

BILL ANALYSIS

C.S.H.B. 582
By: Howard
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that the so-called revolving door between public service and lobbying has received a good deal of scrutiny over the years. These parties further note that, as a result of this scrutiny, laws have been enacted at both the federal and state level to require some form of waiting period before former lawmakers can begin working as lobbyists. The parties contend that, because Texas has not approved this type of restriction, many former legislators begin working as lobbyists immediately after leaving office and, because of that rapid transition, often leave office with money still in their campaign bank accounts.

The parties further contend that, while political contributions made to an individual candidate generally are made to a campaign for the purpose of helping that person get elected to public office and cannot be converted to personal use, a person can make a political contribution from these funds to other individual candidates. The parties argue that the political nature of the lobbying profession creates a gray area because a former officeholder who registers to lobby is appropriately entitled to exercise a right as a private citizen to contribute to political candidates, yet, as a lobbyist, is not required to use personal funds to exercise that right.

C.S.H.B. 582 seeks to address this gray area by prohibiting a lobbyist who is a former elected official from making political contributions from funds the lobbyist accepted either as a candidate for office or as an officeholder for a specified period after leaving office.

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. 582 amends the Election Code to make it a Class A misdemeanor offense for a person required to register as a lobbyist to knowingly make or authorize a political contribution or political expenditure, before the second anniversary of the date the last term for which the person was elected ends, from political contributions accepted by the person as a candidate or officeholder. The bill exempts from this provision a person who communicates directly with a member of the legislative or executive branch only to influence legislation or administrative action on behalf of a nonprofit charitable organization exempt from federal income tax or on behalf of either a group of low-income individuals or a group of individuals with disabilities and who does not receive compensation other than reimbursement for actual expenses for engaging in such communication.

C.S.H.B. 582 amends the Government Code to prohibit a person required to register as a lobbyist from knowingly making or authorizing a lobbying expenditure, before the second anniversary of the date the last term for which the person was elected ends, from political contributions accepted by the person as a candidate or officeholder. The bill exempts from this prohibition a person who communicates directly with a member of the legislative or executive branch only to

influence legislation or administrative action on behalf of a nonprofit charitable organization exempt from federal income tax or on behalf of either a group of low-income individuals or a group of individuals with disabilities and who does not receive compensation other than reimbursement for actual expenses for engaging in such communication.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 582 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter A, Chapter 253, Election Code, is amended by adding Section 253.006 to read as follows:

Sec. 253.006. CERTAIN CONTRIBUTIONS AND EXPENDITURES BY LOBBYISTS RESTRICTED. (a) In this section, "administrative action," "communicates directly with," "legislation," "member of the executive branch," and "member of the legislative branch" have the meanings assigned by Section 305.002, Government Code.

(b) Notwithstanding any other provision of law and except as provided by Subsection (c), a person required to register under Chapter 305, Government Code, during a regular session of the legislature may not, during the period beginning on the date that regular legislative session convenes and ending on the date the next regular legislative session convenes, knowingly make or authorize a political contribution or political expenditure from political contributions accepted by the person as a candidate or officeholder.

(c) Subsection (b) does not apply to a person who:

(1) communicates directly with a member of the legislative or executive branch only to influence legislation or administrative action on behalf of:

(A) a nonprofit organization;

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter A, Chapter 253, Election Code, is amended by adding Section 253.006 to read as follows:

Sec. 253.006. CERTAIN CONTRIBUTIONS AND EXPENDITURES BY LOBBYISTS RESTRICTED. (a) In this section, "administrative action," "communicates directly with," "legislation," "member of the executive branch," and "member of the legislative branch" have the meanings assigned by Section 305.002, Government Code.

(b) Notwithstanding any other provision of law and except as provided by Subsection (c), a person required to register under Chapter 305, Government Code, may not, before the second anniversary of the date the last term for which the person was elected ends, knowingly make or authorize a political contribution or political expenditure from political contributions accepted by the person as a candidate or officeholder.

(c) Subsection (b) does not apply to a person who:

(1) communicates directly with a member of the legislative or executive branch only to influence legislation or administrative action on behalf of:

(A) a nonprofit organization exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section

(B) a group of low-income individuals; or
(C) a group of individuals with disabilities;
and
(2) does not receive compensation other than reimbursement for actual expenses for engaging in communication described by Subdivision (1).

(d) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

SECTION 2. Subchapter B, Chapter 305, Government Code, is amended by adding Section 305.030 to read as follows:

Sec. 305.030. EXPENDITURES FROM POLITICAL CONTRIBUTIONS RESTRICTED. (a) In this section, "political contribution" has the meaning assigned by Section 251.001, Election Code.

(b) Notwithstanding any other provision of law and except as provided by Subsection (c), a person required to register under this chapter during a regular session of the legislature may not, during the period beginning on the date that regular legislative session convenes and ending on the date the next regular legislative session convenes, knowingly make or authorize an expenditure under this chapter from political contributions accepted by the person as a candidate or officeholder.

(c) Subsection (b) does not apply to a person who:

(1) communicates directly with a member of the legislative or executive branch only to influence legislation or administrative action on behalf of:

(A) a nonprofit organization;

(B) a group of low-income individuals; or
(C) a group of individuals with disabilities;
and

(2) does not receive compensation other than reimbursement for actual expenses for engaging in communication described by Subdivision (1).

SECTION 3. Section 253.006, Election

501(c)(3) of that code;

(B) a group of low-income individuals; or
(C) a group of individuals with disabilities;
and
(2) does not receive compensation other than reimbursement for actual expenses for engaging in communication described by Subdivision (1).

(d) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

SECTION 2. Subchapter B, Chapter 305, Government Code, is amended by adding Section 305.030 to read as follows:

Sec. 305.030. EXPENDITURES FROM POLITICAL CONTRIBUTIONS RESTRICTED. (a) In this section, "political contribution" has the meaning assigned by Section 251.001, Election Code.

(b) Notwithstanding any other provision of law and except as provided by Subsection (c), a person required to register under this chapter may not, before the second anniversary of the date the last term for which the person was elected ends, knowingly make or authorize an expenditure under this chapter from political contributions accepted by the person as a candidate or officeholder.

(c) Subsection (b) does not apply to a person who:

(1) communicates directly with a member of the legislative or executive branch only to influence legislation or administrative action on behalf of:

(A) a nonprofit organization exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code;

(B) a group of low-income individuals; or
(C) a group of individuals with disabilities;
and

(2) does not receive compensation other than reimbursement for actual expenses for engaging in communication described by Subdivision (1).

SECTION 3. Same as introduced version.

Code, as added by this Act, and Section 305.030, Government Code, as added by this Act, apply to a political contribution, political expenditure, or lobbying expenditure made on or after September 1, 2013, from funds accepted as a political contribution, regardless of the date the funds were accepted.

SECTION 4. This Act takes effect September 1, 2013.

SECTION 4. Same as introduced version.