

CHAPTER 427

S.B. No. 933

AN ACT

relating to the regulation of nepotism in government.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Article 5996a, Revised Statutes, is amended to read as follows:

Art. 5996a. NEPOTISM

Sec. 1. (a) No officer of this State nor any officer of any district, county, city, precinct, school district, or other municipal subdivision of this State, nor any officer or member of any State district, county, city, school district or other municipal board, or judge of any court, created by or under authority of any General or Special Law of this State, nor any member of the Legislature, shall appoint, or vote for, or confirm the appointment to any office, position, clerkship, employment or duty, of any person related within the second degree by affinity or within the third degree by consanguinity to the person so appointing or so voting, or to any other member of any such board, the Legislature, or court of which such person so appointing or voting may be a member, when the salary, fees, or compensation of such appointee is to be paid for, directly or indirectly, out of or from public funds or fees of office of any kind or character whatsoever.

(b) ~~Nothing~~~~[; provided, that nothing]~~ herein contained, nor in any other nepotism law contained in any charter or ordinance of any municipal corporation of this State, shall prevent the appointment, voting for, or confirmation of any person who shall have been continuously employed in any such office, position, clerkship, employment or duty for *the*

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following [a] period [of one (1) year] prior to the [election or appointment of the officer or member appointing, voting for, or confirming the appointment, or to the] election or appointment, *as applicable*, of the officer or member related to such employee in the prohibited degree:

- (1) *at least 30 days, if the officer or member is appointed;*
- (2) *at least six months, if the officer or member is elected at an election other than the general election for state and county officers; or*
- (3) *at least one year, if the officer or member is elected at the general election for state and county officers.*

(c) When a person is allowed to continue in an office, position, clerkship, employment, or duty because of the operation of *Subsection (b) of this section*, [the exceptions contained in the two foregoing provisions then] the Judge, Legislator, officer, or member of the governing body who is related to such person in the prohibited degree shall not participate in the deliberation or voting upon the appointment, reappointment, employment, confirmation, reemployment, change in status, compensation, or dismissal of such person, if such action applies only to such person and is not taken with respect to a bona fide class or category of employees.

Sec. 2. (a) A person who is a candidate, as defined by Chapter 251, Election Code, for a public office may not take any affirmative action to influence the following persons regarding the appointment, reappointment, employment, confirmation, reemployment, change in status, compensation, or dismissal of another person related to the candidate in a prohibited degree:

- (1) *an employee of the office to which the candidate seeks election; or*
- (2) *an employee or another officer of the governmental body to which the candidate seeks election, if the office the candidate seeks is one office of a multimember governmental body.*

(b) The prohibition imposed by Subsection (a) of this section does not apply to a candidate's actions taken with respect to a bona fide class or category of employees or prospective employees.

SECTION 2. Article 5996g, Revised Statutes, is amended to read as follows:

Art. 5996g. EXCEPTIONS

Sec. 1. That nothing in this law shall apply to any appointment to the office of a notary public, or to the confirmation thereof; or to the appointment of a page, secretary, attendant or other employee by the Legislature for attendance on any member of the Legislature who, by reason of physical infirmities, is required to have a personal attendant; or to the confirmation of an appointee appointed to a first term on a date when no person related to the appointee within the prohibited degree was a member of or a candidate for the Legislature, or confirmation upon reappointment of the appointee to any subsequent consecutive term.

Sec. 2. (a) A person who is a former teacher in a school district may be reemployed as a teacher by the district without creating a violation of Article 5996a, Revised Statutes, even though the person has a relative in the prohibited degree serving on the board of trustees of the district, if:

- (1) *the person's services as a teacher with the district were terminated, by the action of the person or the district or by the expiration of the person's employment contract, on or after January 1, 1987, but before the effective date of the amendment of this article and Article 5996a, Revised Statutes, by the Acts of the 70th Legislature, Regular Session, 1987;*
- (2) *immediately before the termination of the services either a violation of Article 5996a existed as a result of the person acting in the capacity of a teacher with the district or the contract under which the person was employed as a teacher could not be renewed without creating a violation of Article 5996a;*

(3) either the violation of Article 5996a would not have resulted or the renewal of the contract would not have created a violation of Article 5996a if that article, as it

existed before the effective date of its amendment by the Acts of the 70th Legislature, Regular Session, 1987, had been the same as it is after that effective date; and

(4) the reemployment occurs before September 1, 1988.

(b) After the reemployment of a person under this section, the person's relative serving on the board of trustees of the school district is subject to the same prohibition as that prescribed by Subsection (c), Section 1, Article 5996a, Revised Statutes, for the relative of an employee who continues in a position.

SECTION 3. Subchapter A, Chapter 31, Election Code, is amended by adding Section 31.0021 to read as follows:

Sec. 31.0021. CERTAIN OFFICIAL FORMS: INCLUSION OF NEPOTISM INFORMATION. (a) On forms designed and furnished by the secretary of state for an application for a place on the ballot or a designation of a campaign treasurer, the secretary shall include a brief summary of:

(1) the nepotism prohibition imposed by Article 5996a, Revised Statutes; and

(2) a list of the specific kinds of relatives that are included within the prohibited degrees of relationship prescribed by Article 5996a, Revised Statutes.

