86R2672 SOS-D

By:  Bettencourt S.B. No. 703

A BILL TO BE ENTITLED

AN ACT

relating to the reporting by local governmental entities of expenditures for lobbying; providing a civil penalty.

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

SECTION 1.  Section 571.061(a), Government Code, is amended to read as follows:

(a)  The commission shall administer and enforce:

(1)  Chapters 302, 303, 305, 572, and 2004;

(1-a)  Chapter 139, Local Government Code;

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

(3)  Title 15, Election Code; and

(4)  Sections 2152.064 and 2155.003.

SECTION 2.  Section 571.073, Government Code, is amended to read as follows:

Sec. 571.073.  REPORT. On or before December 31 of each even-numbered year, the commission shall report to the governor and legislature. The report must include:

(1)  each advisory opinion issued by the commission under Subchapter D in the preceding two years;

(2)  a summary of commission activities in the preceding two years, including:

(A)  the number of sworn complaints filed with the commission;

(B)  the number of sworn complaints dismissed for noncompliance with statutory form requirements;

(C)  the number of sworn complaints dismissed for lack of jurisdiction;

(D)  the number of sworn complaints dismissed after a finding of no credible evidence of a violation;

(E)  the number of sworn complaints dismissed after a finding of a lack of sufficient evidence to determine whether a violation within the jurisdiction of the commission has occurred;

(F)  the number of sworn complaints resolved by the commission through an agreed order;

(G)  the number of sworn complaints in which the commission issued an order finding a violation and the resulting penalties, if any; and

(H)  the number and amount of civil penalties imposed for failure to timely file a statement or report, the number and amount of those civil penalties fully paid, the number and amount of those civil penalties partially paid, and the number and amount of those civil penalties no part of which has been paid, for each of the following category of statements and reports, listed separately:

(i)  financial statements required to be filed under Chapter 572;

(ii)  political contribution and expenditure reports required to be filed under Section 254.063, 254.093, 254.123, 254.153, or 254.157, Election Code;

(iii)  political contribution and expenditure reports required to be filed under Section 254.064(b), 254.124(b), or 254.154(b), Election Code;

(iv)  political contribution and expenditure reports required to be filed under Section 254.064(c), 254.124(c), or 254.154(c), Election Code;

(v)  political contribution and expenditure reports required to be filed under Section 254.038 or 254.039, Election Code; [~~and~~]

(vi)  political contribution and expenditure reports required to be filed under Section 254.0391, Election Code; and

(vii)  statements of expenditures for lobbying by a local governmental entity required to be filed under Chapter 139, Local Government Code; and

(3)  recommendations for any necessary statutory changes.

SECTION 3.  Section 571.091(a), Government Code, is amended to read as follows:

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

(1)  Chapter 302;

(2)  Chapter 303;

(3)  Chapter 305;

(4)  Chapter 2004;

(5)  Chapter 572;

(5-a)  Chapter 139, Local Government Code;

(6)  Subchapter C, Chapter 159, Local Government Code, as provided by Section 571.061(a)(2);

(7)  Title 15, Election Code;

(8)  Chapter 36, Penal Code;

(9)  Chapter 39, Penal Code;

(10)  Section 2152.064; or

(11)  Section 2155.003.

SECTION 4.  Subtitle C, Title 4, Local Government Code, is amended by adding Chapter 139 to read as follows:

CHAPTER 139. REPORTING OF EXPENDITURES FOR LOBBYING BY LOCAL GOVERNMENTAL ENTITIES

Sec. 139.001.  DEFINITIONS. In this chapter:

(1)  "Commission" means the Texas Ethics Commission.

(2)  "Lobbying" means communicating directly with a member of the legislative or executive branch for the purpose of influencing legislative action on behalf of a person by whom an individual is compensated or reimbursed.

(3)  "Local governmental entity" means a county, municipality, school district, or hospital district. The term does not include a junior college district.

Sec. 139.002.  STATEMENT OF EXPENDITURES FOR LOBBYING. (a) In accordance with Subsection (b), the governing body of a local governmental entity shall file with the commission a statement that clearly and concisely shows the local governmental entity's total expenditures for lobbying activities during the period covered by the statement, including:

(1)  the full name, business name, and business address of each person required to register under Chapter 305, Government Code, with whom the local governmental entity has contracted to perform lobbying activities; and

(2)  the total contract amount paid to each person required to register under Chapter 305, Government Code, for lobbying activities on behalf of the local governmental entity.

(b)  A local governmental entity shall file two statements each odd-numbered year as follows:

(1)  the first statement shall be filed not later than January 15 of each odd-numbered year and cover the period beginning July 1 of the preceding odd-numbered year and ending December 31 of the preceding even-numbered year; and

(2)  the second statement shall be filed not later than July 31 of each odd-numbered year and cover the period beginning January 1 and ending June 30 of the year in which the statement is filed.

(c)  A local governmental entity shall post each statement filed under this section on an easily accessible page on the entity's Internet website.

Sec. 139.003.  TIMELINESS OF FILING. (a) The deadline for filing a statement of expenditures for lobbying required by Section 139.002 is 5 p.m. of the last day designated in the applicable provision for filing the statement.

(b)  If the last day for filing the statement of expenditures for lobbying is a Saturday, Sunday, or holiday included under Subchapter B, Chapter 662, the statement is timely if filed on the next day that is not a Saturday, Sunday, or listed holiday.

(c)  A statement of expenditures for lobbying is timely filed if it is properly addressed and placed in the United States Postal Service or in the hands of a common or contract carrier not later than the last day for filing the statement. The post office cancellation mark or the receipt mark of a common or contract carrier is prima facie evidence of the date the statement was deposited with the postal service or carrier. The local governmental entity filing the statement may show by competent evidence that the actual date of posting was different from that shown by the marks.

Sec. 139.004.  CIVIL PENALTY. (a) The commission shall determine from any available evidence whether a statement of expenditures for lobbying required to be filed under Section 139.002 is late. On making a determination that the statement is late, the commission shall immediately mail a notice of the determination to the governing body of the local governmental entity responsible for filing the statement and to the appropriate attorney for the state.

(b)  If a statement is determined to be late, the local governmental entity is liable to the state for a civil penalty of $500. If a statement is more than 30 days late, the commission shall issue a warning of liability by registered mail to the governing body of the local governmental entity responsible for the filing. If the penalty is not paid before the 10th day after the date on which the warning is received, the local governmental entity is liable for a civil penalty in an amount determined by commission rule, but not to exceed $10,000.

Sec. 139.005.  RULES. The commission shall adopt rules necessary to implement this chapter, including rules prescribing the form of a statement of expenditures for lobbying required by Section 139.002.

SECTION 5.  (a) Not later than December 1, 2019, the Texas Ethics Commission shall adopt rules required by Section 139.005, Local Government Code, as added by this Act.

(b)  Notwithstanding Section 139.002, Local Government Code, as added by this Act, the initial statement of expenditures for lobbying activities required to be filed by that section on January 15, 2021, must cover the period beginning January 1, 2020, and ending December 31, 2020.

SECTION 6.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.