

By: Dunnam

H.B. No. 4444

A BILL TO BE ENTITLED

AN ACT

relating to campaigns for and the election of the speaker of the house of representatives, and the punishment for offenses committed during a campaign or election.

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

SECTION 1. Subchapter B, Chapter 302, Government Code, is amended to read as follows:

SUBCHAPTER B. CANDIDATE FOR SPEAKER: CAMPAIGN FINANCE

Sec. 302.011. DEFINITIONS. In this subchapter:

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

(1-a) "Contribution" has the meaning assigned by Section 251.001(2), Election Code.

(1-b) "Expenditure" has the meaning assigned by Section 251.001(6), Election Code.

(1-c) "Labor organization" has the meaning assigned by Section 251.001(18).

(1-d) "Speaker campaign advertising" means a communication that supports or opposes a speaker candidate that:

(A) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio

1 or television; or

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

5 (C) on an Internet website.

6 (1-a) "Speaker campaign contribution" means a  
7 contribution to a speaker candidate or political committee that is  
8 offered or given with the intent that it be used in connection with  
9 a campaign for speaker. Whether a contribution is made before,  
10 during, or after an election for speaker does not affect its status  
11 as a speaker campaign contribution.

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

19 (3) "Speaker campaign [~~Campaign~~] funds" means the  
20 speaker candidate's personal funds that are devoted to the campaign  
21 for speaker and any money, services, or other things of value that  
22 are contributed or loaned to the speaker candidate for use in the  
23 candidate's campaign for speaker.

24 (4) "Speaker election cycle" means the period  
25 beginning on the day after the date a speaker is elected and ending  
26 on the date a new speaker is elected.

27 Sec. 302.0111. APPLICATION OF ELECTION CODE. The

1 restrictions on contributions and expenditures and reporting  
2 requirements of Title 15, Election Code, applies to a campaign for  
3 speaker except as expressly provided by this subchapter.

4       Sec. 302.012. RECORDS. (a) Each speaker candidate shall  
5 keep records of all information required to be filed under this  
6 subchapter.

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

10       Sec. 302.0121. DECLARATION OF SPEAKER CANDIDACY. (a) Each  
11 speaker candidate shall file a declaration of candidacy with the  
12 Texas Ethics Commission as provided by this section.

13       (b) A declaration of speaker candidacy must:

14               (1) be in writing;

15               (2) identify the legislative session as to which the  
16 candidacy relates; and

17               (3) include:

18                       (A) the speaker candidate's name;

19                       (B) the speaker candidate's residence or  
20 business street address; and

21                       (C) the speaker candidate's telephone number.

22       (c) Except as provided by Subsection (e), a speaker  
23 candidate may not knowingly accept a speaker campaign  
24 ~~contribution[, loan, or promise of a contribution or loan in~~  
25 ~~connection with the speaker candidacy]~~ or make or authorize a  
26 speaker campaign expenditure at a time when a declaration of  
27 candidacy for the speaker candidate is not in effect.

1 (d) A declaration of speaker candidacy terminates on the  
2 earlier of:

3 (1) the date the speaker candidate files a written  
4 statement with the Texas Ethics Commission stating that the  
5 candidate has terminated the candidacy; or

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

8 (e) A former speaker candidate whose declaration of speaker  
9 candidacy is terminated under Subsection (d) may make a speaker  
10 campaign expenditure in connection with a debt incurred during the  
11 period the former speaker candidate's declaration of candidacy was  
12 in effect.

13 Sec. 302.013. FILING OF STATEMENT OF CONTRIBUTIONS, LOANS,  
14 AND EXPENDITURES. (a) Each speaker candidate shall file a sworn  
15 statement with the Texas Ethics Commission listing the information  
16 required by Section 302.014.

17 (b) Each speaker candidate shall file the statement on:

18 (1) the first filing date after the date on which the  
19 speaker candidate files the declaration of candidacy required by  
20 Section 302.0121;

21 (2) each filing date during the candidacy; and

22 (3) each filing date until all campaign loans have  
23 been repaid.

24 (c) The filing dates are the first day of January, March,  
25 May, July, September, and November and the day before each regular  
26 or called session of the legislature convenes.

27 (d) Each speaker candidate shall file the statement by

1 computer diskette, modem, or other means of electronic transfer,  
2 using computer software provided by the Texas Ethics Commission or  
3 computer software that meets commission specifications for a  
4 standard file format.

