the general election.

(c) The comptroller shall deposit refunds received under

1 this section to the credit of the fund.

2 (d) A person who violates this section is liable for a civil
3 penalty not to exceed three times the amount of money required to be
4 refunded that was not refunded as required by this section.

5 Sec. 259.056. WITHDRAWAL, INELIGIBILITY, OR DEATH OF
6 CANDIDATE. (a) A candidate who withdraws from an election or is
7 declared ineligible shall refund to the comptroller amounts
8 accepted from the fund that have not been expended or contractually
9 obligated. The candidate shall refund those amounts not later than
10 the 10th day after the date the candidate withdraws or is declared
11 ineligible.

12 (b) The campaign treasurer of a candidate who dies shall
13 refund to the comptroller amounts accepted from the fund that have
14 not been expended or contractually obligated. The campaign
15 treasurer shall refund those amounts not later than the 30th day
16 after the date the candidate dies.

17 (c) The comptroller shall deposit refunds received under
18 this section to the credit of the fund.

19 (d) A person who violates this section is liable for a civil
20 penalty not to exceed three times the amount of money required to be
21 refunded that was not refunded as required by this section.

22 Sec. 259.057. DEPOSIT OF CIVIL PENALTIES. The comptroller
23 shall deposit a civil penalty collected by the commission for a
24 violation of this subchapter to the credit of the fund.

25 SUBCHAPTER D. RESTRICTIONS ON ACCEPTANCE AND USE OF POLITICAL
26 CONTRIBUTIONS

27 Sec. 259.101. ACCEPTANCE OF CONTRIBUTIONS PROHIBITED. (a)

1 Except as provided by Section 259.015, 259.017, or 259.103, a
2 candidate or officeholder who accepts public financing or a
3 specific-purpose committee for supporting such a candidate,
4 opposing such a candidate's opponent, or assisting such an
5 officeholder acting with the candidate's or officeholder's
6 authorization may not accept a political contribution in
7 connection with the office for which the candidate or officeholder
8 accepted public financing.

9 (b) A person who violates this section is liable for a civil
10 penalty not to exceed three times the amount of political
11 contributions used in violation of this section.

12 Sec. 259.102. USE OF CONTRIBUTION FROM OTHER OFFICE
13 PROHIBITED. (a) Except as provided by Section 259.103, a candidate
14 or officeholder who accepts public financing or a specific-purpose
15 committee for supporting such a candidate, opposing such a
16 candidate's opponent, or assisting such an officeholder acting with
17 the candidate's or officeholder's authorization may not use a
18 political contribution to make a campaign expenditure for the
19 office for which the candidate or officeholder accepted public
20 financing or to make an officeholder expenditure in connection with
21 that office if the contribution was accepted while the candidate or
22 officeholder:

23 (1) was a candidate for an office other than the office
24 for which the candidate or officeholder accepted public financing;
25 or

26 (2) held an office other than the office for which the
27 candidate or officeholder accepted public financing, unless the

1 person had become a candidate for that office and the contribution
2 was accepted under Section 259.017.

3 (b) A person who violates this section is liable for a civil
4 penalty not to exceed three times the amount of political
5 contributions used in violation of this section.

6 Sec. 259.103. RESTRICTIONS NOT APPLICABLE TO CERTAIN
7 OFFICEHOLDERS. (a) Sections 259.101 and 259.102 do not apply to an
8 officeholder who accepted public financing and who seeks reelection
9 to the office for which the officeholder accepted public financing
10 or election to another office covered by this chapter if the
11 officeholder files a written statement with the commission that the
12 officeholder will not request public financing for the reelection
13 or election.

14 (b) An officeholder who files a statement under Subsection
15 (a) is not eligible for public financing for the reelection or
16 election to which the statement relates.

17 (c) An officeholder who accepted public financing or a
18 specific-purpose committee for assisting such an officeholder or
19 for supporting such an officeholder as a candidate or opposing the
20 officeholder's opponent acting with the candidate's or
21 officeholder's authorization may not accept a political
22 contribution before the officeholder files a statement under
23 Subsection (a).

24 (d) A person who violates Subsection (c) is liable for a
25 civil penalty not to exceed three times the amount of political
26 contributions used in violation of Subsection (c).

27 Sec. 259.104. RETENTION OF CONTRIBUTIONS FOR OFFICEHOLDER

1 PURPOSES. An officeholder who accepted public financing may retain
2 and use for officeholder purposes the unexpended amount, if any, of
3 political contributions accepted under Section 259.015 or 259.017.

4 Sec. 259.105. CERTAIN DIRECT CAMPAIGN EXPENDITURES
5 CONSIDERED CONTRIBUTION TO CANDIDATE. For purposes of Section
6 259.101, a direct campaign expenditure is considered to be a
7 campaign contribution to a candidate if the expenditure is made
8 with the cooperation or prior consent of, in consultation with, or
9 at the suggestion of:

10 (1) the candidate;

11 (2) a specific-purpose committee for supporting the
12 candidate or opposing the candidate's opponent acting with the
13 candidate's authorization; or

14 (3) another person acting with the candidate's
15 knowledge and consent.

