

By: Geren

H.B. No. 3691

A BILL TO BE ENTITLED

AN ACT

relating to the ethics of public servants.

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

SECTION 1. Section 253.034, Election Code, is amended by adding Subsections (a-1), (a-2), (b-1), and (c-1) and amending Subsections (b) and (c) to read as follows:

(a-1) During the period beginning on the date the governor calls a special legislative session and continuing through the date of final adjournment, a person may not knowingly make a political contribution to:

(1) a statewide officeholder;

(2) a member of the legislature; or

(3) a specific-purpose committee for supporting, opposing, or assisting a statewide officeholder or member of the legislature.

(a-2) For purposes of Subsection (a-1), the date the governor calls a special legislative session is the earlier of:

(1) the date the governor signs the proclamation calling the special legislative session; or

(2) the date the governor publicly announces the date on which the special legislative session will convene.

(b) A statewide officeholder, a member of the legislature, or a specific-purpose committee for supporting, opposing, or assisting a statewide officeholder or member of the legislature may

1 not knowingly accept a political contribution, and shall refuse a  
2 political contribution that is received, during the period  
3 prescribed by Subsection (a) or (a-1). A political contribution  
4 that is received and refused during that period shall be returned to  
5 the contributor not later than the 30th day after the date of  
6 receipt.

7 (b-1) A contribution made by mail is not considered received  
8 during the [that] period prescribed by Subsection (a) or (a-1) if it  
9 was placed with postage prepaid and properly addressed in the  
10 United States mail before the beginning of the period. The date  
11 indicated by the post office cancellation mark is considered to be  
12 the date the contribution was placed in the mail unless proven  
13 otherwise.

14 (c) Subsections (a) and (a-1) do [~~This section does~~] not  
15 apply to a political contribution that was made and accepted with  
16 the intent that it be used:

17 (1) in an election held or ordered during the period  
18 prescribed by Subsection (a) or (a-1) in which the person accepting  
19 the contribution is a candidate if the contribution was made after  
20 the person appointed a campaign treasurer with the appropriate  
21 authority and before the person was sworn in for that office; or

22 (2) to defray expenses incurred in connection with an  
23 election contest.

24 (c-1) Subsection (a) does not apply to a political  
25 contribution that was made and accepted with the intent that it be  
26 used by:

27 (1) [~~or~~]

1           ~~[(3) by]~~ a person who holds a state office or a member  
2 of the legislature if the person or member was defeated at the  
3 general election held immediately before the session is convened;  
4 or

5           (2) ~~[by]~~ a specific-purpose political committee that  
6 supports or assists only a [that] person or member described by  
7 Subdivision (1).

8           SECTION 2. The heading to Section 253.034, Election Code,  
9 is amended to read as follows:

10           Sec. 253.034. RESTRICTIONS ON CONTRIBUTIONS BEFORE,  
11 DURING, AND FOLLOWING ~~[REGULAR]~~ LEGISLATIVE SESSION.

12           SECTION 3. Section 254.031, Election Code, is amended by  
13 adding Subsections (a-2) and (a-3) to read as follows:

14           (a-2) Each report filed under this chapter by a candidate  
15 for or holder of an office specified by Section 252.005(1)(A), (D),  
16 (E), or (F), a specific-purpose committee for supporting or  
17 assisting a candidate for such an office or assisting such an  
18 officeholder, or a general-purpose committee must include, for each  
19 person who provides campaign consulting or campaign management  
20 services to the candidate, officeholder, or committee:

21           (1) an indication that the person provides campaign  
22 consulting or campaign management services, as appropriate;

23           (2) if the person is not an individual, the full name  
24 of each individual employed by the person to provide campaign  
25 consulting or campaign management services to the candidate,  
26 officeholder, or committee; and

27           (3) if the person or a business associate of the person

1 is required to register under Chapter 305, Government Code, the  
2 category of the amount of each fee the person or business associate  
3 receives for activities requiring registration under that chapter.

