BILL ANALYSIS

Senate Research Center

H.B. 18
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under the Texas Constitution, each chamber of the legislature has authority to compel the attendance of absent members to secure a quorum, including the authority to compel attendance under penalties that comply with constitutional procedural due process requirements. In prior sessions, including the First Called Session of the 89th Legislature, some legislators have left the state to intentionally break quorum and prevent legislative business from proceeding. The house's civil warrants of arrest for absent members issued under Rule 5, Section 8 of the House Rules Manual cannot be served out-of-state. Recent news reports have suggested that political contributions, including expenditures for in-kind contributions such as lodging, have subsidized members' efforts to break quorum, and those contributions and expenditures may have helped mitigate members' individual expenses associated with breaking quorum, frustrating the house's civil warrants, and perhaps prolonging the duration of quorum breaks.

H.B. 18 seeks to address these issues by limiting a member's ability to receive and expend funds in support of an out-of-state quorum break by, among other things, setting restrictions on the making to or acceptance of political contributions by, and the making of political expenditures by, a member of the legislature during those types of quorum breaks.

H.B. 18 amends current law relating to a restriction on the acceptance of political contributions and the making of certain political expenditures by a member of the legislature and certain political committees during certain periods in which a member is absent from a legislative session and authorizes a civil penalty.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 301, Government Code, by adding Subchapter G, as follows:

SUBCHAPTER G. PROHIBITED ACTIONS DURING IMPEDING ABSENCE

Sec. 301.101. DEFINITIONS. Defines "impeding absence," "political contribution," "political expenditure," "specific-purpose committee," and "legislative caucus."

Sec. 301.102. EXERCISE OF RULEMAKING POWER. Provides that this subchapter is enacted by the legislature as an exercise of the rulemaking power granted to each house of the legislature under Sections 10 (Quorum; Adjournments From Day to Day; Compelling Attendance) and 11 (Rules of Procedure; Punishment or Expulsion of Member), Article III (Legislative Department), Texas Constitution.

Sec. 301.103. PROHIBITED ACCEPTANCE OF POLITICAL CONTRIBUTIONS AND MAKING OF POLITICAL EXPENDITURES. Provides that, notwithstanding any other law, a member of the legislature or a specific-purpose committee or legislative caucus supporting or assisting the member during an impeding absence is prohibited from knowingly accepting political contributions, and is required to refuse any political

contributions received, that in the aggregate from a single person exceed the per diem set by the Texas Ethics Commission (TEC) for each day of a regular or special legislative session under Section 24a(e) (relating to authorizing TEC to recommend the salary and set the per diem of members of the legislature), Article III, Texas Constitution, or making a political expenditure for travel, food, or lodging expenses in connection with the member's impeding absence.

Sec. 301.104. REQUIRED RETURN OF PROHIBITED POLITICAL CONTRIBUTIONS. (a) Requires a member of the legislature or a specific-purpose committee or legislative caucus supporting or assisting the member that receives and refuses a political contribution or contributions in violation of this subchapter during the member's impeding absence to return the contribution or contributions to the contributor not later than the fifth day after the date of receipt.

(b) Provides that a political contribution made by United States mail or by common or contract carrier is not considered received during an impeding absence if the contribution was properly addressed and placed with postage or carrier charges prepaid or prearranged in the mail or delivered to the contract carrier before the beginning of the absence. Provides that the date indicated by the post office cancellation mark or the common or contract carrier documents is considered to be the date the contribution was placed in the mail or delivered to the common or contract carrier unless proven otherwise.

Sec. 301.105. CIVIL PENALTY. Provides that, in accordance with the procedure provided by this subchapter, a person who accepts a political contribution or makes a political expenditure in violation of this subchapter is subject to a civil penalty in an amount not to exceed $5,000. Provides that, for purposes of this section, each contribution accepted and each expenditure made in violation of this subchapter is a separate violation.

Sec. 301.106. CIVIL PENALTY: STATEMENT OF FACTS TO PRESIDING OFFICER OF APPLICABLE LEGISLATIVE CHAMBER; CERTIFICATION TO DISTRICT COURT. (a) Authorizes a statement of facts that, if true, makes a prima facie showing that a violation of this subchapter likely occurred, if a person accepts a political contribution or makes a political expenditure in violation of this subchapter, to be reported to and filed with the president of the senate or speaker of the house of representatives by any member of the same house of the legislature as the absent member.

(b) Requires the president of the senate or speaker of the house of representatives, if the president or speaker receives a statement of facts described by Subsection (a), to certify the statement of facts under the seal of the senate or house of representatives, as appropriate, to the district court for the county in which the person resided at the time of the violation. Provides that the person's residence is determined in accordance with Section 15.002 (Venue: General Rule), Civil Practice and Remedies Code, except that if a person is a member of the legislature, that person's residence is determined based on the county in which the person claims a residence homestead under Chapter 41 (Interests in Land), Property Code.

Sec. 301.107. CIVIL PENALTY: DISTRICT COURT DUTIES. (a) Requires the district court to which a statement of facts is certified under Section 301.106(b), not later than 72 hours after the court receives the statement and without any intervention, pleading, or motion, to enter an order that provides a person who is the subject of the statement notice of the allegations and directs the person to show cause why the conduct in which the person is alleged to have engaged does not constitute a violation of this subchapter.

(b) Requires the district court, after a hearing at which the house of the legislature that originated a statement of facts certified under Section 301.106(b) and the person who is the subject of the statement are heard, to determine whether the

person accepted a political contribution or made a political expenditure in violation of this subchapter, and if the court determines that a violation occurred, impose a civil penalty under Section 301.105.

Sec. 301.108. CIVIL PENALTY: APPEAL AND PROHIBITED CONTINUANCE. (a) Provides that the Fifteenth Court of Appeals has exclusive intermediate appellate jurisdiction over a matter arising out of or related to a proceeding under this subchapter.

(b) Provides that Section 30.003 (Legislative Continuance), Civil Practice and Remedies Code, does not apply to a proceeding under this subchapter.

SECTION 2. Makes application of Subchapter G, Chapter 301, Government Code, as added by this Act, prospective.

SECTION 3. Effective date: the 91st day after the last day of the legislative session.