(b) Any other authority that designs and furnishes an application for a place on the ballot shall include on that form the same summary included on forms prescribed by the secretary of state under Subsection (a).

SECTION 4. Section 141.031, Election Code, is amended to read as follows:

Sec. 141.031. GENERAL REQUIREMENTS FOR APPLICATION. A candidate's application for a place on the ballot that is required by this code must:

(1) be in writing;

(2) be signed and sworn to by the candidate and indicate the date that the candidate swears to the application;

(3) be timely filed with the appropriate authority; and

(4) include:

(A) the candidate's name;

(B) the candidate's occupation;

(C) the office sought, including any place number or other distinguishing number;

(D) an indication of whether the office sought is to be filled for a full or unexpired term if the office sought and another office to be voted on have the same title but do not have place numbers or other distinguishing numbers;

(E) a statement that the candidate is a United States citizen;

(F) a statement that the candidate has not been determined mentally incompetent by a final judgment of a court;

(G) a statement that the candidate has not been finally convicted of a felony from which the candidate has not been pardoned or otherwise released from the resulting disabilities;

(H) the candidate's date of birth;

(I) the candidate's residence address or, if the residence has no address, the address at which the candidate receives mail and a concise description of the location of the candidate's residence;

(J) the candidate's length of continuous residence in the state and in the territory from which the office sought is elected as of the date the candidate swears to the application; ~~and~~

(K) the statement: "I, _____, of _____ County, Texas, being a candidate for the office of _____, swear that I will support and defend the constitution and laws of the United States and of the State of Texas[-]"; and

(L) a statement that the candidate is aware of the nepotism law, Articles 5996a through 5996g of the Revised Statutes.

SECTION 5. Subsection (b), Section 143.005, Election Code, is amended to read as follows:

(b) If a city charter prescribes the requirements that a candidate's application must satisfy for the candidate's name to be placed on the ballot, *Section 141.031(4)(L) also applies to the application. The other provisions of Section 141.031 do [does] not apply.*

SECTION 6. Subsection (b), Section 144.003, Election Code, is amended to read as follows:

(b) If a law outside this code *purports to prescribe* [~~prescribes~~] the exclusive requirements that a candidate's application must satisfy for the candidate's name to be placed on the ballot, *Section 141.031(4)(L) also applies to the application. The other provisions of Section 141.031 do [does] not apply.*

SECTION 7. Subsection (b), Section 192.032, Election Code, is amended to read as follows:

(b) An application must:

(1) comply with Section 141.031, except that:

(A) the application is not required to include a candidate's occupation, [~~or~~] length of residence, *or statement that the candidate is aware of the nepotism law*; and

(B) the application must contain the applicable information required by Section 141.031(4) with respect to both the presidential candidate and the running mate;

(2) state the names and residence addresses of presidential elector candidates in a number equal to the number of presidential electors that federal law allocates to the state; and

(3) be accompanied by:

(A) a petition that satisfies the requirements prescribed by Section 141.062; and

(B) written statements signed by the vice-presidential candidate and each of the presidential elector candidates indicating that each of them consents to be a candidate.

SECTION 8. Section 251.002, Election Code, is amended by adding Subsection (k) to read as follows:

(k) The written appointment of a campaign treasurer must include a statement that the candidate is aware of the nepotism law, Articles 5996a through 5996g of the Revised Statutes. The statement must be signed by the candidate. A written appointment of a campaign treasurer is invalid if it does not include the statement unless the appointment is made in a manner other than by the use of a form prescribed by the secretary of state.

SECTION 9. Any contract or purported contract for teacher services that a person who may be reemployed by a school district under Section 2, Article 5996g, Revised Statutes, made with the school district before January 1, 1987, may not be held invalid because the contract was made in violation of the nepotism provisions prescribed by Article 5996a, Revised Statutes. The contract or purported contract is validated for this purpose as of the date it was made.

SECTION 10. (a) A violation of Article 5996a, Revised Statutes, existing immediately before the effective date of the amendment of that article by this Act is no longer considered to be a violation if the violation would not have resulted if that article, as it existed before the effective date of its amendment by the Acts of the 70th Legislature, Regular Session, 1987, had been the same as it is after that effective date.

(b) A person may not take any action under Article 5996d or 5996f, Revised Statutes, with regard to another person who previously may have been in violation of Article 5996a but who, as a result of Subsection (a) of this section, is no longer in violation of that article.

SECTION 11. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately.

(b) Sections 3, 4, 5, 6, 7, and 8 of this Act take effect September 1, 1987.

SECTION 12. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Passed the Senate on April 28, 1987, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on June 1, 1987, by a viva-voce vote.

Passed the House, with amendment, on May 29, 1987, by a non-record vote.

Approved June 17, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment, except §§ 3 to 8 effective Sept. 1, 1987.