5           Sec. 302.014. CONTENTS OF STATEMENT. (a) Each statement  
6 must list the following information for the period since the last  
7 filing date:

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

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

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

27           (4) each expenditure of campaign funds that the

1 speaker candidate or the speaker candidate's agent, servant, staff  
2 member, or employee made for the campaign, the complete name and  
3 address of each person to whom a payment of more than \$10 was made,  
4 and the purpose of each expenditure;

5 (5) the total amount of all contributions accepted and  
6 the total amount of all expenditures made during the reporting  
7 period; and

8 (6) as of the last day of a reporting period for which  
9 the person is required to file a report, the total amount of  
10 political contributions accepted, including interest or other  
11 income on those contributions, maintained in one or more accounts  
12 in which political contributions are deposited as of the last day  
13 of the reporting period.

14 (b) A de minimis error in calculating or reporting a cash  
15 balance under Subsection (a)(8) is not a violation of this section.

16 (c) If no reportable activity occurs during a reporting  
17 period, the person required to file a report shall indicate that  
18 fact in the report.

19 Sec. 302.015. REQUISITES OF FILING. (a) Except as provided  
20 by Subsection (b), a statement is considered to be filed in  
21 compliance with this subchapter if the postmark shows that it was  
22 sent to the Texas Ethics Commission at its official post office  
23 address by registered or certified mail from any point in this state  
24 before the filing deadline.

25 (b) A statement required to be filed on the day before a  
26 regular or called session convenes must actually be delivered and  
27 in the possession of the Texas Ethics Commission not later than

1 midnight of that day.

2           Sec. 302.016. PUBLIC RECORDS. (a) Each statement filed  
3 under this subchapter is public information and shall be preserved  
4 for two years after the election for which it was filed.

5           (b) Unless a court of competent jurisdiction orders further  
6 preservation, a statement may be destroyed after the two-year  
7 period prescribed by Subsection (a).

8           (c) The commission shall make each report filed with the  
9 commission under this subchapter available to the public on the  
10 Internet not later than the second business day after the date the  
11 report is filed.

12           (d) The access allowed by this section to reports is in  
13 addition to the public's access to the information through other  
14 electronic or print distribution of the information.

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

22           Sec. 302.017. CONTRIBUTIONS AND LOANS FROM ORGANIZATIONS.

23 (a) A [~~Except as provided by Subsection (b), a~~] corporation,  
24 partnership, association, firm, union, foundation, committee,  
25 club, or other organization or group of persons may make a  
26 contribution to, or an expenditure on behalf of, [not contribute or  
27 lend or promise to contribute or lend money or other things of value

1 ~~to~~ a speaker candidate or to any other person, directly or  
2 indirectly, to aid or defeat the election of a speaker candidate  
3 only if the corporation, partnership, association, firm, union,  
4 foundation, committee, club, or other organization or group of  
5 persons is permitted to make a contribution to a candidate under  
6 Title 15, Election Code, and only as prescribed by that title, and  
7 reported to the commission in the manner provided by that title for  
8 reporting contributions and expenditures under that title. All  
9 reports under this subchapter shall be made separately from other  
10 reports required to be filed under Title 15, Election Code.

11 (b) This section does not apply to a loan made in the due  
12 course of business to a speaker candidate for campaign purposes by a  
13 corporation that is legally engaged in the business of lending  
14 money and that has continuously conducted the business for more  
15 than one year before making the loan to the speaker candidate.

16 Sec. 302.018. CONTRIBUTIONS FROM EXECUTIVE OR JUDICIAL  
17 OFFICERS OR EMPLOYEES. An elected officer or employee of the  
18 executive or judicial branch of state government may not contribute  
19 personal services, money, or goods of value to a speaker  
20 candidate's campaign.

21 Sec. 302.019. INDIVIDUAL CONTRIBUTIONS; CAMPAIGN  
22 EXPENDITURES. (a) Except as provided by this section, a speaker  
23 candidate may not knowingly accept political contributions from an  
24 individual that in the aggregate exceed \$1,000 in a speaker  
25 election cycle.

