

By: Geren

H.B. No. 1283

A BILL TO BE ENTITLED

AN ACT

relating to the ethics of public officers and related requirements;
creating criminal offenses.

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

ARTICLE 1. PENSION REVOCATION; LOSS OF LEGISLATIVE OFFICE

SECTION 1.01. Chapter 810, Government Code, is amended by
adding Section 810.002 to read as follows:

Sec. 810.002. CERTAIN ELECTED OFFICIALS INELIGIBLE FOR
RETIREMENT ANNUITY. (a) In this section:

(1) "Governing body of a public retirement system" and
"public retirement system" have the meanings assigned by Section
802.001.

(2) "Qualifying felony" means any felony involving:
(A) bribery;
(B) the embezzlement, extortion, or other theft
of public money;

(C) perjury;
(D) coercion of public servant or voter;
(E) tampering with governmental record;
(F) misuse of official information;
(G) conspiracy or the attempt to commit any of
the offenses described by Paragraphs (A)-(F); or

(H) abuse of official capacity.

(b) This section applies only to a person who is:

1 (1) a member of the elected class of the Employees
2 Retirement System of Texas as described by Section 812.002(a)(1) or
3 (2); or

4 (2) otherwise eligible for membership in a public
5 retirement system wholly or partly because the person held an
6 elected office.

7 (c) Except as provided by Subsection (d), a member of a
8 public retirement system is not eligible to receive a service
9 retirement annuity under the retirement system if the member is
10 convicted of a qualifying felony committed while in office and
11 arising directly from the official duties of that elected office.

12 (d) The retirement system shall suspend payments of an
13 annuity to a person ineligible to receive the annuity under
14 Subsection (c). A person whose conviction is overturned on appeal
15 or who meets the requirements for innocence under Section
16 103.001(a)(2), Civil Practice and Remedies Code:

17 (1) is entitled to receive an amount equal to the
18 accrued total of payments and interest earned on the payments
19 withheld during the suspension period; and

20 (2) may resume receipt of annuity payments on payment
21 to the retirement system of an amount equal to the contributions
22 refunded to the person under Subsection (e).

23 (e) A member who is ineligible to receive a service
24 retirement annuity under Subsection (c) is entitled to a refund of
25 the member's service retirement annuity contributions, including
26 interest earned on those contributions.

27 (f) Benefits payable to an alternate payee under Chapter 804

1 who is recognized by a domestic relations order established before
2 January 8, 2019, are not affected by a member's ineligibility to
3 receive a service retirement annuity under Subsection (c).

4 (g) On conviction of a member for a qualifying felony, a
5 court may, in the interest of justice and in the same manner as in a
6 divorce proceeding, award half of the service retirement annuity
7 forfeited by the member as the separate property of an innocent
8 spouse if the annuity is partitioned or exchanged by written
9 agreement of the spouses as provided by Subchapter B, Chapter 4,
10 Family Code. The amount awarded to the innocent spouse may not be
11 converted to community property.

12 (h) Ineligibility for a service retirement annuity under
13 this section does not impair a person's right to any other
14 retirement benefit for which the person is eligible.

15 (i) The governing body of a public retirement system shall
16 adopt rules and procedures to implement this section.

17 SECTION 1.02. Chapter 601, Government Code, is amended by
18 adding Section 601.011 to read as follows:

19 Sec. 601.011. VACANCY ON FINAL FELONY CONVICTION OF MEMBER
20 OF LEGISLATURE, GOVERNOR, OR STATE ELECTED OFFICIAL. A member of
21 the legislature, the governor, or a state elected official
22 convicted of a felony vacates the member's, governor's, or
23 official's office on the date the conviction becomes final.