4 (a-3) For purposes of Subsection (a-2)(3), a business  
5 associate of a person includes an employee of the person or a  
6 partner or other person professionally associated with the person  
7 through a common business entity, other than a client, who  
8 reimburses, retains, or employs the person required to register  
9 under Chapter 305, Government Code.

10 SECTION 4. Chapter 301, Government Code, is amended by  
11 adding Subchapter F to read as follows:

12 SUBCHAPTER F. FILING OF LEGISLATION

13 Sec. 301.101. FILING OF LEGISLATION BEFORE REGULAR SESSION  
14 CONVENES. Beginning on the 30th day before the date a regular  
15 legislative session convenes, a person who will be a member of the  
16 legislature during that legislative session may file with the chief  
17 clerk of the house of representatives or the secretary of the  
18 senate, as appropriate, bills and resolutions for introduction in  
19 that session.

20 SECTION 5. Section 305.003, Government Code, is amended by  
21 adding Subsections (b-3), (d), and (e) to read as follows:

22 (b-3) Subsection (a)(2) does not require a person to  
23 register if the person spends not more than five percent of the time  
24 for which the person is compensated or reimbursed during the  
25 calendar quarter engaging in activity to communicate directly with  
26 a member of the legislative or executive branch to influence  
27 legislation or administrative action.

1       (d) A corporation, association, firm, partnership,  
2 committee, club, organization, or other group of persons is not  
3 required to register under this section if the expenditures made on  
4 behalf of the entity, and compensation paid by the entity, to  
5 communicate directly with a member of the legislative or executive  
6 branch to influence legislation or administrative action are  
7 reported by an individual who is a registrant in accordance with  
8 this chapter and rules of the commission.

9       (e) An expenditure made by a member of the judicial,  
10 legislative, or executive branch acting in the member's official  
11 capacity is not included for purposes of determining whether a  
12 person is required to register in accordance with Subsection  
13 (a)(1).

14       SECTION 6. Section 305.004, Government Code, is amended to  
15 read as follows:

16       Sec. 305.004. EXCEPTIONS. The following persons are not  
17 required to register under this chapter in accordance with Section  
18 305.003(a)(2):

19           (1) a person who owns, publishes, or is employed by a  
20 newspaper, any other regularly published periodical, a radio  
21 station, a television station, a wire service, or any other bona  
22 fide news medium that in the ordinary course of business  
23 disseminates news, letters to the editors, editorial or other  
24 comment, or paid advertisements that directly or indirectly oppose  
25 or promote legislation or administrative action, if the person does  
26 not engage in further or other activities that require registration  
27 under this chapter and does not represent another person in

1 connection with influencing legislation or administrative action;

2 (2) a person whose only direct communication with a  
3 member of the legislative or executive branch to influence  
4 legislation or administrative action is to:

5 (A) provide oral or written comments to one or  
6 more members of the executive branch in connection with a  
7 rulemaking process; or

8 (B) appear before, or make another type of  
9 communication [~~is an appearance before or testimony~~] to one or  
10 more members of the legislative or executive branch in connection  
11 with a hearing conducted by or on behalf of either the legislative  
12 or the executive branch [~~and who does not receive special or extra~~  
13 ~~compensation for the appearance other than actual expenses incurred~~  
14 ~~in attending the hearing~~];

15 (3) a person whose only activity is to encourage or  
16 solicit members, employees, or stockholders of an entity by whom  
17 the person is reimbursed, employed, or retained to communicate  
18 directly with members of the legislative or executive branch to  
19 influence legislation or administrative action;

20 (4) a person whose only activity to influence  
21 legislation or administrative action is to compensate or reimburse  
22 an individual registrant to act in the person's behalf to  
23 communicate directly with a member of the legislative or executive  
24 branch to influence legislation or administrative action;

25 (5) a person whose only activity to influence  
26 legislation or administrative action is attendance at a meeting or  
27 entertainment event attended by a member of the legislative or

