

BILL ANALYSIS

C.S.H.B. 4444
By: Dunnam
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2008, the U.S. District Court for the Western District of Texas declared unconstitutional a state law that restricted individuals and organizations from spending money on a candidate for speaker of the house of representatives. The ruling removed limits on the contributions and expenditures of candidates for speaker. Reasonable speaker campaign contribution regulations must be created and implemented to ensure transparency and integrity in a speaker election because campaign money has a tremendous influence on candidates, campaigns, and legislative session priorities.

C.S.H.B. 4444 creates contribution and expenditure limits, increases disclosure and reporting requirements, and provides penalties for violations in an election for the speaker of the Texas House of Representatives.

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. 4444 amends the Government Code provision that specifies the information each speaker candidate is required to list in each statement of contributions, loans, and expenditures to include the total amount of all speaker campaign contributions accepted and the total amount of all speaker campaign expenditures made during the reporting period and the total amount of political contributions accepted, as of the last day of a reporting period for which the person is required to file a statement, including interest or other income on those contributions, maintained in one or more accounts in which speaker campaign contributions are deposited as of the last day of the reporting period. The bill specifies that a de minimis error in calculating or reporting a cash balance is not a violation of these provisions. The bill requires a person required to file a statement to indicate in the statement if no reportable activity occurs during a reporting period.

C.S.H.B. 4444 requires the Texas Ethics Commission to make each statement or report filed with the commission under these provisions available to the public on the Internet not later than the second business day after the date the statement or report is filed. The bill specifies that such access to statements and reports is in addition to the public's access to the information through other electronic or print distribution of the information. The bill requires the commission, before making such a statement or report available on the Internet, to remove each portion, other than city, state, and zip code, of the address of a person listed as having made a speaker campaign contribution to the speaker candidate filing the report. The bill requires the address information removed to remain available on the statement or report maintained in the commission's office but prohibits that information from being available electronically at that office.

C.S.H.B. 4444 authorizes a corporation, partnership, association, firm, labor organization, foundation, committee, club, or other organization or group of persons to make a contribution to,

or an expenditure on behalf of, a speaker candidate or to any other person, directly or indirectly, to aid or defeat the election of a speaker candidate only if the entity is permitted to make a contribution to or expenditure for a candidate under state laws governing political funds and campaigns, and only as prescribed by those laws, and if the contribution or expenditure is reported to the commission in the manner provided by such laws for reporting contributions and expenditures. The bill removes a provision that prohibits such an entity from contributing or lending or promising to contribute or lend money or other things of value to a speaker candidate or any other person to aid or defeat the election of the candidate. The bill requires a report relating to campaign finance for a speaker candidate to be made separately from other reports required to be filed under state laws governing political funds and campaigns.

C.S.H.B. 4444 prohibits a speaker candidate from knowingly accepting speaker campaign contributions from an individual that in the aggregate exceed \$1,000 in a speaker election cycle. The bill specifies that a speaker campaign contribution consisting of personal travel expenses or personal services to aid or defeat a speaker candidate incurred by an individual other than the speaker candidate for which the individual is not reimbursed or compensated is not subject to this limit and is not required to be reported under the speaker election provisions. The bill removes a provision that authorizes an individual other than the speaker candidate to contribute personal services and traveling expenses to aid or defeat a speaker candidate except as specified under provisions relating to contributions and loans from organizations and from executive or judicial officers or employees. The bill authorizes an individual other than the speaker candidate not acting in concert with another person to make one or more expenditures to aid or defeat the election of a speaker candidate from the individual's own property if the total expenditures do not constitute a contribution to the speaker candidate, either the total expenditures on any one or more speaker candidates do not exceed \$100 or the individual complies with state laws governing political reporting as if the candidate were a campaign treasurer of a political committee, and the individual receives no reimbursement for the expenditures. The bill specifies that an individual making such an expenditure is not required to file a campaign treasurer appointment. The bill removes a provision that prohibits an individual other than the speaker candidate from expending a total of more than \$100 for the cost of correspondence to aid or defeat the election of a speaker candidate.

C.S.H.B. 4444 prohibits a speaker candidate from expending speaker campaign funds on professional fundraising services. The bill includes as an option for a former speaker candidate's disposition of unexpended speaker campaign funds the remittance of such funds to the comptroller of public accounts for deposit in the general fund to the credit of the house of representatives. The bill removes a provision that allows the remittance of such funds to a tax-exempt charitable organization formed for educational, religious, or scientific purposes.