24 ARTICLE 2. DISCLOSURE REQUIREMENTS

25 SECTION 2.01. Section 572.023, Government Code, is amended
26 by amending Subsection (b) and adding Subsections (e) and (f) to
27 read as follows:

1 (b) The account of financial activity consists of:

2 (1) a list of all sources of occupational income,
3 identified by employer, or if self-employed, by the nature of the
4 occupation, including identification of a person or other
5 organization from which the individual or a business in which the
6 individual has a substantial interest received a fee as a retainer
7 for a claim on future services in case of need, as distinguished
8 from a fee for services on a matter specified at the time of
9 contracting for or receiving the fee, if professional or
10 occupational services are not actually performed during the
11 reporting period equal to or in excess of the amount of the
12 retainer, and the category of the amount of the fee;

13 (2) identification by name and the category of the
14 number of shares of stock of any business entity held or acquired,
15 and if sold, the category of the amount of net gain or loss realized
16 from the sale;

17 (3) a list of all bonds, notes, and other commercial
18 paper held or acquired, and if sold, the category of the amount of
19 net gain or loss realized from the sale;

20 (4) identification of each source and the category of
21 the amount of income in excess of \$500 derived from each source from
22 interest, dividends, royalties, and rents;

23 (5) identification of each guarantor of a loan and
24 identification of each person or financial institution to whom a
25 personal note or notes or lease agreement for a total financial
26 liability in excess of \$1,000 existed at any time during the year
27 and the category of the amount of the liability;

1 (6) identification by description of all beneficial
2 interests in real property and business entities held or acquired,
3 and if sold, the category of the amount of the net gain or loss
4 realized from the sale;

5 (7) identification of a person or other organization
6 from which the individual or the individual's spouse or dependent
7 children received a gift of anything of value in excess of \$250 and
8 a description of each gift, except:

9 (A) a gift received from an individual related to
10 the individual at any time within the second degree by
11 consanguinity or affinity, as determined under Subchapter B,
12 Chapter 573;

13 (B) a political contribution that was reported as
14 required by Chapter 254, Election Code; and

15 (C) an expenditure required to be reported by a
16 person required to be registered under Chapter 305;

17 (8) identification of the source and the category of
18 the amount of all income received as beneficiary of a trust, other
19 than a blind trust that complies with Subsection (c), and
20 identification of each trust asset, if known to the beneficiary,
21 from which income was received by the beneficiary in excess of \$500;

22 (9) identification by description and the category of
23 the amount of all assets and liabilities of a corporation, firm,
24 partnership, limited partnership, limited liability partnership,
25 professional corporation, professional association, joint venture,
26 or other business association in which 50 percent or more of the
27 outstanding ownership was held, acquired, or sold;

1 (10) a list of all boards of directors of which the
2 individual is a member and executive positions that the individual
3 holds in corporations, firms, partnerships, limited partnerships,
4 limited liability partnerships, professional corporations,
5 professional associations, joint ventures, or other business
6 associations or proprietorships, stating the name of each
7 corporation, firm, partnership, limited partnership, limited
8 liability partnership, professional corporation, professional
9 association, joint venture, or other business association or
10 proprietorship and the position held;

11 (11) identification of any person providing
12 transportation, meals, or lodging expenses permitted under Section
13 36.07(b), Penal Code, and the amount of those expenses, other than
14 expenditures required to be reported under Chapter 305;

15 (12) any corporation, firm, partnership, limited
16 partnership, limited liability partnership, professional
17 corporation, professional association, joint venture, or other
18 business association, excluding a publicly held corporation, in
19 which both the individual and a person registered under Chapter 305
20 have an interest;

21 (13) identification by name and the category of the
22 number of shares of any mutual fund held or acquired, and if sold,
23 the category of the amount of net gain or loss realized from the
24 sale; ~~and~~

25 (14) identification of each blind trust that complies
26 with Subsection (c), including:

27 (A) the category of the fair market value of the

1 trust;

2 (B) the date the trust was created;

3 (C) the name and address of the trustee; and

4 (D) a statement signed by the trustee, under
5 penalty of perjury, stating that:

6 (i) the trustee has not revealed any
7 information to the individual, except information that may be
8 disclosed under Subdivision (8); and

9 (ii) to the best of the trustee's knowledge,
10 the trust complies with this section;

11 (15) if the aggregate cost of goods or services sold
12 under one or more written contracts described by this subdivision
13 exceeds \$10,000 in the year covered by the report, identification
14 of each written contract, including the name of each party to the
15 contract:

16 (A) for the sale of goods or services in the
17 amount of \$2,500 or more;

18 (B) to which the individual, the individual's
19 spouse, the individual's dependent child, or any business entity of
20 which the individual, the individual's spouse, or the individual's
21 dependent child has at least a 50 percent ownership interest is a
22 party; and

23 (C) with:

24 (i) a governmental entity; or

25 (ii) a person who contracts with a
26 governmental entity, in accordance with the contract between the
27 person contracting with the governmental entity and the individual

1 or entity described by Paragraph (B); and

2 (16) if the individual is a member of the legislature
3 and provides bond counsel services to an issuer, as defined by
4 Section 1201.002(1), identification of the following for each
5 issuance for which the individual served as bond counsel:

6 (A) the amount of the issuance;

7 (B) the name of the issuer;

8 (C) the date of the issuance;

9 (D) the amount of fees paid to the individual,

10 and whether the amount is:

11 (i) less than \$5,000;

12 (ii) at least \$5,000 but less than \$10,000;

13 (iii) at least \$10,000 but less than

14 \$25,000; or

15 (iv) \$25,000 or more; and

16 (E) the amount of fees paid to the individual's

17 firm, if applicable, and whether the amount is:

18 (i) less than \$5,000;

19 (ii) at least \$5,000 but less than \$10,000;

20 (iii) at least \$10,000 but less than

21 \$25,000; or

22 (iv) \$25,000 or more.

23 (e) In this section, "governmental entity" means this
24 state, a political subdivision of the state, or an agency or
25 department of the state or a political subdivision of the state.

26 (f) Subsection (b)(15) does not require the disclosure of an
27 employment contract between a school district or open-enrollment

1 charter school and an employee of the district or school.

2 SECTION 2.02. Section 572.0252, Government Code, is amended
3 to read as follows:

4 Sec. 572.0252. INFORMATION ABOUT LEGAL REFERRALS. A state
5 officer who is an attorney shall report on the financial statement:

6 (1) making or receiving any referral for compensation
7 for legal services; ~~and~~

8 (2) the date the referral is made or received;

9 (3) the style of the case referred, if applicable; and

10 (4) the percentage of the legal fee paid or received
11 that was agreed to between the parties to the referral as the
12 referral fee, or if the referral fee is not determined as a
13 percentage of the legal fee, the agreed amount of the fee paid or
14 received ~~[the category of the amount of any fee accepted for making~~
15 ~~a referral for legal services].~~

16 ARTICLE 3. REPORTING OF LOBBYIST EXPENDITURES

17 SECTION 3.01. Section 305.0061, Government Code, is amended
18 by amending Subsections (a), (b), and (c) and adding Subsection (h)
19 to read as follows:

20 (a) If a registrant or a person on the registrant's behalf
21 and with the registrant's consent or ratification makes
22 expenditures that exceed 30 ~~[60]~~ percent of the amount of the
23 legislative per diem in a day for transportation or lodging for a
24 member of the legislative or executive branch or for the immediate
25 family of a member of the legislative or executive branch, the
26 registrant shall also state the following on the report filed under
27 Section 305.006:

1 (1) the name of the member of the legislative or
2 executive branch in whose behalf the expenditure is made;

3 (2) the place and date of the transportation or
4 lodging; and

5 (3) the purpose of the transportation or lodging.

6 (b) If a registrant or a person on the registrant's behalf
7 and with the registrant's consent or ratification makes
8 expenditures that exceed 30 [~~60~~] percent of the amount of the
9 legislative per diem in a day for food and beverages for a member of
10 the legislative or executive branch or for the immediate family of a
11 member of the legislative or executive branch or makes expenditures
12 that exceed 30 [~~60~~] percent of the amount of the legislative per
13 diem in a day for entertainment for a member of the legislative or
14 executive branch or for the immediate family of a member of the
15 legislative or executive branch, the registrant shall also state
16 the following on the report filed under Section 305.006:

17 (1) the name of the member of the legislative or
18 executive branch in whose behalf the expenditure is made;

19 (2) the place and date of the expenditure; and

20 (3) the amount of the expenditure by the appropriate
21 category of the amount, as determined by the commission.

