

## **BILL ANALYSIS**

C.S.H.B. 4033  
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Elections  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, only a limited number of local governmental entities in Texas have local campaign and expenditure reports available to the public online. Even in those instances, there is no centralized site that collects this information and makes it available for the general public to access.

The Texas Ethics Commission's *Recommendations for Statutory Changes*, prepared by the commission for the 81st Texas Legislature, states in part: "In order to further public disclosure and to increase coordinated disclosure among all levels of Texas government, the Ethics Commission suggests the creation of a statewide filing initiative, which would allow local governments—including municipalities, counties, and school districts—to utilize Ethics Commission software and hardware to file required reports online."

Current law provides a mechanism for registration and filing at the commission for state level lobbying expenditures, but there is no platform available where a person may file similar lobby expenditures made at the local level.

C.S.H.B. 4033 authorizes local governmental entities to use software and other resources of the Texas Ethics Commission to file reports of political contributions and expenditures and lobbyist expenditures. The bill authorizes a person communicating to influence actions of local governmental entities to voluntarily report to the commission any expenditure made to facilitate that communication.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 4033 amends the Government Code to authorize a person to report to the Texas Ethics Commission in an electronic format expenditures made to communicate directly with a local government officer or employee to influence a matter that may be the subject of action by a local governmental entity. The bill provides that expenditures that are voluntarily reported as provided by these provisions and that are not otherwise prohibited by state law are considered to be expenditures made and reported in accordance with these provisions if the expenditures comply with prescribed restrictions for a registered lobbyist for expenditures to communicate directly to a member of the legislature or executive branch to influence legislation, including the annual limits prescribed for expenditures for entertainment and gifts and the limit prescribed for an expenditure for an award or memento and are reported in compliance with requirements for detailed reporting that apply to such expenditures. The bill establishes that, for purposes of these provisions, "member of the legislative or executive branch" means "local government officer or local government employee." The bill provides that any restriction applicable to an annual limit is calculated on a calendar year basis and that a person filing a voluntary report is not considered

a person registered under these provisions. The bill requires the expenditures to comply with provisions governing lobbyist registration activities reporting and to be reported in the categories listed therein. The bill requires the expenditures to comply with provisions relating to expenditures attributable to groups and to be reported in the following categories by group: local government officers, local government employees, immediate family, and guests of such officers or employees. The bill requires a voluntary report filed under these provisions to be filed between the 1st and the 10th day of the month following the month in which one or more reportable expenditures are made and the amounts of the expenditures are readily determinable. The bill establishes that a report filed under these provisions is subject to provisions relating to corrected statements, registration, or reports considered timely filed with the commission and is not subject to commission requirements relating to laws administered and enforced by the commission, advisory opinions, complaint procedures and hearings, or enforcement actions. The bill makes provisions of state law relating to the registration of lobbyists inapplicable to a person who communicates directly with a local government officer or employee to influence an action of a local governmental entity or to a local government officer or employee. The bill establishes that, unless expressly provided, the same provisions are in addition to and do not supersede, modify, or change existing rules or ordinances of a local governmental entity or another statute that applies to such an entity. The bill defines, for purposes of these provisions, "local government employee," "local governmental entity," and "local government officer."

C.S.H.B. 4033 authorizes the commission to allow the use of commission software and resources by a local governmental entity; a local government officer; a candidate for an office of a local governmental entity; a specific-purpose committee for supporting or opposing a candidate for an office of a local governmental entity, assisting a local government officer, or supporting or opposing a measure proposed by a local governmental entity; or a person who communicates directly with a local government employee to influence a matter that may be the subject of action by a local governmental entity. The bill authorizes the commission to provide assistance to such individuals, entities, or committees by developing software to facilitate electronic filing of reports of political contributions and expenditures and of expenditures made by a person who communicates directly with a local government officer or employee to influence an action of a local government entity; maintaining a database for electronic publishing and filing of such reports; and providing public access through the commission's Internet website to those electronic reports. The bill authorizes the commission to enter into an intergovernmental contract with a local governmental entity to provide such assistance. The bill requires the commission to maintain and make available through the Internet a searchable database that includes the information in electronic reports filed under these provisions. The bill provides that this database requirement applies beginning January 1, 2010, and expires January 15, 2010.

