

By: Dunnam

H.B. No. 4444

Substitute the following for H.B. No. 4444:

By: Peña

C.S.H.B. No. 4444

A BILL TO BE ENTITLED

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

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

5 SECTION 1. Section 302.011, Government Code, is amended to  
6 read as follows:

7 Sec. 302.011. DEFINITIONS. In this subchapter:

8 (1) "Contribution," "expenditure," "labor  
9 organization," and "political committee" have the meanings  
10 assigned by Section 251.001, Election Code.

11 (2) "Speaker campaign advertising" means a  
12 communication supporting or opposing a speaker candidate that:

13 (A) in return for consideration, is published in  
14 a newspaper, magazine, or other periodical or is broadcast by radio  
15 or television;

16 (B) appears in a letter, pamphlet, circular,  
17 flier, billboard or other sign, bumper sticker, button, or similar  
18 form of written communication; or

19 (C) appears on an Internet website.

20 (3) "Speaker campaign contribution" means a  
21 contribution to a speaker candidate or political committee that is  
22 offered or given with the intent that it be used in connection with  
23 a campaign for speaker. Whether a contribution is made before,  
24 during, or after an election for speaker does not affect its status

1 as a speaker campaign contribution.

2           (4) "Speaker candidate" means a member of or candidate  
3 for the house of representatives who has announced the member's  
4 ~~[his]~~ candidacy for or who by the member's ~~[his]~~ actions, words, or  
5 deeds seeks election to the office of speaker of the house of  
6 representatives.

7           (5) "Speaker campaign ~~[(2) "Campaign]~~ expenditure"  
8 means an ~~[the]~~ expenditure made by a person in connection with a  
9 campaign for speaker. Whether an expenditure is made before,  
10 during, or after an election for speaker does not affect its status  
11 as a speaker campaign expenditure ~~[of money or the use of services~~  
12 ~~or any other thing of value to aid or defeat the election of a~~  
13 ~~speaker candidate]~~.

14           (6) "Speaker campaign ~~[(3) "Campaign]~~ funds" means  
15 the speaker candidate's personal funds that are devoted to the  
16 campaign for speaker and any money, services, or other things of  
17 value that are contributed or loaned to the speaker candidate for  
18 use in the candidate's campaign for speaker.

19           (7) "Speaker election cycle" means the period  
20 beginning on the day after the date a speaker is elected and ending  
21 on the date a new speaker is elected.

22           SECTION 2. Subchapter B, Chapter 302, Government Code, is  
23 amended by adding Section 302.0111 to read as follows:

24           Sec. 302.0111. APPLICATION OF ELECTION CODE. The  
25 restrictions on contributions and expenditures and reporting  
26 requirements of Title 15, Election Code, apply to a campaign for  
27 speaker except as expressly provided by this subchapter.

1 SECTION 3. Section 302.012(b), Government Code, is amended  
2 to read as follows:

3 (b) The records must be kept separate from the records  
4 required under the [~~Texas~~] Election Code for the speaker  
5 candidate's campaign for any other public office.

6 SECTION 4. Sections 302.0121(c) and (e), Government Code,  
7 are amended to read as follows:

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

14 (e) A former speaker candidate whose declaration of speaker  
15 candidacy is terminated under Subsection (d) may make a speaker  
16 campaign expenditure in connection with a debt incurred during the  
17 period the former speaker candidate's declaration of candidacy was  
18 in effect.

19 SECTION 5. Section 302.014, Government Code, is amended to  
20 read as follows:

21 Sec. 302.014. CONTENTS OF STATEMENT. (a) Each statement  
22 must list the following information for the period since the last  
23 filing date:

24 (1) each speaker campaign contribution of money the  
25 speaker candidate or the speaker candidate's agent, servant, staff  
26 member, or employee received for the campaign, the complete name  
27 and address of the contributor, and the date and amount of the

1 contribution;

2 (2) each speaker campaign contribution of services and  
3 other things of value other than money that the speaker candidate or  
4 the speaker candidate's agent, servant, staff member, or employee  
5 received for the campaign, the nature of the contribution, the  
6 complete name and address of the contributor, and the date and value  
7 of the contribution;

8 (3) each loan made to the speaker candidate or to the  
9 speaker candidate's agent, servant, staff member, or employee for  
10 the campaign, including all loans listed in previous filings that  
11 are as yet unpaid or that were paid during the period covered by the  
12 present filing, the complete name and address of the lender and each  
13 person other than the speaker candidate who is responsible on the  
14 note, the date and amount of the note, the intended source of funds  
15 to repay the note, and any payments already made on the note and the  
16 source of the payments; ~~and~~

17 (4) each expenditure of speaker campaign funds that  
18 the speaker candidate or the speaker candidate's agent, servant,  
19 staff member, or employee made for the campaign, the complete name  
20 and address of each person to whom a payment of more than \$10 was  
21 made, and the purpose of each expenditure;

22 (5) the total amount of all speaker campaign  
23 contributions accepted and the total amount of all speaker campaign  
24 expenditures made during the reporting period; and

25 (6) as of the last day of a reporting period for which  
26 the person is required to file a statement, the total amount of  
27 speaker campaign contributions accepted, including interest or

1 other income on those contributions, maintained in one or more  
2 accounts in which speaker campaign contributions are deposited as  
3 of the last day of the reporting period.