22 (c) If a registrant or a person on the registrant's behalf
23 and with the registrant's consent or ratification gives to a member
24 of the legislative or executive branch, or to the immediate family
25 of a member of the legislative or executive branch, a gift or an
26 award or memento, the value of which exceeds \$50 per gift, award, or
27 memento, the registrant shall also state the following on the

1 report filed under Section 305.006:

2 (1) the name of the member of the legislative or
3 executive branch in whose behalf the expenditure is made;

4 (2) a general description of the gift, award, or
5 memento; and

6 (3) the amount of the expenditure by the appropriate
7 category of the amount, as determined by the commission.

8 (h) If more than one registrant or persons acting on behalf
9 of more than one registrant and with each registrant's consent or
10 ratification collaborate to make an expenditure described by
11 Section 305.006(b) together, each registrant shall report the total
12 value of the shared expenditure as required by Subsection (a), (b),
13 or (c), if the total value of the shared expenditure exceeds the
14 amount provided under Subsection (a), (b), or (c).

15 SECTION 3.02. Section 305.024(a), Government Code, as
16 amended by Chapters 92 (S.B. 1011) and 206 (H.B. 1508), Acts of the
17 79th Legislature, Regular Session, 2005, is reenacted and amended
18 to read as follows:

19 (a) Except as provided by Section 305.025, a person
20 registered under Section 305.005 or a person on the registrant's
21 behalf and with the registrant's consent or ratification may not
22 offer, confer, or agree to confer:

23 (1) to an individual described by Section
24 305.0062(a)(1), (2), (3), (4), or (5):

25 (A) a loan, including the guarantee or
26 endorsement of a loan; or

27 (B) a gift of cash or a negotiable instrument as

1 described by Section 3.104, Business & Commerce Code; or

2 (2) to an individual described by Section
3 305.0062(a)(1), (2), (3), (4), (5), (6), or (7):

4 (A) an expenditure for transportation and
5 lodging;

6 (B) an expenditure or series of expenditures for
7 entertainment that in the aggregate exceed \$500 in a calendar year;

8 (C) an expenditure or series of expenditures for
9 gifts that in the aggregate exceed \$500 in a calendar year;

10 (D) an expenditure for an award or memento that
11 exceeds \$500; or

12 (E) an expenditure described by Section
13 305.006(b)(1), (2), (3), or (6) unless:

14 (i) ~~[(A)]~~ the registrant is present at the
15 event; or

16 (ii) ~~[(B)]~~ the expenditure is for a gift of
17 food or beverages required to be reported under Section
18 305.006(b)(4) in accordance with Section 305.0061(e-1).

19 SECTION 3.03. Section 305.024, Government Code, is amended
20 by adding Subsection (d) to read as follows:

21 (d) The registrant shall notify a member of the legislative
22 or executive branch when the registrant has reported, as to that
23 member of the legislative or executive branch, expenditures that,
24 in the aggregate, equal the monetary limits for expenditures under
25 Subsection (a)(2).

26 SECTION 3.04. Section 305.031(a), Government Code, is
27 amended to read as follows:

1 (a) A person commits an offense if the person intentionally
2 or knowingly violates a provision of this chapter other than
3 Section 305.022, 305.024(d), or 305.028. An offense under this
4 subsection is a Class A misdemeanor.

5 SECTION 3.05. Section 305.024(c), Government Code, is
6 repealed.

7 ARTICLE 4. ELECTED OFFICIALS PROHIBITED FROM LOBBYING

8 SECTION 4.01. Section 141.001, Election Code, is amended by
9 amending Subsection (a) and adding Subsections (e) and (f) to read
10 as follows:

11 (a) To be eligible to be a candidate for, or elected or
12 appointed to, a public elective office in this state, a person must:

13 (1) be a United States citizen;

14 (2) be 18 years of age or older on the first day of the
15 term to be filled at the election or on the date of appointment, as
16 applicable;

