

TEXAS ETHICS COMMISSION

CAMPAIGN FINANCE GUIDE FOR OUT-OF-STATE POLITICAL COMMITTEES



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Promoting Public Confidence in Government

CAMPAIGN FINANCE GUIDE FOR FOR OUT-OF-STATE POLITICAL COMMITTEES

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GUIDE FOR OUT-OF-STATE POLITICAL COMMITTEES

INTRODUCTION

This guide is a summary of the out-of-state political committee campaign finance regulations set out in Title 15 of the Texas Election Code and the Texas Ethics Commission Rules. This guide addresses only regulations under the jurisdiction of the Texas Ethics Commission.

POLITICAL COMMITTEES IN TEXAS

A political committee, commonly referred to as a “PAC,” is “two or more persons acting in concert with a principal purpose of accepting political contributions or making political expenditures. . . .” Tex. Elec. Code § 251.001(12). For more information about political committees in Texas, please see the Campaign Finance Guide for Political Committees.

OUT-OF-STATE POLITICAL COMMITTEES

A political committee that makes most of its political expenditures outside of Texas may be an out-of-state political committee. An “out-of-state political committee” is a political committee that:

- (1) makes political expenditures outside the state of Texas; **and**
- (2) in the 12 months immediately preceding the making of a political expenditure by the committee inside this state (other than an expenditure made in connection with a campaign for a federal office or made for a federal officeholder), makes 80 percent or more of the committee’s total political expenditures in any combination of elections outside this state and federal offices not voted on in this state.

Tex. Elec. Code § 251.001(15).

A political committee must determine if it is an out-of-state political committee each time it plans to make a political expenditure in Texas (other than an expenditure in connection with a campaign for a federal office). Whether a committee is an out-of-state political committee depends on the proportion of expenditures made by the political committee on *elections voted on in Texas* (including elections for federal offices) in the last 12 months to *all political expenditures* made by the political committee in the last 12 months. If the expenditures in connection with elections voted on in Texas (not including the anticipated expenditure) do not exceed 20% of the committee's total political expenditures, the committee may make the anticipated expenditure without filing a campaign treasurer appointment in Texas. If the expenditures in connection with elections voted on in Texas (not including the anticipated expenditure) exceed 20% of the committee's total political expenditures, the committee may not make the anticipated expenditure without filing a campaign treasurer appointment in Texas. See 1 Tex. Admin. Code § 20.13.

LOSING OUT-OF-STATE COMMITTEE STATUS

If an out-of-state political committee decides to file a campaign treasurer appointment or performs an activity that causes it to lose out-of-state political committee status, the committee becomes subject to Texas campaign finance law to the same extent as a political committee that is not an out-of-state political committee. Tex. Elec. Code § 254.1581. An out-of-state political committee can lose its status as an out-of-state political committee by making political expenditures in connection with elections voted on in Texas that cause the committee to not qualify under the calculation described in the preceding section.

OUT-OF-STATE COMMITTEE REPORTING REQUIREMENTS

As a general rule, an out-of-state political committee is not required to file a campaign treasurer appointment or campaign finance reports under Texas law. (See Ethics Advisory Opinion No. 208). However, an out-of-state political committee becomes subject to Title 15 of the Election Code to the same extent as a political committee that is not an out-of-state political committee if it:

- (1) files a campaign treasurer appointment with the Commission; **or**
- (2) performs an activity that removes the committee from out-of-state status as defined by section 251.001(15) of Title 15 of the Election Code.

See Tex. Elec. Code § 251.005.

An out-of-state political committee may file a campaign treasurer appointment with the Texas Ethics Commission (TEC) even if it is not required to do so. Once a committee does so, the campaign treasurer is subject to the filing requirements applicable to a Texas political committee.

If the out-of-state political committee is not, and is not required to be, registered with the Texas Ethics Commission, it may still make contributions to statewide candidates, officeholders, and political committees, but it will need to file a report and provide documentation to certain recipients of its contributions.

For more information, see “What To Report” and “Restrictions” in this guide.

WHAT TO REPORT

An out-of-state political committee that has not filed a campaign treasurer appointment must provide certain information to the Texas Ethics Commission.

For each reporting period in which an out-of-state political committee accepts political contributions or makes political expenditures in connection with a state or local election in Texas, the committee shall file with the commission a copy of one or more reports filed with the Federal Election Commission or with the proper filing authority of at least one other state that shows the political contributions accepted, political expenditures made, and other expenditures made by the committee. A report must be filed within the same period in which it is required to

be filed under federal law or the law of the other state. Tex. Elec. Code § 254.1581; 1 Tex. Admin. Code § 20.13(a).

An out-of-state political committee that files reports electronically in another jurisdiction may comply with this reporting requirement by sending a letter to the commission specifying in detail where the electronic report may be found on the website of the agency with which the out-of-state political committee is required to file its reports. 1 Tex. Admin. Code § 20.13(a).

If the out-of-state political committee does not file reports electronically in another jurisdiction, it may comply with this reporting requirement by sending a copy of the cover sheets of the report and a copy of each page on which the committee reports a contribution or expenditure accepted or made in connection with a state or local election in 1 Tex. Admin. Code § 20.13(a).