C.S.H.B. 4033 establishes that the purpose of the provisions relating to electronic filing and use of commission software by local governmental entities is to further the objective of fully disclosing information related to political contributions and expenditures made in connection with offices of and measures proposed by local governmental entities and to expenditures for petitioning local governmental entities by allowing a local governmental entity, a candidate for or holder of an office of a local governmental entity or a related specific-purpose committee, or a person who petitions a local governmental entity to use the commission's software and other commission resources to file reports of political contributions and expenditures required under state election laws or voluntary reports of expenditures to influence local government action. The bill defines, for purposes of these provisions, "communicates directly with," "local governmental entity," "local government officer," "measure," "political contribution," "political expenditure," and "specific-purpose committee."

#### **EFFECTIVE DATE**

September 1, 2009.

## **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 4033 differs from the original by excluding persons contracting or seeking to contract with local governmental entities and employees of those entities who are required to file related conflict of interest disclosure statements from its provisions, whereas the original includes those matters in its provisions. This difference is reflected in:

- the captions, where the substitute refers to the provision of assistance by the commission in reporting political contributions and expenditures made in connection with offices and measures proposed by local governmental entities and of expenditures made in connection with attempts to influence the actions of local governmental entities, rather than referring to filing disclosure reports with the commission relating to political contributions and political expenditures made in connection with offices and measures of local governmental entities and to contracts with or attempts to influence the actions of local governmental entities as in the original
- the substitute's defining "local government officer" without reference to an employee who is required to file a conflict of interest disclosure statement, whereas the original version's definition includes this reference
- the substitute's omission of multiple references to a person who enters or seeks to enter into a contract with a local governmental entity and to conflict of interest reports and disclosure statements and to local government employees
- the substitute's omission of a provision included in the substitute authorizing a person required to file a conflict of interest report to file the report with the commission

C.S.H.B. 4033 adds a provision not in the original making provisions that involve reports relating to communications with a local governmental entity inapplicable to a local government officer or employee. The substitute adds a provision not in the original establishing that, unless expressly provided, those provisions are in addition to and do not supersede, modify, or change existing rules or ordinances of a local governmental entity or another statute that applies to such an entity.

C.S.H.B. 4033 differs from the original by establishing that a person may report to the commission in an electronic format, rather than report to the commission generally. The substitute adds provisions not in the original specifying under what conditions expenditures that are voluntarily reported to the commission are considered expenditures made and reported in compliance with statutes relating to registration of lobbyists. The substitute adds provisions not in the original establishing, for purposes of these provisions, that in applying a provision of the statutes relating to registration of lobbyists to which these provisions refer, "member of the legislative or executive branch" means "local government officer or local government employee"; that any restriction applicable to an annual expenditure limit is calculated on a calendar year basis; that a person filing a voluntary report is not considered a person registered under statutes relating to registration of lobbyists; that expenditures must comply with certain provisions governing lobbyist registration activity reports and to be reported in the categories listed in those provisions; and that expenditures must comply with provisions relating to expenditures attributable to groups and to be reported in specified categories by group. The substitute adds provisions not in the original requiring a voluntary report to be filed by a certain deadline each month and establishing to which requirements for filing with the Texas Ethics Commission such a report is subject and to which requirements it is not subject.

C.S.H.B. 4033 adds language not in the original to the purpose statement for provisions allowing the use of commission software and resources to facilitate electronic filing of certain contributions and expenditures to include a specific-purpose committee related to a candidate for or holder of an office of a local governmental entity among the individuals and entities targeted by the provisions and to include reports of political contributions and expenditures required by state election laws, rather than disclosure reports of contributions and expenditures required by state law or a rule or ordinance adopted by a local governmental entity as in the original. The substitute adds a definition not in the original for "measure."

C.S.H.B. 4033 differs from the original by specifying that the software developed by the commission to assist certain individuals, entities, and committees is to facilitate the filing of reports of political contributions and expenditures and expenditures made by a person who communicates directly with a local government officer or local government employee to influence an action of a local governmental entity, rather than to facilitate electronic filing of disclosure statements and reports and accepting disclosure statements and reports for electronic filing. The substitute adds a provision not in the original to include in such assistance provided by the commission the maintenance of a database for electronic publishing and filing of the above enumerated reports.

C.S.H.B. 4033 omits a provision in the original specifying that, unless expressly provided by the provisions of the bill, all other provisions of state law relating to the Texas Ethics Commission do not apply to a filing under the bill's provisions.

C.S.H.B. 4033 adds provisions not in the original requiring the commission to maintain and make available through the Internet a searchable database that includes the information in electronic reports filed under this subchapter and providing that the requirement applies beginning January 1, 2010, and expires January 15, 2010.

C.S.H.B. 4033 removes a provision in the original making its provisions inapplicable to a filing of a disclosure statement or report under reporting related to local governmental entities and officers unless expressly provided by the original's provisions.