1 executive branch if the total cost of the meeting or entertainment  
2 event is paid by a business entity, union, or association;

3 (6) a person whose only compensation subject to  
4 Section 305.003(a)(2) consists of reimbursement for any wages not  
5 earned due to attendance at a meeting or entertainment event,  
6 travel to and from the meeting or entertainment event, admission to  
7 the meeting or entertainment event, and any food and beverage  
8 consumed at the meeting or entertainment event if the meeting or  
9 entertainment event is attended by a member of the legislative or  
10 executive branch and if the total cost of the meeting or  
11 entertainment event is paid by a business entity, union, or  
12 association; ~~and~~

13 (7) a person who communicates directly with a member  
14 of the legislative or executive branch on behalf of a political  
15 party concerning legislation or administrative action, and whose  
16 expenditures and compensation, as described in Section 305.003,  
17 combined do not exceed \$5,000 a calendar year;

18 (8) a person who is requesting a written opinion that  
19 interprets a law, regulation, rule, policy, practice, or procedure  
20 administered by a state agency, if the person does not engage in  
21 further or other activities that require registration under Section  
22 305.003;

23 (9) a person who does not engage in further or other  
24 activities that require registration under Section 305.003 and who,  
25 in preparing or submitting an application or other written  
26 document, merely provides information that:

27 (A) is required by law, order, or subpoena; or

1           (B) responds to a document prepared by a state  
2 agency;

3           (10) a person who is communicating merely for the  
4 purpose of demonstrating compliance with an audit, inspection,  
5 examination of a financial institution, or government  
6 investigation to interpret and determine compliance with existing  
7 laws, policies, and procedures;

8           (11) a person who is communicating to achieve  
9 compliance with existing laws, rules, policies, and procedures,  
10 including communicating to show qualification for an exception of  
11 general applicability that is available under existing laws, rules,  
12 policies, and procedures;

13           (12) a person who is communicating as a member of an  
14 advisory committee or task force and who is appointed to serve in  
15 that capacity by a member of the legislative or executive branch;

16           (13) a person who is communicating to respond to a  
17 specific request for information from a member of the legislative  
18 or executive branch, if the request was not solicited by or on  
19 behalf of the person providing the information;

20           (14) a person who is communicating to legal counsel of  
21 a state agency, an administrative law judge, or a hearings examiner  
22 concerning:

23                   (A) litigation or adjudicative proceedings to  
24 which the agency is a party; or

25                   (B) adjudicative proceedings of that agency;

26           (15) a person who is communicating to provide  
27 testimony, make an appearance, or make any other type of



1 communication documented as part of a public record in a proceeding  
2 of an adjudicative nature of the type authorized by or subject to  
3 Chapter 2001, without regard to whether that proceeding is subject  
4 to Chapter 551;

5         (16) a person who is providing only clerical  
6 assistance to another in connection with the other person's  
7 activities that require registration under this chapter, such as a  
8 person who merely types or delivers another person's letter to a  
9 member of the legislative or executive branch, if the person does  
10 not engage in further or other activities that require registration  
11 under Section 305.003; or

12         (17) a person who is communicating as an employee or  
13 contractor of a vendor of a product or service to a member of the  
14 executive branch concerning a purchasing decision of a state agency  
15 if the purchasing decision is not required to be competitively bid.

16         SECTION 7. Section 305.005, Government Code, is amended by  
17 amending Subsections (f), (j), and (k) and adding Subsections (l)  
18 and (m) to read as follows:

19         (f) The registration must be written and verified and must  
20 contain:

21                 (1) the registrant's full name and address;

22                 (2) the registrant's normal business, business phone  
23 number, and business address;

24                 (3) the full name and address of each person:

25                         (A) who reimburses, retains, or employs the  
26 registrant to communicate directly with a member of the legislative  
27 or executive branch to influence legislation or administrative

1 action; and

2 (B) on whose behalf the registrant has  
3 communicated directly with a member of the legislative or executive  
4 branch to influence legislation or administrative action;