4 (b) A de minimis error in calculating or reporting a cash  
5 balance under Subsection (a)(6) is not a violation of this section.

6 (c) If no reportable activity occurs during a reporting  
7 period, the person required to file a statement shall indicate that  
8 fact in the statement.

9 SECTION 6. Section 302.016, Government Code, is amended by  
10 adding Subsections (c), (d), and (e) to read as follows:

11 (c) The Texas Ethics Commission shall make each statement or  
12 report filed with the commission under this subchapter available to  
13 the public on the Internet not later than the second business day  
14 after the date the statement or report is filed.

15 (d) The access allowed by this section to statements and  
16 reports is in addition to the public's access to the information  
17 through other electronic or print distribution of the information.

18 (e) Before making a statement or report filed under this  
19 subchapter available on the Internet, the commission shall remove  
20 each portion, other than city, state, and zip code, of the address  
21 of a person listed as having made a speaker campaign contribution to  
22 the speaker candidate filing the statement or report. The address  
23 information removed must remain available on the statement or  
24 report maintained in the commission's office but may not be  
25 available electronically at that office.

26 SECTION 7. The heading to Section 302.017, Government Code,  
27 is amended to read as follows:

1           Sec. 302.017.   CONTRIBUTIONS AND LOANS FROM AND EXPENDITURES  
2 BY ORGANIZATIONS.

3           SECTION 8.   Section 302.017, Government Code, is amended by  
4 amending Subsection (a) and adding Subsection (a-1) to read as  
5 follows:

6           (a) A [~~Except as provided by Subsection (b), a~~] corporation,  
7 partnership, association, firm, labor organization [~~union~~],  
8 foundation, committee, club, or other organization or group of  
9 persons may make a contribution to, or an expenditure on behalf of,  
10 [~~not contribute or lend or promise to contribute or lend money or~~  
11 ~~other things of value to~~] a speaker candidate or to any other  
12 person, directly or indirectly, to aid or defeat the election of a  
13 speaker candidate only if:

14                   (1) the corporation, partnership, association, firm,  
15 labor organization, foundation, committee, club, or other  
16 organization or group of persons is permitted to make a  
17 contribution to or expenditure for a candidate under Title 15,  
18 Election Code;

19                   (2) the contribution or expenditure is made as  
20 prescribed by that title; and

21                   (3) the contribution or expenditure is reported to the  
22 Texas Ethics Commission in the manner provided by that title for  
23 reporting contributions and expenditures made under that title.

24           (a-1) A report under this section shall be made separately  
25 from other reports required to be filed under Title 15, Election  
26 Code.

27           SECTION 9.   Section 302.019, Government Code, is amended by

1 amending Subsections (a) and (b) and adding Subsections (a-1), (d),  
2 and (e) to read as follows:

3 (a) Except as provided by this section, a speaker candidate  
4 may not knowingly accept speaker campaign contributions from an  
5 individual that in the aggregate exceed \$1,000 in a speaker  
6 election cycle.

7 (a-1) A speaker campaign contribution consisting of  
8 personal travel expenses or personal services to aid or defeat a  
9 speaker candidate incurred by [Section 302.017 or 302.018,] an  
10 individual other than the speaker candidate for which the  
11 individual is not reimbursed or compensated:

12 (1) is not subject to the limit prescribed by  
13 Subsection (a); and

14 (2) is not required to be reported under this  
15 subchapter [may contribute personal services and traveling  
16 expenses to aid or defeat a speaker candidate].

