

By: Shaheen, Gerdes, et al.

H.B. No. 18

A BILL TO BE ENTITLED

AN ACT

relating to the making to or acceptance of political contributions by, and the making of political expenditures by, a member of the legislature during certain absences from the state; authorizing a civil penalty.

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

SECTION 1. Subchapter F, Chapter 301, Government Code, is amended by adding Section 301.074 to read as follows:

Sec. 301.074. RESTRICTIONS ON CONTRIBUTIONS DURING LEGISLATOR'S ABSENCE FROM THE STATE FOR QUORUM-BREAKING PURPOSES.

(a) This section is enacted by the legislature as an exercise of the rulemaking power of the house of representatives and the senate, respectively, under Sections 10 and 11, Article III, Texas Constitution.

(b) Notwithstanding any other law to the contrary, during the period a member of the legislature is absent from the state without leave for the purpose of impeding the action of the house:

(1) a person may not knowingly make 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 of the legislature that in the aggregate exceed the amount payable for a single day of legislative per diem as established by the Texas Ethics Commission under Section 24a(e), Article III, Texas

1 Constitution; and

2 (2) the absent member of the legislature or a
3 specific-purpose committee supporting or assisting the absent
4 member of the legislature may not knowingly:

5 (A) accept political contributions, and shall
6 refuse political contributions that are received, during the period
7 prescribed by this subsection, that, in the aggregate and from a
8 single person, exceed the amount payable for a single day of
9 legislative per diem established by the Texas Ethics Commission
10 under Section 24a(e), Article III, Texas Constitution; or

11 (B) make a political expenditure for travel,
12 food, or lodging expenses in connection with the member's absence
13 from the state for the purpose of impeding the action of the house.

14 (c) A political contribution that is received and refused
15 during the period described by Subsection (b) shall be returned to
16 the contributor not later than the fifth day after the date of
17 receipt. A contribution made by United States mail or by common or
18 contract carrier is not considered received during that period if
19 it was properly addressed and placed with postage or carrier
20 charges prepaid or prearranged in the mail or delivered to the
21 contract carrier before the beginning of the period. The date
22 indicated by the post office cancellation mark or the common or
23 contract carrier documents is considered to be the date the
24 contribution was placed in the mail or delivered to the common or
25 contract carrier unless proven otherwise.

26 (d) A person who makes or accepts a contribution or makes an
27 expenditure in violation of this section is subject to a civil

1 penalty in an amount that does not exceed \$5,000. Each contribution
2 or expenditure made in violation of this section is a separate
3 violation for purposes of imposing a penalty under this section.
4 The civil penalty shall be imposed as provided by this section.

5 (e) If a person makes or accepts a contribution or makes an
6 expenditure in violation of this section, a statement of facts
7 that, if true, makes a prima facie showing that a violation of this
8 section likely occurred may be reported to and filed with the
9 president of the senate or speaker of the house by any member of the
10 house to which the absent member belongs.

11 (f) If the president or speaker receives a statement of
12 facts that complies with Subsection (e), the president or speaker
13 shall certify the statement of facts under the seal of the senate or
14 house of representatives, as appropriate, to the district court for
15 the county in which the person resided at the time the violation
16 occurred. Except as otherwise provided by this section,
17 determination of a person's residence is determined under Section
18 15.002, Civil Practices and Remedies Code. For purposes of this
19 section, a person resides in the county where that person claims a
20 residence homestead under Chapter 41, Property Code, if that person
21 is a member of the legislature.

22 (g) The district court shall, not later than 72 hours after
23 receiving the statement of facts certified under Subsection (f) and
24 without intervening pleading or motion, enter an order that:

25 (1) provides an alleged violator who is the subject of
26 a statement of facts certified under Subsection (f) notice of the
27 allegations;

1 (2) directs the alleged violator to show cause why the
2 conduct has not violated this section.

3 (h) After a hearing at which the originating house and the
4 violator shall be heard, the district court shall determine if an
5 alleged violator made or accepted a contribution or made an
6 expenditure in violation of this section and, if the court
7 determines that a violation occurred, impose a civil penalty under
8 Subsection (d).

9 (i) The court of appeals for the Fifteenth Court of Appeals
10 District has exclusive intermediate appellate jurisdiction over a
11 matter arising out of or related to a proceeding under this section.

12 (j) Section 30.003, Civil Practices and Remedies Code, does
13 not apply to a proceeding under this section.

14 (k) A member of the legislature is considered absent from
15 the state without leave for the purpose of impeding the action of
16 the house under this section if:

17 (1) the house to which the member belongs has:

18 (A) ordered the return of absent members pursuant
19 to Section 8, Article III, Texas Constitution; and

20 (B) ordered that house's sergeant-at-arms to
21 arrest absent members and a civil warrant of arrest was actually
22 issued for that absent member;

23 (2) the member has not:

24 (A) returned to the house to which the member
25 belongs; or

26 (B) been granted a leave of absence; and

27 (3) the member is not physically present in the state

1 and has indicated by word or deed that the member is not present in
2 the state.

3 (1) As used in this section, the terms "candidate,"
4 "political contribution," and "specific-purpose committee" have
5 the meanings assigned by Section [251.001](#), Election Code.