5 (4) the subject matter of the legislation or of the  
6 administrative action that is the subject of the registrant's  
7 direct communication with a member of the legislative or executive  
8 branch and, if applicable, the docket number or other  
9 administrative designation of the administrative action;

10 (5) for each person employed or retained by the  
11 registrant or by the person described by Subdivision (3) for the  
12 purpose of assisting the registrant in direct communication with a  
13 member of the legislative or executive branch to influence  
14 legislation or administrative action:

15 (A) the full name, business address, and  
16 occupation of the person; and

17 (B) the subject matter of the legislation or of  
18 the administrative action to which the person's activities  
19 reportable under this section were related and, if applicable, the  
20 docket number or other administrative designation of the  
21 administrative action; ~~and~~

22 (6) the amount of compensation or reimbursement paid  
23 by each person who reimburses, retains, or employs the registrant  
24 for the purpose of communicating directly with a member of the  
25 legislative or executive branch or on whose behalf the registrant  
26 communicates directly with a member of the legislative or executive  
27 branch; and

1           (7) a statement as to whether the registrant provides  
2 campaign consulting or campaign management services reported under  
3 Section 254.031(a-2), Election Code, as paid or retained by a  
4 candidate, officeholder, or political committee.

5           (j) If the person described by Subsection (f)(3) is a  
6 business entity engaged in the representation of clients for the  
7 purpose of influencing legislation or administrative action, the  
8 registrant shall give the information required by that subdivision  
9 for each client on whose behalf the registrant, or a person employed  
10 or retained to assist the registrant as described by Subsection  
11 (f)(5), communicated directly with a member of the legislative or  
12 executive branch.

13           (k) Except as provided by Subsection (l), if ~~if~~ there is a  
14 change in the information required to be reported by a registrant  
15 under this section, other than Subsection (h) or (i), and that  
16 changed information is not timely reported on a report due under  
17 Section 305.007, the registrant shall file an amended statement  
18 reflecting the change with the commission not later than the date on  
19 which the next report is due under Section 305.007.

20           (l) A registrant shall file an amended statement described  
21 by Subsection (k) not later than the fifth business day after the  
22 date the registrant first makes a communication that is subject to  
23 registration under this chapter and that is made after the change in  
24 information becomes effective if:

25                   (1) the change in the information occurs during a  
26 regular or special legislative session; or

27                   (2) the change in the information occurs during the

1 pendency of a state agency purchasing decision with respect to  
2 which the registrant is communicating with, or has communicated  
3 with, a member of the executive branch.

4 (m) A registrant is not required, under Subsection (f)(5) or  
5 (j), to include information concerning another person in a  
6 registration if:

7 (1) the other person is also a registrant; and

8 (2) any client required to be included for the other  
9 person in the registrant's registration under Subsection (f)(3) or  
10 (j) is included in the other person's registration.

11 SECTION 8. Subchapter A, Chapter 305, Government Code, is  
12 amended by adding Section 305.012 to read as follows:

13 Sec. 305.012. SEARCHABLE DATABASE. The commission shall  
14 maintain and make available through the Internet a searchable  
15 database that includes, for each registrant:

16 (1) the name of each person employed or retained to  
17 assist the registrant as described by Section 305.005(f)(5);

18 (2) each client on behalf of whom the person described  
19 by Subdivision (1) communicated directly with a member of the  
20 legislative or executive branch to influence legislation or  
21 administrative action; and

22 (3) whether the registrant provides campaign  
23 consulting or management services described by Section  
24 305.005(f)(7).

