

By: Hilderbran

H.B. No. 3843

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the election of the speaker of the house of
3 representatives; providing a criminal penalty.

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

5 SECTION 1. Section 302.001, Government Code, is amended to
6 read as follows:

7 Sec. 302.001. ELECTION. (a) When the house of
8 representatives first convenes in regular session and a quorum is
9 present and has been qualified, the house shall elect a speaker
10 unless a majority of the members present decides to defer the
11 election.

12 (b) The election of the speaker shall be governed by the
13 rules of the house of representatives.

14 SECTION 2. Section 302.011, Government Code, is amended by
15 amending Subdivision (3) and adding Subdivision (4) to read as
16 follows:

17 (3) "Campaign funds" means ~~[the speaker candidate's~~
18 ~~personal]~~ funds from the state-appropriated office budget of a
19 member of the house of representatives that are devoted to the
20 member's campaign for speaker ~~[and any money, services, or other~~
21 ~~things of value that are contributed or loaned to the speaker~~
22 ~~candidate for use in the candidate's campaign for speaker].~~

23 (4) "Chief clerk" means the chief clerk of the house of
24 representatives.

1 SECTION 3. Sections 302.0121(a), (c), and (d), Government
2 Code, are amended to read as follows:

3 (a) Each speaker candidate shall file a declaration of
4 candidacy with the chief clerk [~~Texas Ethics Commission~~] as
5 provided by this section.

6 (c) A [~~Except as provided by Subsection (e), a~~] speaker
7 candidate may not knowingly [~~accept a contribution, loan, or~~
8 ~~promise of a contribution or loan in connection with the speaker~~
9 ~~candidacy or~~] make or authorize a campaign expenditure at a time
10 when a declaration of candidacy for the candidate is not in effect.

11 (d) A declaration of speaker candidacy terminates on the
12 earlier of:

13 (1) the date the speaker candidate files a written
14 statement with the chief clerk [~~Texas Ethics Commission~~] stating
15 that the candidate has terminated the candidacy; or

16 (2) the date a speaker is elected for the legislative
17 session as to which the speaker candidate filed the statement.

18 SECTION 4. Sections 302.013(a) and (d), Government Code,
19 are amended to read as follows:

20 (a) Each speaker candidate shall file a sworn statement with
21 the chief clerk [~~Texas Ethics Commission~~] listing the information
22 required by Section 302.014.

23 (d) Each speaker candidate shall file the statement by
24 computer diskette, modem, or other means of electronic transfer,
25 using computer software provided by the chief clerk [~~Texas Ethics~~
26 ~~Commission~~] or computer software that meets the chief clerk's
27 [~~commission~~] specifications for a standard file format.

1 SECTION 5. Sections 302.014 and 302.015, Government Code,
2 are amended to read as follows:

3 Sec. 302.014. CONTENTS OF STATEMENT. Each statement must
4 list, ~~[the following information]~~ for the period since the last
5 filing date, ~~[+~~

6 ~~[(1) each contribution of money the speaker candidate~~
7 ~~or the speaker candidate's agent, servant, staff member, or~~
8 ~~employee received for the campaign, the complete name and address~~
9 ~~of the contributor, and the date and amount of the contribution;~~

10 ~~[(2) each contribution of services and other things of~~
11 ~~value other than money that the speaker candidate or the speaker~~
12 ~~candidate's agent, servant, staff member, or employee received for~~
13 ~~the campaign, the nature of the contribution, the complete name and~~
14 ~~address of the contributor, and the date and value of the~~
15 ~~contribution;~~

16 ~~[(3) each loan made to the speaker candidate or to the~~
17 ~~speaker candidate's agent, servant, staff member, or employee for~~
18 ~~the campaign, including all loans listed in previous filings that~~
19 ~~are as yet unpaid or that were paid during the period covered by the~~
20 ~~present filing, the complete name and address of the lender and each~~
21 ~~person other than the speaker candidate who is responsible on the~~
22 ~~note, the date and amount of the note, the intended source of funds~~
23 ~~to repay the note, and any payments already made on the note and the~~
24 ~~source of the payments, and~~

25 ~~[(4)]~~ each expenditure of campaign funds that the
26 speaker candidate or the speaker candidate's agent, servant, staff
27 member, or employee made for the campaign, the complete name and

1 address of each person to whom a payment of more than \$10 was made,
2 and the purpose of each expenditure.

3 Sec. 302.015. REQUISITES OF FILING. (a) Except as provided
4 by Subsection (b), a statement is considered to be filed in
5 compliance with this subchapter if the postmark shows that it was
6 sent to the chief clerk [~~Texas Ethics Commission~~] at its official
7 post office address by registered or certified mail from any point
8 in this state before the filing deadline.

9 (b) A statement required to be filed on the day before a
10 regular or called session convenes must actually be delivered and
11 in the possession of the chief clerk [~~Texas Ethics Commission~~] not
12 later than midnight of that day.