26 (b) A contribution consisting of personal travel expense or  
27 personal service to aid or defeat a speaker candidate incurred by



1 ~~[Section 302.017 or 302.018,]~~ an individual other than the speaker  
2 candidate is not required to be reported under this subchapter if  
3 the individual receives no compensation for the travel expense or  
4 the service ~~[may contribute personal services and traveling~~  
5 ~~expenses to aid or defeat a speaker candidate].~~

6 (c) Except as otherwise provided by law, an ~~[(b) An]~~ an  
7 individual other than the speaker candidate not acting in concert  
8 with another person may make one or more direct campaign  
9 expenditures to aid or defeat the election of a speaker candidate  
10 from the individual's own property if:

11 (1) the total expenditures on any one or more speaker  
12 candidates do not exceed~~[expend a total of not more than]~~ \$100; and

13 (2) the individual receives no reimbursement for the  
14 expenditures ~~[for the cost of correspondence to aid or defeat the~~  
15 ~~election of a speaker candidate].~~

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

21 (1) the individual complies with Chapter 254, Election  
22 Code, as if the individual were a campaign treasurer of a political  
23 committee; and

24 (2) the individual receives no reimbursement for the  
25 expenditures.

26 (e) An individual making expenditures under this section is  
27 not required to file a campaign treasurer appointment.

1           ~~[(c) Except as provided by Subsections (a) and (b), all~~  
2 ~~campaign expenditures must be made by the speaker candidate from~~  
3 ~~campaigns funds.]~~

4           Sec. 302.0191. CONTRIBUTIONS AND EXPENDITURES FROM  
5 POLITICAL CONTRIBUTIONS. A person, including a speaker candidate,  
6 may not make a contribution to a speaker candidate's campaign or an  
7 expenditure to aid or defeat a speaker candidate from:

8           (1) political contributions accepted under Title 15,  
9 Election Code;

10           (2) interest earned on political contributions  
11 accepted under Title 15, Election Code; or

12           (3) an asset purchased with political contributions  
13 accepted under Title 15, Election Code.

14           Sec. 302.020. PERMITTED EXPENDITURES. A speaker candidate  
15 may expend campaign funds for:

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

18           (2) the employment of clerks and stenographers;

19           (3) clerical and stenographic supplies;

20           (4) printing and stationery;

21           (5) office rent;

22           (6) telephone, telegraph, postage, freight, and  
23 express expenses;

24           (7) advertising and publicity, which does not include  
25 the services of a professional fundraiser;

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

1 (9) the employment of legal counsel; and

2 (10) the retirement of campaign loans.

3 Sec. 302.0201. REQUIRED DISCLOSURE ON SPEAKER CAMPAIGN  
4 ADVERTISING. (a) A person commits an offense if the person  
5 knowingly enters into a contract or other agreement to print,  
6 publish, or broadcast speaker campaign advertising that does not  
7 indicate in the advertising:

8 (1) that it is speaker campaign advertising;

9 (2) the full name of the individual who personally  
10 entered into the contract or agreement with the printer, publisher,  
11 or broadcaster and the name of the person, if any, that the  
12 individual represents; and

13 (3) in the case of advertising that is printed or  
14 published, the address of the individual who personally entered  
15 into the agreement with the printer or publisher and the address of  
16 the person, if any, that the individual represents.

17 (b) It is an exception to the application of Subsection (a)  
18 to a broadcaster, printer, or publisher of speaker campaign  
19 advertising or to an agent or employee of the broadcaster, printer,  
20 or publisher that:

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

25 (2) the advertising is procured by the actual sponsor  
26 of the speaker campaign advertising and, before the performance of  
27 the contract or agreement, the sponsor is given written notice as

1 provided by Subsection (d).

2 (c) A professional advertising agent conducting business in  
3 this state who seeks to procure the broadcasting, printing, or  
4 publication of speaker campaign advertising on behalf of the  
5 sponsor of the advertising commits an offense if the agent enters  
6 into a contract or agreement for the broadcasting, printing, or  
7 publication of speaker campaign advertising and does not, before  
8 the performance of the contract or agreement, give the sponsor  
9 written notice as provided by Subsection (d).

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

12 Section 302.0201, Government Code, requires speaker campaign  
13 advertising to disclose certain information. A person who  
14 knowingly enters into a contract or other agreement to print,  
15 publish, or broadcast speaker campaign advertising that does not  
16 contain the information required under that section commits an  
17 offense that is a Class A misdemeanor.