17 (b) Except as otherwise provided by law, an [An] individual  
18 other than the speaker candidate not acting in concert with another  
19 person may make one or more expenditures to aid or defeat the  
20 election of a speaker candidate from the individual's own property  
21 if:

22 (1) the expenditures do not constitute a contribution  
23 to the speaker candidate;

24 (2) the total expenditures on any one or more speaker  
25 candidates do not exceed [expend a total of not more than] \$100; and

26 (3) the individual receives no reimbursement for the  
27 expenditures [for the cost of correspondence to aid or defeat the

1 ~~election of a speaker candidate].~~

2 (d) Except as otherwise provided by law, an individual not  
3 acting in concert with another person may make one or more  
4 expenditures to aid or defeat the election of a speaker candidate  
5 from the individual's own property that exceed \$100 on any one or  
6 more candidates if:

7 (1) the expenditures do not constitute a contribution  
8 to the speaker candidate;

9 (2) the individual complies with Chapter 254, Election  
10 Code, as if the individual were a campaign treasurer of a political  
11 committee; and

12 (3) the individual receives no reimbursement for the  
13 expenditures.

14 (e) An individual making an expenditure under this section  
15 is not required to file a campaign treasurer appointment under  
16 Title 15, Election Code.

17 SECTION 10. Section 302.020, Government Code, is amended to  
18 read as follows:

19 Sec. 302.020. SPEAKER CAMPAIGN [~~PERMITTED~~] EXPENDITURES.

20 (a) A speaker candidate may expend speaker campaign funds for:

21 (1) travel for the speaker candidate and the speaker  
22 candidate's immediate family and campaign staff;

23 (2) the employment of clerks and stenographers;

24 (3) clerical and stenographic supplies;

25 (4) printing and stationery;

26 (5) office rent;

27 (6) telephone, telegraph, postage, freight, and

1 express expenses;

2 (7) advertising and publicity;

3 (8) the expenses of holding political and other  
4 meetings designed to promote the candidacy;

5 (9) the employment of legal counsel; and

6 (10) the retirement of campaign loans.

7 (b) A speaker candidate may not expend speaker campaign  
8 funds on professional fund-raising services.

9 SECTION 11. Sections 302.0201(a), (c), and (d), Government  
10 Code, are amended to read as follows:

11 (a) A former speaker candidate may:

12 (1) use unexpended speaker campaign funds to retire  
13 debt incurred in connection with the speaker candidacy; or

14 (2) remit unexpended speaker campaign funds to one or  
15 more of the following:

16 (A) one or more persons from whom speaker  
17 campaign funds were received, in accordance with Subsection (c); or

18 (B) the comptroller for deposit in the general  
19 revenue fund to the credit of the house of representatives [a  
20 ~~recognized charitable organization formed for educational,~~  
21 ~~religious, or scientific purposes that is exempt from taxation~~  
22 ~~under Section 501(c)(3), Internal Revenue Code of 1986, and its~~  
23 ~~subsequent amendments].~~

24 (c) The amount of speaker campaign funds disposed of under  
25 Subsection (a)(2)(A) to one person may not exceed the aggregate  
26 amount accepted from that person in connection with the former  
27 speaker candidate's most recent campaign for election to the office

1 of speaker.

2 (d) Not later than January 15 of each year, a former speaker  
3 candidate who retains unexpended speaker campaign funds shall file  
4 a sworn report with the Texas Ethics Commission that includes:

5 (1) the full name and address of each person to whom a  
6 payment from unexpended speaker campaign funds is made;

7 (2) the date and amount of each payment reported under  
8 Subdivision (1); and

9 (3) the information required by Section 302.014 as to  
10 any contribution, loan, or expenditure not previously reported on a  
11 statement filed under Section 302.013.

12 SECTION 12. Subchapter B, Chapter 302, Government Code, is  
13 amended by adding Section 302.0202 to read as follows:

14 Sec. 302.0202. REQUIRED DISCLOSURE ON SPEAKER CAMPAIGN  
15 ADVERTISING. (a) A person may not knowingly enter into a contract  
16 or other agreement to print, publish, or broadcast speaker campaign  
17 advertising that does not indicate in the advertising:

18 (1) that it is speaker campaign advertising;

19 (2) the full name of the individual who personally  
20 entered into the contract or agreement with the printer, publisher,  
21 or broadcaster and the name of the person, if any, that the  
22 individual represents; and

23 (3) in the case of advertising that is printed or  
24 published, the address of the individual who personally entered  
25 into the agreement with the printer or publisher and the address of  
26 the person, if any, that the individual represents.

27 (b) Subsection (a) does not apply to a printer, publisher,

1 or broadcaster of speaker campaign advertising or an agent or  
2 employee of the printer, publisher, or broadcaster if:

3 (1) the person entering into the contract or agreement  
4 with the printer, publisher, or broadcaster is not the actual  
5 sponsor of the advertising but is the sponsor's professional  
6 advertising agent conducting business in this state; or

7 (2) the advertising is procured by the actual sponsor  
8 of the speaker campaign advertising and, before the performance of  
9 the contract or agreement, the sponsor is given written notice as  
10 provided by Subsection (d).