17 (3) have not been determined by a final judgment of a
18 court exercising probate jurisdiction to be:

19 (A) totally mentally incapacitated; or

20 (B) partially mentally incapacitated without the
21 right to vote;

22 (4) have not been finally convicted of a felony from
23 which the person has not been pardoned or otherwise released from
24 the resulting disabilities;

25 (5) have resided continuously in the state for 12
26 months and in the territory from which the office is elected for six
27 months immediately preceding the following date:

1 (A) for a candidate whose name is to appear on a
2 general primary election ballot, the date of the regular filing
3 deadline for a candidate's application for a place on the ballot;

4 (B) for an independent candidate, the date of the
5 regular filing deadline for a candidate's application for a place
6 on the ballot;

7 (C) for a write-in candidate, the date of the
8 election at which the candidate's name is written in;

9 (D) for a party nominee who is nominated by any
10 method other than by primary election, the date the nomination is
11 made; and

12 (E) for an appointee to an office, the date the
13 appointment is made;

14 (6) on the date described by Subdivision (5), be
15 registered to vote in the territory from which the office is
16 elected; ~~and~~

17 (7) not be required to be registered as a lobbyist
18 under Chapter 305, Government Code; and

19 (8) satisfy any other eligibility requirements
20 prescribed by law for the office.

21 (e) Except as restricted by Section 7.103(c), Education
22 Code, if applicable, Subsection (a)(7) does not apply to:

23 (1) an office of a political subdivision with a
24 population of 150,000 or less, other than the office of presiding
25 officer of the governing body of the political subdivision,
26 provided that the officeholder does not receive a salary or wage for
27 that office; or

1 (2) the office of the presiding officer of the
2 governing body of a political subdivision with a population of
3 50,000 or less, provided that the presiding officer does not
4 receive a salary or wage for that office.

5 (f) For purposes of Subsection (e), a presiding officer or
6 other officeholder is not considered to have received a salary or
7 wage if the officeholder refuses to accept a salary or wage offered
8 or budgeted for that office.

9 SECTION 4.02. Subchapter A, Chapter 305, Government Code,
10 is amended by adding Section 305.0031 to read as follows:

11 Sec. 305.0031. CERTAIN ELECTED OFFICERS MAY NOT REGISTER.

12 (a) A member of Congress, a member of the legislature, or a holder
13 of a statewide office may not register under this chapter.

14 (b) A registration under this chapter expires on the date a
15 person takes office as a member of Congress, a member of the
16 legislature, or a holder of a statewide office.

17 SECTION 4.03. Chapter 601, Government Code, is amended by
18 adding Section 601.010 to read as follows:

19 Sec. 601.010. ELECTED OFFICER MAY NOT BE REGISTERED
20 LOBBYIST. (a) A person may not qualify for a public elective
21 office if the person is required to be registered as a lobbyist
22 under Chapter 305.

23 (b) Except as restricted by Section 7.103(c), Education
24 Code, if applicable, Subsection (a) does not apply to:

25 (1) an office for which the federal or state
26 constitution prescribes exclusive qualification requirements;

27 (2) an office of a political subdivision with a

1 population of 150,000 or less, other than the office of presiding
2 officer of the governing body of the political subdivision,
3 provided that the officeholder does not receive a salary or wage for
4 that office; or

5 (3) the office of the presiding officer of the
6 governing body of a political subdivision with a population of
7 50,000 or less, provided that the presiding officer does not
8 receive a salary or wage for that office.

9 (c) For purposes of Subsection (b), a presiding officer or
10 other officeholder is not considered to have received a salary or
11 wage if the officeholder refuses to accept a salary or wage offered
12 or budgeted for that office.

13 ARTICLE 5. CLOSING REVOLVING DOOR

14 SECTION 5.01. Subchapter C, Chapter 572, Government Code,
15 is amended by adding Section 572.062 to read as follows:

16 Sec. 572.062. FORMER LEGISLATOR: LOBBYING RESTRICTED;
17 CRIMINAL OFFENSE. (a) In this section:

18 (1) "Administrative action," "communicates directly
19 with," "legislation," "member of the executive branch," and "member
20 of the legislative branch" have the meanings assigned by Section
21 305.002.