13 SECTION 6. Subchapter B, Chapter 302, Government Code, is
14 amended by adding Sections 302.0161, 302.0162, and 302.0163 to read
15 as follows:

16 Sec. 302.0161. CONTRIBUTIONS AND LOANS PROHIBITED. (a) A
17 person may not make a contribution of money, services, or other
18 things of value to a speaker candidate to aid the person's
19 candidacy.

20 (b) A person may not loan money or other things of value to a
21 speaker candidate to aid the person's candidacy.

22 (c) A speaker candidate may not accept a contribution or
23 loan that is prohibited by this section.

24 Sec. 302.0162. EXPENDITURES BY SPEAKER CANDIDATE. In
25 connection with a speaker candidacy, a speaker candidate may expend
26 only funds from the state-appropriated office budget to which the
27 candidate is entitled as a member of the house of representatives.

1 Sec. 302.0163. INDEPENDENT EXPENDITURES PERMITTED. (a) A
2 person other than an entity to which Subchapter D, Chapter 253,
3 Election Code, applies may make an expenditure to aid or defeat the
4 election of a speaker candidate only if the person does not act in
5 concert with the speaker candidate.

6 (b) An entity to which Subchapter D, Chapter 253, Election
7 Code, applies may not make an expenditure to aid or defeat the
8 election of a speaker candidate.

9 SECTION 7. Sections 302.0191 and 302.020, Government Code,
10 are amended to read as follows:

11 Sec. 302.0191. [~~CONTRIBUTIONS AND~~] EXPENDITURES FROM
12 POLITICAL CONTRIBUTIONS. A person, including a speaker candidate,
13 may not make [~~a contribution to a speaker candidate's campaign or~~]
14 an expenditure to aid or defeat a speaker candidate from:

15 (1) political contributions accepted under Title 15,
16 Election Code; or

17 (2) interest earned on political contributions
18 accepted under Title 15, Election Code[~~, or~~

19 [~~(3) an asset purchased with political contributions~~
20 ~~accepted under Title 15, Election Code]~~.

21 Sec. 302.020. PERMITTED EXPENDITURES. A speaker candidate
22 may expend campaign funds, in connection with the speaker
23 candidate's candidacy, for:

24 (1) travel for the speaker candidate [~~and the speaker~~
25 ~~candidate's immediate family]~~ and campaign staff;

26 (2) the employment of clerks and stenographers;

27 (3) clerical and stenographic supplies;

- 1 (4) printing and stationery;
- 2 (5) [~~office rent,~~
- 3 [~~(6)~~] telephone, telegraph, postage, freight, and
- 4 express expenses;
- 5 (6) [~~(7)~~] advertising and publicity;
- 6 (7) [~~(8)~~] the expenses of holding political and other
- 7 meetings designed to promote the candidacy; and
- 8 (8) [~~(9)~~] the employment of legal counsel[~~, and~~
- 9 [~~(10) the retirement of campaign loans~~].

10 SECTION 8. Subchapter B, Chapter 302, Government Code, is

11 amended by adding Section 302.0202 to read as follows:

12 Sec. 302.0202. UNEXPENDED CAMPAIGN FUNDS. Any campaign

13 funds that remain when a member's speaker candidacy terminates:

14 (1) may be used only for a purpose for which the member

15 may spend the member's state-appropriated office budget; and

16 (2) must be accounted for as provided by the rules of

17 the house of representatives.

18 SECTION 9. Sections 302.021(a), (b), and (e), Government

19 Code, are amended to read as follows:

20 (a) A speaker candidate [~~or former speaker candidate~~]

21 commits an offense if the person:

22 (1) knowingly fails to file the declaration of

23 candidacy required by Section 302.0121;

24 (2) knowingly fails to file the statement required by

25 Section 302.013;

26 (3) knowingly accepts a [~~contribution, loan, or~~

27 ~~promise of a~~] contribution or loan in violation of Section 302.0161

1 ~~[302.0121(c)]~~;

2 (4) knowingly makes an expenditure in connection with
3 a speaker candidacy in violation of Section 302.0162;

4 (5) knowingly uses ~~[accepts a contribution, loan, or~~
5 ~~promise of a contribution or loan prohibited by Section 302.017~~
6 ~~from a corporation, partnership, association, firm, union,~~
7 ~~foundation, committee, club, or other organization or group of~~
8 ~~persons~~;

9 ~~[(5) knowingly accepts a contribution from a person~~
10 ~~who uses]~~ political contributions or ~~[7]~~ interest earned on
11 political contributions ~~[7, or an asset purchased with political~~
12 ~~contributions]~~ to make an expenditure ~~[the contribution]~~ in
13 violation of Section 302.0191; or

14 (6) expends campaign funds for any purpose other than
15 those enumerated in Section 302.020. ~~[7~~

16 ~~[(7) knowingly retains contributions, assets~~
17 ~~purchased with contributions, or interest or other income earned on~~
18 ~~contributions in violation of Section 302.0201(b), or~~

19 ~~[(8) knowingly fails to file the report of unexpended~~
20 ~~campaign funds as required by Section 302.0201(d)].~~

21 (b) An agent, officer, or director of an entity to which
22 Subchapter D, Chapter 253, Election Code, applies ~~[a corporation,~~
23 ~~partnership, association, firm, union, foundation, committee,~~
24 ~~club, or other organization or group of persons]~~ commits an offense
25 if the agent, officer, or director consents to an expenditure ~~[a~~
26 ~~contribution, loan, or promise of a contribution or loan]~~
27 prohibited by Section 302.0163(b) ~~[this subchapter]~~.