C.S.H.B. 4444 prohibits a person from knowingly entering into a contract or other agreement to print, publish, or broadcast speaker campaign advertising that does not indicate in the advertising that it is speaker campaign advertising; the full name of the individual who personally entered into the contract or agreement with the printer, publisher, or broadcaster and the name of the person, if any, that the individual represents; and, in the case of advertising that is printed or published, the address of the individual who personally entered into the agreement with the printer or publisher and the address of the person, if any, that the individual represents. The bill exempts from these provisions a printer, publisher, or broadcaster of speaker campaign advertising, or an agent or employee of such, if the person entering into the contract or agreement with the printer, publisher, or broadcaster is not the actual sponsor of the advertising but is the sponsor's professional advertising agent conducting business in Texas, or if the advertising is procured by the actual sponsor of the speaker campaign advertising and, before the performance of the contract or agreement, the sponsor is given written notice that state law requires speaker campaign advertising to disclose certain information. The bill prohibits a professional advertising agent conducting business in Texas who seeks to procure the printing, publication, or broadcasting of speaker campaign advertising on behalf of the sponsor of the advertising from entering into a contract or agreement to provide such advertising unless the

agent gives the sponsor written notice before the performance of the contract or agreement. The bill specifies the language that substantially is required to be provided in the written notice.

C.S.H.B. 4444 makes it an offense for a speaker candidate or former speaker candidate to knowingly accept a speaker campaign contribution from an individual that, when aggregated with each other speaker campaign contribution from the individual accepted during the same speaker campaign cycle, exceeds the \$1,000 individual contribution limit provided for in the bill. The bill makes it an offense for a person to enter into a contract or other agreement to print, publish, or broadcast speaker campaign advertising that does not contain the required disclosure. The bill makes it an offense for a professional advertising agent to seek to procure the printing, publication, or broadcasting of speaker campaign advertising on behalf of the sponsor of the advertising without giving the sponsor certain required written notice. The bill specifies that a speaker candidate who commits an offense relating to speaker candidate campaign finance is not entitled to have the speaker candidate's name placed in nomination for election as speaker.

C.S.H.B. 4444 authorizes the Texas Ethics Commission to enforce state law governing campaign finance for a candidate for speaker of the house of representatives in the same manner as the commission enforces state law governing political funds and campaigns.

C.S.H.B. 4444 makes the restrictions on contributions and expenditures and reporting requirements under state laws governing political funds and campaigns applicable to a campaign for speaker except as expressly provided under provisions relating to speaker candidate campaign finance.

C.S.H.B. 4444 defines "contribution," "expenditure," "labor organization," "political committee," "speaker campaign advertising," "speaker campaign contribution," and "speaker election cycle." The bill defines "speaker campaign expenditure" to mean an expenditure made by a person in connection with a campaign for speaker and specifies that whether an expenditure is made before, during, or after an election for speaker does not affect its status as a speaker campaign expenditure. This definition replaces the definition for "campaign expenditure," which means the expenditure of money or the use of services or any other thing of value to aid or defeat the election of a speaker candidate. The bill makes conforming and nonsubstantive changes.

C.S.H.B. 4444 repeals Section 302.019(c), Government Code, relating to the requirement that all campaign expenditures be made by the speaker candidate from campaign funds, with certain exceptions, and Sections 302.021(d) and (e), Government Code, relating to an offense and penalty for certain speaker candidate campaign contributions made by an individual.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 4444 differs from the original in nonsubstantive ways by using language reflective of certain bill drafting conventions. The substitute makes nonsubstantive technical corrections and clarifications to language in the original to make it conform to the definitions added in the substitute.

C.S.H.B. 4444 removes a provision in the original specifying that a speaker candidate's authorization to expend speaker campaign funds for advertising and publicity does not include the services of a professional fundraiser and adds a stand-alone provision that prohibits a speaker candidate from expending speaker campaign funds on professional fund-raising services.

C.S.H.B. 4444 adds a provision not in the original that makes it an offense for a speaker candidate or former speaker candidate to knowingly accept a speaker campaign contribution

from an individual that, when aggregated with each other speaker campaign contribution from the individual accepted during the same speaker campaign cycle, exceeds the \$1,000 limit prescribed by the substitute. The substitute adds a provision not in the original that makes it an offense for a person to enter into a contract or other agreement to print, publish, or broadcast speaker campaign advertising that does not contain certain required disclosure. The substitute adds a provision not in the original that makes it an offense for a professional advertising agent to seek to procure the printing, publication, or broadcasting of speaker campaign advertising on behalf of the sponsor of the advertising without giving the sponsor certain required written notice.

C.S.H.B. 4444 differs from the original by adding a stand-alone provision authorizing the Texas Ethics Commission to enforce state law governing the campaign finance for a candidate for speaker of the house of representatives in the same manner as the commission enforces state law governing political funds and campaigns, and by removing an exception to prosecution by indictment created by the original authorizing the commission to enforce provisions relating to the speaker of the house of representatives in the same manner as the commission enforces state law governing political funds and campaigns.

C.S.H.B. 4444 differs from the original by repealing, rather than removing, the provisions that require all campaign expenditures to be made by the speaker candidate from campaign funds, with certain exceptions, and by repealing certain offenses relating to speaker campaign finance. The substitute adds a provision not in the original that repeals Sections 302.019(c) and 302.021(d) and (e), Government Code.

C.S.H.B. 4444 differs from the original by changing the effective date to September 1, 2009, rather than on passage, or, if the act does not receive the necessary vote, September 1, 2009.