

## **BILL ANALYSIS**

H.B. 18  
By: Shaheen  
Elections  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

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.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **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**

H.B. 18 amends the Government Code to do the following with respect to a period during which a member of the legislature is absent from Texas without leave for the purpose of impeding the action of the house:

- prohibit a person from knowingly making political contributions to, or political expenditures for or on behalf of, the absent member of the legislature or a specific-purpose committee supporting or assisting the absent member that in the aggregate exceed the amount payable for a single day of legislative per diem as established by the Texas Ethics Commission (TEC) under applicable provisions of the Texas Constitution;
- prohibit the absent member of the legislature or a specific-purpose committee supporting or assisting the absent member from knowingly doing the following:
  - accepting political contributions during the period during which the member is absent, that, in the aggregate and from a single person, exceed the amount payable for a single day of legislative per diem established by the TEC; or

- making a political expenditure for travel, food, or lodging expenses in connection with the member's absence from Texas for the purpose of impeding the action of the house; and
- require an absent member or a specific-purpose committee supporting or assisting the absent member to refuse political contributions that are received during the period during which the member is absent, that, in the aggregate and from a single person, exceed the amount payable for a single day of legislative per diem established by the TEC.

The bill requires a political contribution that is received and refused during the applicable period to be returned to the contributor not later than the fifth day after the date of receipt. A contribution made by U.S. mail or by common or contract carrier is not considered received during that period if it 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 period. The bill establishes 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.

H.B. 18 subjects a person who makes or accepts a contribution or makes an expenditure in violation of the bill's provisions to a civil penalty in an amount capped at \$5,000. Each contribution or expenditure made in violation of the bill's provisions is a separate violation for purposes of imposing such a civil penalty. The bill requires the civil penalty to be imposed as provided by the bill's provisions.

H.B. 18 establishes that, if a person makes or accepts a contribution or makes an expenditure in violation of the bill's provisions, a statement of facts that, if true, makes a prima facie showing that a violation of the bill's provisions likely occurred may be reported to and filed with the president of the senate or speaker of the house by any member of the house to which the absent member belongs. The bill requires the president or speaker, if the president or speaker receives a statement of facts that complies with these provisions, to certify the statement of facts under the seal of the senate or the house, as appropriate, to the district court for the county in which the person resided at the time the violation occurred. Except as otherwise provided by the bill's provisions, determination of a person's residence is determined under specified statutory provisions. For purposes of the bill's provisions, a person resides in the county where that person claims a residence homestead under Property Code provisions relating to interests in land if that person is a member of the legislature.

H.B. 18 requires the district court, not later than 72 hours after receiving the certified statement of facts and without intervening pleading or motion, to enter an order that does the following:

- provides an alleged violator who is the subject of the certified statement of facts notice of the allegations; and
- directs the alleged violator to show cause why the conduct has not violated the bill's provisions.

The bill requires the district court, after a hearing at which the originating house and the violator must be heard, to determine if an alleged violator made or accepted a contribution or made an expenditure in violation of the bill's provisions and, if the court determines that a violation occurred, to impose a civil penalty under the bill's provisions. The bill establishes that the Court of Appeals for the Fifteenth Court of Appeals District has exclusive intermediate appellate jurisdiction over a matter arising out of or related to a proceeding under the bill's provisions and excepts such a proceeding from the application of specified statutory provisions.

H.B. 18 establishes that a member of the legislature is considered absent from Texas without leave for the purpose of impeding the action of the house under the bill's provisions if, as follows:

- the house to which the member belongs has done the following:
  - ordered the return of absent members pursuant to a specified provision of the Texas Constitution; and

- ordered that house's sergeant-at-arms to arrest absent members and a civil warrant of arrest was actually issued for that absent member;
- the member has not returned to the house to which the member belongs or been granted a leave of absence; and
- the member is not physically present in Texas and has indicated by word or deed that the member is not present in Texas.

H.B. 18 establishes that the bill's provisions are enacted by the legislature as an exercise of the rulemaking power of the house of representatives and the senate, respectively, under constitutional provisions relating to quorum, adjournments from day to day, and compelling attendance of absent members and relating to rules of procedure and the punishment or expulsion of members.

H.B. 18 defines the terms "candidate," "political contribution," and "specific-purpose committee" by reference to the meaning assigned those terms by Election Code provisions regulating political funds and campaigns.

**EFFECTIVE DATE**

91st day after the last day of the legislative session.