1 (e) A person commits an offense if the person contributes
2 personal services, money, or goods in violation of Section 302.0161
3 or 302.018.

4 SECTION 10. Section 571.061(a), Government Code, is amended
5 to read as follows:

6 (a) The commission shall administer and enforce:

7 (1) Chapters [~~302~~] 303, 305, 572, and 2004;

8 (2) Subchapter C, Chapter 159, Local Government Code,
9 in connection with a county judicial officer, as defined by Section
10 159.051, Local Government Code, who elects to file a financial
11 statement with the commission;

12 (3) Title 15, Election Code; and

13 (4) Sections 2152.064 and 2155.003.

14 SECTION 11. Section 571.091(a), Government Code, is amended
15 to read as follows:

16 (a) The commission shall prepare a written opinion
17 answering the request of a person subject to any of the following
18 laws for an opinion about the application of any of these laws to
19 the person in regard to a specified existing or hypothetical
20 factual situation:

21 (1) [~~Chapter 302~~,

22 [~~2~~] Chapter 303;

23 (2) [~~3~~] Chapter 305;

24 (3) [~~4~~] Chapter 2004;

25 (4) [~~5~~] Chapter 572;

26 (5) [~~6~~] Subchapter C, Chapter 159, Local Government
27 Code, as provided by Section 571.061(a)(2);

- 1 (6) [~~(7)~~] Title 15, Election Code;
- 2 (7) [~~(8)~~] Chapter 36, Penal Code;
- 3 (8) [~~(9)~~] Chapter 39, Penal Code;
- 4 (9) [~~(10)~~] Section 2152.064; or
- 5 (10) [~~(11)~~] Section 2155.003.

6 SECTION 12. Sections 302.0121(e), 302.017, 302.019, and
7 302.0201, Government Code, are repealed.

8 SECTION 13. (a) Chapter 302, Government Code, as amended by
9 this Act, applies to a candidate for speaker of the house of
10 representatives without regard to whether the person becomes a
11 speaker candidate before, on, or after September 1, 2009.

12 (b) Not later than September 15, 2009, the Texas Ethics
13 Commission shall transfer to the chief clerk of the house of
14 representatives:

15 (1) each declaration of speaker candidacy filed under
16 Section 302.0121, Government Code, that has not terminated as
17 provided by that section;

18 (2) all statements filed under Section 302.013,
19 Government Code, and reports filed under Section 302.0201,
20 Government Code, by a speaker candidate or former speaker candidate
21 who, as determined from the most recent statement or report filed,
22 retains speaker's race campaign funds or assets purchased with such
23 funds or who has outstanding debt in connection with a speaker
24 candidacy;

25 (3) any statements or reports in addition to those
26 described by Subdivision (2) of this section that the chief clerk of
27 the house of representatives requests in writing that the

1 commission transfer to the chief clerk; and

2 (4) a fully operational copy of the software purchased
3 or developed by or on behalf of the commission for purposes of
4 filing statements of contributions, loans, and expenditures in the
5 manner required by Section 302.013, Government Code.

6 (c) A person who before September 1, 2009, filed a
7 declaration of speaker candidacy under Section 302.0121,
8 Government Code, with the Texas Ethics Commission that has not
9 terminated as provided by that section is considered to have filed a
10 declaration of speaker candidacy with the chief clerk of the house
11 of representatives.

12 (d) A person who on September 1, 2009, retains unexpended
13 campaign funds under Subchapter B, Chapter 302, Government Code, as
14 that subchapter existed before amendment by this Act, shall:

15 (1) not later than October 1, 2009, dispose of the
16 unexpended campaign funds as provided by Section 302.0201(a),
17 Government Code, as that section existed before repeal by this Act;
18 and

19 (2) not later than November 1, 2009, file with the
20 chief clerk of the house of representatives a report that includes
21 the information required by Sections 302.0201(d) and (e),
22 Government Code, as those sections existed before repeal by this
23 Act, as to the disposition of unexpended campaign funds under
24 Subdivision (1) of this subsection.

25 SECTION 14. (a) The change in law made by this Act applies
26 only to an offense committed on or after September 1, 2009. For
27 purposes of this section, an offense is committed before September

1 1, 2009, if any element of the offense occurs before that date.

2 (b) An offense committed before September 1, 2009, is
3 covered by the law in effect when the offense was committed, and the
4 former law is continued in effect for that purpose.

5 SECTION 15. This Act takes effect September 1, 2009.