16 SUBCHAPTER E. VOTER INFORMATION PAMPHLET

17 Sec. 259.131. APPLICABILITY OF SUBCHAPTER. This subchapter
18 applies to each candidate certified as eligible for public
19 financing.

20 Sec. 259.132. STATEMENT FILED BY CANDIDATE. Not later than
21 the 80th day before the date of the general election, a candidate
22 for an office covered by this subchapter may file with the secretary
23 of state an informational statement, on a form prescribed by the
24 secretary, to be included in a voter information pamphlet for that
25 election.

26 Sec. 259.133. STATEMENT REQUIREMENTS. (a) A candidate's
27 statement must include a summary of the following information:

- (1) current occupation;
- (2) educational and occupational background;
- (3) biographical information; and
- (4) any previous experience serving in government.

(b) The secretary of state shall prescribe the format and length of the candidate's statement.

Sec. 259.134. REVIEW BY SECRETARY OF STATE. (a) Not later than the fifth day after the date the candidate's statement is received, the secretary of state shall review the statement to determine whether it complies with Section 259.133.

(b) If the secretary of state determines that the statement does not comply with Section 259.133, the secretary shall reject the statement and deliver written notice of the reason for the rejection to the candidate not later than the second day after the date of rejection.

(c) A candidate whose statement is rejected may resubmit the statement subject to the prescribed deadline.

Sec. 259.135. PREPARATION OF PAMPHLET. (a) The secretary of state shall contract for the preparation and printing of a voter information pamphlet after soliciting bids for that work. The secretary may prepare separate pamphlets for different regions of the state, including in each pamphlet only statewide offices and the offices to be voted on in the region if the secretary determines that distributing multiple pamphlets is more economical than distributing a single pamphlet for statewide use. The secretary may prepare or print the pamphlet if the secretary determines that the costs of that preparation or printing are less than or equal to

1 the most reasonable bid submitted.

2 (b) On the request of the secretary of state, the commission
3 shall direct the comptroller to transfer from the fund to the
4 secretary the money necessary for preparation of the pamphlet.

5 (c) The pamphlet must include each statement that complies
6 with Sections 259.132 and 259.133 and is filed by a candidate whom
7 the commission has certified as eligible for public financing.
8 Candidates whose names will appear on the ballot and write-in
9 candidates must be shown in separate groups. The order of the
10 candidates' names within the groups is determined by a drawing
11 conducted by the secretary of state. Candidates whose names will
12 appear on the ballot must be identified by party or as an
13 independent candidate, as applicable.

14 (d) The pamphlet must name each candidate for an office
15 covered by this chapter whom the commission has not certified as
16 eligible for public financing and must identify each such candidate
17 by party or as an independent or write-in candidate, as applicable.
18 The pamphlet may not contain any other information about a
19 candidate to whom this subsection applies.

20 (e) The secretary of state shall prescribe appropriate
21 explanatory material to be included in the pamphlet to assist the
22 voters, including:

23 (1) a statement that the pamphlet may be used at the
24 polls to assist the voters in marking their ballots; and

25 (2) a statement that candidates who are not eligible
26 for public financing are not entitled to submit a candidate's
27 statement for inclusion in the pamphlet.

1 Sec. 259.136. DISTRIBUTION OF PAMPHLET. Not later than the
2 45th day before the date of each general election, the secretary of
3 state shall mail the voter information pamphlet to each household
4 in this state in which a registered voter resides.

5 Sec. 259.137. ADDITIONAL PROCEDURES. The secretary of
6 state shall prescribe any additional procedures necessary to
7 implement this subchapter.

8 SECTION 2. Section 253.175(b), Election Code, is amended to
9 read as follows:

10 (b) The judicial campaign fairness fund consists of:

11 (1) penalties recovered under Section 253.176, other
12 than penalties for a violation of Section 253.155; and

13 (2) any gifts or grants received by the commission
14 under Subsection (e).

15 SECTION 3. Section 253.176, Election Code, is amended by
16 amending Subsection (c) and adding Subsection (d) to read as
17 follows:

18 (c) A penalty collected under this section shall be
19 deposited to the credit of the judicial campaign fairness fund,
20 except as provided by Subsection (d).

21 (d) A penalty collected under this section for a violation
22 of Section 253.155 shall be deposited to the credit of the campaign
23 financing fund established under Chapter 259.

24 SECTION 4. Notwithstanding Chapter 259, Election Code, as
25 added by this Act, a person who on September 1, 2015, held an office
26 covered by that chapter and who had unexpended political
27 contributions may use those contributions to make political

H.B. No. 1656

1 expenditures for campaign or officeholder purposes.

2 SECTION 5. This Act takes effect September 1, 2015.