ACCEPTING CONTRIBUTIONS FROM OUT-OF-STATE COMMITTEE

Accepting Contributions Over \$1,140 in a Reporting Period

Before a candidate, officeholder, or political committee accepts more than \$1,140 in a reporting period from an out-of-state political committee, the recipient must obtain either: (1) a written statement, certified by an officer of the out-of-state political committee, listing the full name and address of each person who contributed more than \$230 to the out-of-state political committee during the 12 months immediately preceding the contribution, or (2) a copy of the out-of-state political committee's statement of organization filed as required by law with the Federal Election Commission (FEC) and certified by an officer of the out-of-state political committee. Tex. Elec. Code § 253.032(a).

The candidate, officeholder, or political committee accepting the contributions must include this documentation with the report of contributions and expenditures for the period in which the contributions were accepted. Tex. Elec. Code § 253.032(d).

Reporting Contributions Over \$1,140 Accepted During the Reporting Period

If a candidate, officeholder, or political committee accepts more than \$1,140 in a reporting period (including pledges or loans from sources other than financial institutions that have been in business for more than a year) from an out-of-state political committee, the recipient must include with the recipient's report disclosing those contributions either:

- (1) a written statement, certified by an officer of the out-of-state political committee, listing the full name and address of each person who contributed more than \$230 to the out-of-state political committee during the 12 months immediately preceding the contribution. If the recipient files that report electronically, the recipient may either use the "memo" field to enter this information on the electronic report or timely file a paper copy of the information at the time the electronic report is filed; **or**
- (2) a copy of the out-of-state political committee's statement of organization filed as required by law with the Federal Election Commission (FEC) and certified by an officer of the out-of-state political committee. If the recipient files that

report electronically, the recipient may either use the “PAC FEC ID #” field to enter the out-of-state political committee’s FEC identification number on the electronic report or timely file a certified paper copy of the out-of-state political committee’s FEC statement of organization at the time the electronic report is filed.

1 Tex. Admin. Code §§ 22.7 and 20.29.

Reporting Contributions of \$1,140 or Less Accepted During the Reporting Period

If a candidate, officeholder, or political committee accepts \$1,140 or less (including pledges) in a reporting period from an out-of-state political committee, the recipient must include with the recipient’s report disclosing those contributions either:

- (1) a copy of the out-of-state political committee’s statement of organization filed as required by law with the Federal Election Commission (FEC) and certified by an officer of the out-of-state political committee. If the recipient files reports electronically with the TEC, the recipient may either use the “PAC FEC ID #” field to enter the out-of-state political committee’s FEC identification number on the electronic report or timely file a certified paper copy of the out-of-state political committee’s FEC statement of organization at the time the electronic report is filed; **or**
- (2) a document listing the committee’s name, address and phone number; the name of the person appointing the committee’s campaign treasurer; and the name, address and phone number of the committee’s campaign treasurer. If the recipient files reports electronically with the TEC, the recipient may either use the “memo” field to enter this information on the electronic report or timely file a paper copy of the information at the time the electronic report is filed.

Tex. Elec. Code § 253.032(e); 1 Tex. Admin. Code §§ 22.7 and 20.29.

RESTRICTIONS

Chapter 253 of the Election Code contains a number of restrictions regarding the acceptance and use of political contributions, including but not limited to the following:

- (1) During a period that begins 30 days before a regular legislative session convenes and ends 20 days after final adjournment, a person (including a political committee) may not make a political contribution to a statewide officeholder or a member of the legislature or to a specific-purpose political committee for supporting, opposing, or assisting a statewide officeholder or a member of the legislature. Tex. Elec. Code § 253.034.
- (2) There are restrictions on contributions from corporations and labor organizations. Tex. Elec. Code § 253.091, et seq.

- (3) In order to accept certain contributions from an out-of-state political committee, a Texas political committee must obtain certain documentation regarding the out-of-state political committee. Tex. Elec. Code § 253.032. See “Out-Of-State Committee Making Contributions” in this guide.
- (4) Contributions in the Capitol and the Capitol Extension are prohibited. Contributions in a courthouse are also prohibited. Tex. Elec. Code § 253.039.
- (5) Cash contributions of more than \$100 in the aggregate from one contributor in a reporting period are prohibited. (Here “cash” means coins and currency, not checks.) TEX. ELEC. CODE § 253.033.
- (6) Texas law does not allow anonymous contributions. Also, reports must disclose the actual source of a contribution, not an intermediary.
- (7) The Judicial Campaign Fairness Act places various campaign finance restrictions on certain judicial candidates and their supporting committees. See Tex. Elec. Code §§ 253.151 - 253.176.
- (8) The law requires that certain information be disclosed on most political advertising. For more information, see the Ethics Commission’s brochure titled “Political Advertising: What You Need To Know” which is available on the commission’s website at <http://www.ethics.state.tx.us/main/guides.htm>.
- (9) Federal law generally prohibits the acceptance of contributions from foreign sources. Contact the Federal Election Commission at (800) 424-9530 or go to the FEC’s website at <http://www.fec.gov> for more detailed information.