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A BILL TO BE ENTITLED

1 AN ACT

2 relating to political expenditures made by labor organizations;
3 providing civil and criminal penalties.

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

5 SECTION 1. Chapter 101, Labor Code, is amended by adding
6 Subchapter H to read as follows:

7 SUBCHAPTER H. POLITICAL EXPENDITURES BY LABOR ORGANIZATIONS

8 Sec. 101.351. DEFINITIONS. In this subchapter:

9 (1) "Ballot proposition" means a question or proposal
10 submitted in an election for an expression of the voters' will.

11 (2) "Expenditure for a political purpose" includes
12 money spent directly or indirectly for:

13 (A) issue advocacy;

14 (B) lobbying for legislation or administrative
15 action;

16 (C) participating in events that are both social
17 and political in nature;

18 (D) soliciting contributions for political
19 activities or candidates or contributions to a candidate, political
20 committee, political party, or political fund;

21 (E) supporting or opposing a ballot proposition;

22 (F) making a political communication; and

23 (G) all other activities that involve a political
24 purpose.

1 (3) "Labor organization":

2 (A) means a lawful organization of any kind that
3 is composed wholly or partly of employees and that exists wholly or
4 partly for the purpose of dealing with employers concerning
5 grievances, labor disputes, wages, rates of pay, hours of
6 employment, or other terms and conditions of employment; and

7 (B) includes each employee association and union
8 for public employees.

9 (4) "Political fund" means a fund established by a
10 labor organization for political purposes as provided by Section
11 101.352.

12 (5) "Political purpose" means the intention to
13 influence, directly or indirectly, any person to refrain from
14 voting or to vote for or against:

15 (A) a candidate for public office at an election,
16 including a primary election, a caucus, or a political convention;
17 or

18 (B) a ballot proposition.

19 (6) "Public employee" means a person employed by a
20 public employer.

21 (7) "Public employer" means an employer that is:

22 (A) this state or an agency of this state;

23 (B) a state institution of higher education; or

24 (C) a municipal corporation, county,
25 municipality, school district, or special district, or another
26 political subdivision of this state.

27 (8) "Union dues" means dues, fees, advance fees,

1 initiation fees, assessments, or other money required as a
2 condition of membership or participation in a labor organization.

3 Sec. 101.352. ESTABLISHMENT AND ADMINISTRATION OF
4 POLITICAL FUND. (a) A labor organization seeking to make

5 expenditures for political purposes shall establish a political
6 fund.

7 (b) A labor organization that establishes a political fund
8 shall:

9 (1) maintain the political fund as a separate,
10 segregated account apart from any account containing money received
11 by the labor organization as union dues;

12 (2) ensure that each contribution to the political
13 fund is voluntary;

14 (3) if applicable, ensure that each contribution by
15 members of the labor organization to the political fund is executed
16 in accordance with Section 101.356; and

17 (4) if the political fund will engage in activities
18 regulated by Title 15, Election Code:

19 (A) establish the political fund as a
20 general-purpose committee, as defined by Section 251.001, Election
21 Code; and

22 (B) file a campaign treasurer appointment as
23 required by Chapter 254, Election Code.

24 (c) Except as otherwise provided by this subchapter, a labor
25 organization may make expenditures for political purposes only from
26 a political fund established in accordance with law.

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Sec. 101.353. DUTY TO MAINTAIN RECORDS. (a) A labor

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1 organization that makes an expenditure for a political purpose
2 shall maintain a recordkeeping system evidencing the separation of
3 the fund derived from union dues from the labor organization's
4 political fund.

5 (b) The labor organization shall make available a detailed
6 annual report of each account to each member of the labor
7 organization. The report must include detailed information
8 describing the manner in which the labor organization used the
9 union dues.

10 (c) A labor organization subject to this section shall
11 maintain each authorization executed under Section 101.356 by a
12 member of the labor organization at least until the 10th
13 anniversary of the date the authorization is executed.

14 Sec. 101.354. PROHIBITED PRACTICES. (a) A labor
15 organization may not:

16 (1) spend any portion of union dues for a political
17 purpose;

18 (2) transfer union dues to a political fund;

19 (3) require any person to make an expenditure for a
20 political purpose as a condition of employment, a condition of
21 contract, or a condition of membership in the labor organization;

22 (4) reward or offer a benefit to a member who makes an
23 expenditure for a political purpose;

24 (5) penalize or otherwise harm a member who chooses
25 not to make an expenditure for a political purpose;

26 (6) use union dues for administration of a political
27 fund; or

1 (7) use union dues to solicit contributions from any
2 person for a political purpose.

3 (b) Nothing in this subchapter prohibits a labor
4 organization from:

5 (1) making expenditures of union dues to communicate
6 directly with its own members or with the families of its members
7 about political candidates or political issues; and

8 (2) making reasonable expenditures of union dues for
9 use in the establishment of a labor organization's political fund.

10 (c) This subchapter is not intended to preempt any
11 requirement of federal law.

12 Sec. 101.355. PROHIBITED PRACTICES FOR PUBLIC EMPLOYER.

13 (a) A public employer may not deduct from the wages of its employees
14 any amounts to be paid to:

15 (1) a candidate, as defined by Section 251.001,
16 Election Code;

17 (2) a political committee, as defined by Section
18 251.001, Election Code;

19 (3) a political party;

20 (4) a political fund; or

21 (5) an entity established by a labor organization to
22 solicit, collect, or distribute money primarily for political
23 purposes.