22 (2) "Legislative cycle" means the two-year period
23 beginning on the first day of a regular legislative session and
24 ending on the day before the first day of the succeeding regular
25 legislative session.

26 (b) Except as provided by Subsection (c), a former member of
27 the legislature may not engage in activities that require

1 registration under Chapter 305 before the end of the legislative
2 cycle following the legislative cycle in which the former member
3 last served as a member of the legislature.

4 (c) Subsection (b) does not apply to a former member of the
5 legislature who does not receive compensation other than
6 reimbursement for actual expenses for communicating directly with a
7 member of the legislative or executive branch to influence
8 legislation or administrative action.

9 (d) A former member of the legislature who violates this
10 section commits an offense. An offense under this section is a
11 Class A misdemeanor.

12 ARTICLE 6. PROHIBITION ON CERTAIN USES OF CAMPAIGN ACCOUNT

13 SECTION 6.01. Subchapter B, Chapter 305, Government Code,
14 is amended by adding Section 305.029 to read as follows:

15 Sec. 305.029. EXPENDITURES FROM POLITICAL CONTRIBUTIONS
16 RESTRICTED. (a) In this section, "political contribution" has the
17 meaning assigned by Section 251.001, Election Code.

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

24 ARTICLE 7. TRANSITION; EFFECTIVE DATE

25 SECTION 7.01. (a) Section 141.001(a), Election Code, as
26 amended by this Act, and Section 601.010, Government Code, as added
27 by this Act, apply only to the eligibility and qualification

1 requirements for a candidate or officer whose term of office will
2 begin on or after the effective date of this Act. The eligibility
3 and qualification requirements for a candidate or officer whose
4 term of office will begin before the effective date of this Act are
5 governed by the law in effect immediately before the effective date
6 of this Act, and the former law is continued in effect for that
7 purpose.

8 (b) The changes in law made by this Act to Sections
9 305.0061, 305.024, and 305.031, Government Code, apply only to a
10 gift, award, or memento given to or expenditures for
11 transportation, lodging, food, beverages, or entertainment made
12 for a member of the legislative or executive branch or the immediate
13 family of a member of the legislative or executive branch on or
14 after the effective date of this Act. A gift, award, or memento
15 given to or an expenditure for transportation, lodging, food,
16 beverages, or entertainment made for a member of the legislative or
17 executive branch or the immediate family of a member of the
18 legislative or executive branch before the effective date of this
19 Act is governed by the law in effect on the date the gift, award, or
20 memento was given, or the date the expenditure for transportation,
21 lodging, food, beverages, or entertainment was made, and the former
22 law is continued in effect for that purpose.

23 (c) Section 305.029, Government Code, as added by this Act,
24 applies to a political contribution, political expenditure, or
25 lobbying expenditure made on or after January 8, 2019, from funds
26 accepted as a political contribution, regardless of the date the
27 funds were accepted.

1 (d) The changes in law made by this Act to Subchapter B,
2 Chapter 572, Government Code, apply only to a financial statement
3 filed under Subchapter B, Chapter 572, Government Code, as amended
4 by this Act, on or after January 8, 2019. A financial statement
5 filed before January 8, 2019, is governed by the law in effect on
6 the date of filing, and the former law is continued in effect for
7 that purpose.

8 (e) Section 572.062, Government Code, as added by this Act,
9 applies only to a member of the legislature who ceases to be a
10 member on or after the effective date of this Act.

11 (f) Section 810.002, Government Code, as added by this Act,
12 applies only to a member of a public retirement system who holds or
13 has held elected office and, on or after the effective date of this
14 Act, commits an offense that is a qualifying felony as defined by
15 that section. A person who commits a qualifying felony before the
16 effective date of this Act is subject to the law in effect on the
17 date the offense was committed, and the former law is continued in
18 effect for that purpose. For purposes of this subsection, an
19 offense was committed before the effective date of this Act if any
20 element of the offense occurred before that date.

21 SECTION 7.02. This Act takes effect January 8, 2019.