

By: Shaheen, Gerdes, Swanson, et al.

H.B. No. 18

A BILL TO BE ENTITLED

AN ACT

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; authorizing a civil penalty.

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

SECTION 1. Chapter 301, Government Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. PROHIBITED ACTIONS DURING IMPEDING ABSENCE

Sec. 301.101. DEFINITIONS. In this subchapter:

(1) "Impeding absence" means an unexcused absence by a member of either house of the legislature during a legislative session in which the member is at a location outside of this state for purposes of impeding the actions of the member's house if:

(A) the member's house has:

(i) compelled the attendance of absent members under Section 10, Article III, Texas Constitution;

(ii) ordered the house's sergeant-at-arms to arrest absent members; and

(iii) issued civil warrants of arrest for the absent members;

(B) the member has not:

(i) been granted a leave of absence by the

member's house; or

(ii) returned to the member's house; and

(C) the member:

(i) is not physically present in this state; and

(ii) has indicated by word or deed that the member is not present in this state.

(2) "Political contribution," "political expenditure," and "specific-purpose committee" have the meanings assigned by Section 251.001, Election Code.

(3) "Legislative caucus" means a legislative caucus, as defined by Section 253.0341(e), Election Code, that also has a principal purpose of a specific-purpose committee, as defined by Section 251.001(13), Election Code.

Sec. 301.102. EXERCISE OF RULEMAKING POWER. This subchapter is enacted by the legislature as an exercise of the rulemaking power granted to each house of the legislature under Sections 10 and 11, Article III, Texas Constitution.

Sec. 301.103. PROHIBITED ACCEPTANCE OF POLITICAL CONTRIBUTIONS AND MAKING OF POLITICAL EXPENDITURES. Notwithstanding any other law, a member of the legislature or a specific-purpose committee or legislative caucus supporting or assisting the member during an impending absence may not knowingly:

(1) accept political contributions, and shall refuse any political contributions received, that in the aggregate from a single person exceed the per diem set by the Texas Ethics Commission for each day of a regular or special legislative session under

1 Section 24a(e), Article III, Texas Constitution; or

2 (2) make a political expenditure for travel, food, or
3 lodging expenses in connection with the member's impending absence.

4 Sec. 301.104. REQUIRED RETURN OF PROHIBITED POLITICAL
5 CONTRIBUTIONS. (a) A member of the legislature or a
6 specific-purpose committee or legislative caucus supporting or
7 assisting the member that receives and refuses a political
8 contribution or contributions in violation of this subchapter
9 during the member's impending absence shall return the contribution
10 or contributions to the contributor not later than the fifth day
11 after the date of receipt.

12 (b) A political contribution made by United States mail or
13 by common or contract carrier is not considered received during an
14 impending absence if the contribution was properly addressed and
15 placed with postage or carrier charges prepaid or prearranged in
16 the mail or delivered to the contract carrier before the beginning
17 of the absence. The date indicated by the post office cancellation
18 mark or the common or contract carrier documents is considered to be
19 the date the contribution was placed in the mail or delivered to the
20 common or contract carrier unless proven otherwise.

21 Sec. 301.105. CIVIL PENALTY. In accordance with the
22 procedure provided by this subchapter, a person who accepts a
23 political contribution or makes a political expenditure in
24 violation of this subchapter is subject to a civil penalty in an
25 amount not to exceed \$5,000. For purposes of this section, each
26 contribution accepted and each expenditure made in violation of
27 this subchapter is a separate violation.

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

10 (b) If the president of the senate or speaker of the house of
11 representatives receives a statement of facts described by
12 Subsection (a), the president or speaker shall certify the
13 statement of facts under the seal of the senate or house of
14 representatives, as appropriate, to the district court for the
15 county in which the person resided at the time of the violation.
16 The person's residence is determined in accordance with Section
17 15.002, Civil Practice and Remedies Code, except that if a person is
18 a member of the legislature, that person's residence is determined
19 based on the county in which the person claims a residence homestead
20 under Chapter 41, Property Code.

21 Sec. 301.107. CIVIL PENALTY: DISTRICT COURT DUTIES. (a)
22 The district court to which a statement of facts is certified under
23 Section 301.106(b) shall, not later than 72 hours after the court
24 receives the statement and without any intervention, pleading, or
25 motion, enter an order that:

26 (1) provides a person who is the subject of the
27 statement notice of the allegations; and

1 (2) directs the person to show cause why the conduct in
2 which the person is alleged to have engaged does not constitute a
3 violation of this subchapter.

4 (b) After a hearing at which the house of the legislature
5 that originated a statement of facts certified under Section
6 301.106(b) and the person who is the subject of the statement are
7 heard, the district court shall:

8 (1) determine whether the person accepted a political
9 contribution or made a political expenditure in violation of this
10 subchapter; and

11 (2) if the court determines that a violation occurred,
12 impose a civil penalty under Section 301.105.

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

17 (b) Section 30.003, Civil Practice and Remedies Code, does
18 not apply to a proceeding under this subchapter.

19 SECTION 2. Subchapter G, Chapter 301, Government Code, as
20 added by this Act, applies only to a political contribution
21 accepted or a political expenditure made on or after the effective
22 date of this Act.

23 SECTION 3. This Act takes effect on the 91st day after the
24 last day of the legislative session.