18 Sec. 302.0201. DISPOSITION OF UNEXPENDED FUNDS; REPORT.

19 (a) A former speaker candidate may:

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

22 (2) remit unexpended campaign funds to one or more of  
23 the following:

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

26 (B) the comptroller for deposit in the general  
27 fund to the credit of the house of representatives [~~a recognized~~

1 ~~charitable organization formed for educational, religious, or~~  
2 ~~scientific purposes that is exempt from taxation under Section~~  
3 ~~501(c)(3), Internal Revenue Code of 1986, and its subsequent~~  
4 ~~amendments].~~

5 (b) A former speaker candidate may not retain contributions  
6 covered by this subchapter, assets purchased with the  
7 contributions, or interest and other income earned on the  
8 contributions for more than six years after the date the person  
9 ceases to be a speaker candidate or hold the office of speaker.

10 (c) The amount of campaign funds disposed of under  
11 Subsection (a)(2)(A) to one person may not exceed the aggregate  
12 amount accepted from that person in connection with the former  
13 speaker candidate's most recent campaign for election to the office  
14 of speaker.

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

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

20 (2) the date and amount of each payment reported under  
21 Subdivision (1); and

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

25 (e) A report filed under this section covers, as applicable:

26 (1) the period:

27 (A) beginning on the date after the last day of

1 the period covered by the most recent statement filed by the former  
2 speaker candidate under Section 302.013; and

3 (B) ending on December 31 of the preceding year;  
4 or

5 (2) the preceding calendar year.

6 (f) A former speaker candidate shall file the report on an  
7 official form designed by the Texas Ethics Commission. Sections  
8 302.015 and 302.016 apply to a report filed under this section.

9 (g) For purposes of this section, a speaker candidate  
10 elected as speaker of the house of representatives is considered to  
11 be a former speaker candidate.

12 Sec. 302.021. OFFENSES AND PENALTIES. (a) A speaker  
13 candidate or former speaker candidate commits an offense if the  
14 person:

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

17 (2) knowingly fails to file the statement required by  
18 Section 302.013;

19 (3) knowingly accepts a contribution, loan, or promise  
20 of a contribution or loan in violation of Section 302.0121(c);

21 (4) knowingly accepts a contribution, loan, or promise  
22 of a contribution or loan prohibited by Section 302.017 from a  
23 corporation, partnership, association, firm, union, foundation,  
24 committee, club, or other organization or group of persons;

25 (5) knowingly accepts a contribution from a person who  
26 uses political contributions, interest earned on political  
27 contributions, or an asset purchased with political contributions

1 to make the contribution in violation of Section 302.0191;

2 (6) expends campaign funds for any purpose other than  
3 those enumerated in Section 302.020;

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

7 (8) knowingly fails to file the report of unexpended  
8 campaign funds as required by Section 302.0201(d).

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

15 (c) A person commits an offense if the person conspires with  
16 another person to circumvent any provision of this subchapter.

17 (d) A speaker candidate who commits an offense under this  
18 section is not entitled to have the speaker candidate's name place  
19 in nomination for election as speaker. [~~An individual other than~~  
20 ~~the speaker candidate commits an offense if the individual, either~~  
21 ~~acting alone or with another individual, expends or authorizes the~~  
22 ~~expenditure of more than \$100 for correspondence to aid or defeat~~  
23 ~~the election of a speaker candidate or expends funds for any purpose~~  
24 ~~other than for personal services and traveling expenses to aid or~~  
25 ~~defeat the election of a speaker candidate.~~

26 [~~(e) A person commits an offense if the person contributes~~  
27 ~~personal services, money, or goods in violation of Section~~

1 ~~302.018.]~~

2 (e-1) A person commits an offense if the person knowingly  
3 makes a contribution to a speaker candidate's campaign or an  
4 expenditure to aid or defeat a speaker candidate from political  
5 contributions, interest earned on political contributions, or an  
6 asset purchased with political contributions in violation of  
7 Section 302.0191.

8 (f) An offense under this section is a Class A misdemeanor.

9 Sec. 302.022. PROSECUTION BY INDICTMENT. Each prosecution  
10 under this subchapter must be brought by indictment rather than by  
11 complaint and information, except that the Texas Ethics Commission  
12 may enforce the provisions of this chapter in the same manner as the  
13 commission enforces Title 15, Election Code.

14 SECTION 2. This Act takes effect immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect September 1, 2009.