24 (b) The attorney general may bring an action to require the

25 public employer to comply with the requirements of this section.

26 Sec. 101.356. VOLUNTARY WRITTEN AUTHORIZATION TO MAKE
27 PAYROLL DEDUCTIONS FOR POLITICAL PURPOSES. (a) Except as provided

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1 by Section 101.355, a member of a labor organization may authorize
2 the member's employer to deduct a specified sum from the member's
3 wages to be used for an expenditure for a political purpose or
4 purposes. The authorization must be voluntary, written, and
5 executed before the date the expenditure is made.

6 (b) Except as provided by Section 101.355, an employer may
7 not, without a voluntary written authorization made under this
8 section, deduct from the wages of its employees any amounts to be
9 paid to:

10 (1) a candidate, as defined by Section 251.001,
11 Election Code;

12 (2) a political committee, as defined by Section
13 251.001, Election Code;

14 (3) a political party;

15 (4) a political fund; or

16 (5) an entity established by a labor organization to
17 solicit, collect, or distribute money primarily for political
18 purposes.

19 (c) The authorization must be signed by the member of the
20 labor organization and state:

21 (1) the member's name;

22 (2) the name of the labor organization;

23 (3) the total amount or percentage of the member's

24 wages that may be deducted for the labor organization's political
25 fund;

26 (4) the nature of the political purpose for which the
27 expenditure is to be made;

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1 (5) the period for which the authorization is valid;

2 and

3 (6) the statement required by Subsection (d).

4 (d) The authorization must contain the following statement
5 immediately above the signature line for the authorization:

6 "I understand that Texas is a right to work state, and that I
7 am not required to join a labor union or contribute dues to a labor
8 union as a condition of my employment. If I choose to be a member of
9 or participate in a labor organization, I understand that a labor
10 organization:

11 "(1) may not expend any portion of union dues for a
12 political purpose;

13 "(2) may not transfer union dues to a political fund;

14 "(3) may not require any person to make an expenditure
15 for a political purpose as a condition of employment, a condition of
16 contract, or a condition of membership in the labor organization;

17 "(4) may not reward or offer a benefit to a member who
18 makes an expenditure for a political purpose;

19 "(5) may not penalize or otherwise harm a member who
20 chooses not to make an expenditure for a political purpose;

21 "(6) may not use union dues for administration of an
22 established political fund; and

23 "(7) may not use union dues to solicit contributions
24 from any person for a political purpose.

25 "In signing this authorization, I, _____ (insert your
26 name), voluntarily permit my employer to deduct _____ (insert
27 dollar amount or percentage) of my wages every _____ (insert time

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1 period) for the political purpose or purposes stated in this
2 authorization. I understand that I may revoke this authorization at
3 any time."

4 (e) Only the member may write in the amount or percentage to
5 be deducted from the member's wages.

6 (f) The period for which an authorization executed under
7 this section is valid may not exceed one year. The authorization
8 may be revoked at any time in writing by the labor organization
9 member who executed the authorization.

10 (g) An employer shall immediately cease making payroll
11 deductions authorized under this section on receiving a written
12 communication from the employee directing that the employer cease
13 the deductions.

14 Sec. 101.357. POSTED NOTICE. An employer, other than a
15 public employer, whose employees are represented by a labor
16 organization shall post a notice in conspicuous places in the
17 employer's place of business informing employees that union dues
18 cannot be used for a union's political fund, and that any deduction
19 from an employee's wages for the political fund requires prior,
20 voluntary, written authorization executed in accordance with
21 Section 101.356.

22 Sec. 101.358. LIABILITY. (a) A labor organization that
23 violates this subchapter is liable to a member of the organization
24 affected by the violation for:

25 (1) actual damages in the amount of the dues or fees
26 accepted or spent in violation of this subchapter;

27 (2) interest on the damages described under

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1 Subdivision (1);

2 (3) attorney's fees and court costs; and

3 (4) other appropriate equitable relief.

4 (b) An action under this section may not be commenced after
5 the second anniversary of the date the member knew or should have
6 known that dues or fees were accepted or spent in violation of this
7 subchapter.

8 (c) Venue for a suit under this section is in:

9 (1) the county in which the violation is alleged to
10 have occurred; or

11 (2) the county in which a defendant resides.

12 Sec. 101.359. CIVIL PENALTY. (a) A labor organization that
13 violates this subchapter is liable for a civil penalty not to exceed
14 \$5,000 for each violation.

15 (b) A suit to recover the civil penalty may be brought by the
16 attorney general or by a county, district, or criminal district
17 attorney.

18 (c) A civil penalty recovered under this section shall be
19 deposited:

20 (1) in the state treasury if the attorney general

21 brings the suit; or

22 (2) in the general fund of the county in which the
23 violation occurred if a district attorney, criminal district
24 attorney, or county attorney brings the suit.

25 Sec. 101.360. CRIMINAL OFFENSE. (a) An officer of a labor
26 organization commits an offense if the officer violates this
27 subchapter.

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1 (b) An offense under this section is a Class B misdemeanor.

2 (c) If conduct that constitutes an offense under this
3 section also constitutes an offense under any other law, the actor
4 may be prosecuted under this section, the other law, or both.

5 SECTION 2. This Act takes effect January 1, 2012.