11 (c) A professional advertising agent conducting business in  
12 this state who seeks to procure the printing, publication, or  
13 broadcasting of speaker campaign advertising on behalf of the  
14 sponsor of the advertising may not enter into a contract or  
15 agreement for the printing, publication, or broadcasting of speaker  
16 campaign advertising unless, before the performance of the contract  
17 or agreement, the agent gives the sponsor written notice as  
18 provided by Subsection (d).

19 (d) The notice required by Subsections (b) and (c) must be  
20 substantially as follows:

21 "Section 302.0202, Government Code, requires speaker campaign  
22 advertising to disclose certain information. A person who  
23 knowingly enters into a contract or other agreement to print,  
24 publish, or broadcast speaker campaign advertising that does not  
25 contain the information required under that section commits an  
26 offense that is a Class A misdemeanor."

27 SECTION 13. Section 302.021, Government Code, is amended by

1 amending Subsections (a) and (b) and adding Subsections (b-1),  
2 (b-2), and (g) to read as follows:

3 (a) A speaker candidate or former speaker candidate commits  
4 an offense if the person:

5 (1) knowingly fails to file the declaration of  
6 candidacy required by Section 302.0121;

7 (2) knowingly fails to file the statement required by  
8 Section 302.013;

9 (3) knowingly accepts a speaker campaign  
10 contribution, loan, or promise of a speaker campaign contribution  
11 or loan in violation of Section 302.0121(c);

12 (4) knowingly accepts a speaker campaign  
13 contribution, loan, or promise of a speaker campaign contribution  
14 or loan prohibited by Section 302.017 from a corporation,  
15 partnership, association, firm, labor organization [~~union~~],  
16 foundation, committee, club, or other organization or group of  
17 persons;

18 (5) knowingly accepts a speaker campaign contribution  
19 from an individual that, when aggregated with each other speaker  
20 campaign contribution from the individual accepted during the same  
21 speaker campaign cycle, exceeds the limit prescribed by Section  
22 302.019(a);

23 (6) knowingly accepts a speaker campaign contribution  
24 from a person who uses political contributions, interest earned on  
25 political contributions, or an asset purchased with political  
26 contributions to make the speaker campaign contribution in  
27 violation of Section 302.0191;

1           (7) [~~(6)~~] expends speaker campaign funds for any  
2 purpose other than those enumerated in Section 302.020(a)  
3 [~~302.020~~];

4           (8) [~~(7)~~] knowingly retains speaker campaign  
5 contributions, assets purchased with speaker campaign  
6 contributions, or interest or other income earned on speaker  
7 campaign contributions in violation of Section 302.0201(b); or

8           (9) [~~(8)~~] knowingly fails to file the report of  
9 unexpended speaker campaign funds as required by Section  
10 302.0201(d).

11           (b) An individual or an agent, officer, or director of a  
12 corporation, partnership, association, firm, labor organization  
13 [~~union~~], foundation, committee, club, or other organization or  
14 group of persons commits an offense if the individual or agent,  
15 officer, or director consents to a contribution or expenditure [~~or~~  
16 ~~loan, or promise of a contribution or loan~~] prohibited by this  
17 subchapter.

18           (b-1) A person commits an offense if the person enters into  
19 a contract or other agreement to print, publish, or broadcast  
20 speaker campaign advertising that does not contain the disclosure  
21 required by Section 302.0202(a).

22           (b-2) A professional advertising agent commits an offense  
23 if the agent seeks to procure the printing, publication, or  
24 broadcasting of speaker campaign advertising on behalf of the  
25 sponsor of the advertising without giving the sponsor written  
26 notice as required by Sections 302.0202(c) and (d).

27           (g) A speaker candidate who commits an offense under this

1 section is not entitled to have the speaker candidate's name placed  
2 in nomination for election as speaker.

3 SECTION 14. Subchapter B, Chapter 302, Government Code, is  
4 amended by adding Section 302.023 to read as follows:

5 Sec. 302.023. ENFORCEMENT BY TEXAS ETHICS COMMISSION. The  
6 Texas Ethics Commission may enforce this subchapter in the same  
7 manner as the commission enforces Title 15, Election Code.

8 SECTION 15. Sections 302.019(c) and 302.021(d) and (e),  
9 Government Code, are repealed.

10 SECTION 16. (a) Subchapter B, Chapter 302, Government Code,  
11 as amended by this Act, applies only to an offense committed on or  
12 after September 1, 2009. For purposes of this section, an offense is  
13 committed before September 1, 2009, if any element of the offense  
14 occurs before that date.

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

18 SECTION 17. This Act takes effect September 1, 2009.