25 SECTION 9. Section 571.073, Government Code, is amended to  
26 read as follows:

27 Sec. 571.073. REPORT. On or before December 31 of each

1 even-numbered year, the commission shall report to the governor and  
2 legislature. The report must include:

3 (1) each advisory opinion issued by the commission  
4 under Subchapter D in the preceding two years;

5 (2) a summary of commission activities in the  
6 preceding two years, including:

7 (A) the number of sworn complaints filed with the  
8 commission;

9 (B) the number of sworn complaints dismissed for  
10 noncompliance with statutory form requirements;

11 (C) the number of sworn complaints dismissed for  
12 lack of jurisdiction;

13 (D) the number of sworn complaints dismissed  
14 after a finding of no credible evidence of a violation;

15 (E) the number of sworn complaints dismissed  
16 after a finding of a lack of sufficient evidence to determine  
17 whether a violation within the jurisdiction of the commission has  
18 occurred;

19 (F) the number of sworn complaints resolved by  
20 the commission through an agreed order;

21 (G) the number of sworn complaints in which the  
22 commission issued an order finding a violation and the resulting  
23 penalties, if any; and

24 (H) the number and amount of civil penalties  
25 imposed for failure to timely file a statement or report, the number  
26 and amount of those civil penalties fully paid, the number and  
27 amount of those civil penalties partially paid, and the number and

1 amount of those civil penalties no part of which has been paid, for  
2 each of the following category of statements and reports, listed  
3 separately:

4 (i) financial statements required to be  
5 filed under Chapter 572;

6 (ii) political contribution and  
7 expenditure reports required to be filed under Section 254.063,  
8 254.093, 254.123, 254.153, or 254.157, Election Code;

9 (iii) political contribution and  
10 expenditure reports required to be filed under Section 254.064(b),  
11 254.124(b), or 254.154(b), Election Code;

12 (iv) political contribution and  
13 expenditure reports required to be filed under Section 254.064(c),  
14 254.124(c), or 254.154(c), Election Code; and

15 (v) political contribution and expenditure  
16 reports required to be filed under Section 254.038 or 254.039,  
17 Election Code; and

18 [~~(vi) political contribution and~~  
19 ~~expenditure reports required to be filed under Section 254.0391,~~  
20 ~~Election Code, and]~~

21 (3) recommendations for any necessary statutory  
22 changes.

23 SECTION 10. Section 254.0391, Election Code, is repealed.

24 SECTION 11. (a) Section 253.034, Election Code, as amended  
25 by this Act, applies only to a political contribution made on or  
26 after the effective date of this Act. A political contribution made  
27 before the effective date of this Act is governed by the law in

1 effect on the date the contribution is made, and the former law is  
2 continued in effect for that purpose.

3 (b) Section 254.031, Election Code, as amended by this Act,  
4 applies only to a report of political contributions and  
5 expenditures under Chapter 254, Election Code, that is required to  
6 be filed on or after September 1, 2007. A report of political  
7 contributions and expenditures under Chapter 254, Election Code,  
8 that is required to be filed before September 1, 2007, is governed  
9 by the law in effect on the date the report is required to be filed,  
10 and the former law is continued in effect for that purpose.

11 (c) The repeal of Section 254.0391, Election Code, by this  
12 Act, applies only to the reporting of a political contribution  
13 accepted on or after the effective date of this Act. The reporting  
14 of a political contribution accepted before the effective date of  
15 this Act is governed by the law in effect on the date the  
16 contribution is accepted, and the former law is continued in effect  
17 for that purpose.

18 SECTION 12. Section 305.005, Government Code, as amended by  
19 this Act, applies only to a registration, registration renewal, or  
20 amended registration statement required to be filed under Chapter  
21 305, Government Code, on or after September 1, 2007. A  
22 registration, registration renewal, or amended registration  
23 statement required to be filed under Chapter 305, Government Code,  
24 before September 1, 2007, is governed by the law as it existed  
25 immediately before September 1, 2007, and that law is continued in  
26 effect for that purpose.

27 SECTION 13. The Texas Ethics Commission shall establish the

H.B. No. 3691

1 searchable database required by Section 305.012, Government Code,  
2 as added by this Act, not later than January 1, 2008.

3 SECTION 14. This Act takes effect September 1, 2007.