

BILL ANALYSIS

C.S.S.B. 10
By: Bettencourt
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There have been calls for greater transparency when political subdivisions or certain other governmental or nonprofit entities spend public money or provide compensation to lobbyists. Often the amount spent on lobbyists is included as a line item in the entity's budget and thus not easy for the average taxpayer to find. Additionally, it has been suggested that taxpayers should not have to foot the bill for lobbying that advocates against their interests, such as lobbying against bills that could lead to lower property taxes. C.S.S.B. 10 seeks to address these issues by requiring a public vote of the governing body at an open meeting before certain political subdivisions and other governmental and nonprofit entities may spend public money or otherwise compensate a contracted lobbyist to influence pending legislation, prohibiting a contracted lobbyist from attempting to influence certain tax measures, and providing for the public disclosure of certain information relating to lobbying contracts.

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

C.S.S.B. 10 amends the Government Code to restrict the authority of the governing body of a political subdivision or other entity to spend public money or provide other compensation to contract with a person required by state law to register as a lobbyist for the purpose of communicating directly with one or more members of the legislative branch to influence legislation pending before the legislature by imposing the following conditions:

- the expenditure must be authorized by a majority vote of the governing body of the political subdivision or other entity in an open meeting; and
- the expenditure must be voted on by the governing body as a stand-alone item on that meeting's agenda.

The restriction applies to the following entities:

- a political subdivision that imposes a tax;
- a political subdivision or special district that has the authority to issue bonds, including revenue bonds;
- a regional mobility authority;
- a transit authority;
- a regional tollway authority;
- a special purpose district, including a municipal utility district and a municipal management district;

- a public institution of higher education;
- a community college district;
- a publicly owned utility; or
- a river authority or water supply corporation.

C.S.S.B. 10 prohibits a registrant with whom an applicable political subdivision or other entity contracts from communicating directly with a member of the legislative branch on behalf of the applicable entity regarding legislation pending before the legislature that specifically proposes to amend certain Tax Code provisions relating to the manner in which the no-new-revenue tax rate and voter-approval tax rate are calculated. The bill prohibits a political subdivision or other entity from reimbursing a registrant for an expenditure for food, beverages, or entertainment.

C.S.S.B. 10 repeals provisions requiring a political subdivision to disclose and itemize certain expenditures relating to lobbying activities after entering into a consulting services contract. The bill instead requires a political subdivision or other entity that contracts with a registrant in accordance with the bill's provisions to publish the following on its website:

- the amount of money authorized for the purpose of contracting with the registrant;
- the registrant's name;
- a copy of the contract;
- the amount of money, if any, spent by the political subdivision or other entity for membership fees or dues to a nonprofit state association or organization of similarly situated political subdivisions or entities that contracts with a registrant; and
- a copy of any current legislative agenda or resolution adopted by the entity.

C.S.S.B. 10 authorizes a resident of or person receiving services from an applicable political subdivision or other entity that does not comply with the bill's provisions relating to lobbying expenditures and reimbursements to file a sworn complaint against the entity with the Texas Ethics Commission.

C.S.S.B. 10 expressly does not prevent an officer or employee of an applicable entity from doing any of the following:

- providing information for a member of the legislative branch;
- appearing before a legislative committee; or
- communicating directly with one or more members of the legislative branch to influence legislation pending before the legislature.

C.S.S.B. 10 exempts a person from the requirement to register as a lobbyist if the person has established an attorney-client relationship with a political subdivision to provide legal services and receives or is entitled to receive compensation, reimbursement, or expenses under an agreement under which the person is retained or employed.

C.S.S.B. 10 repeals Section 2254.030, Government Code.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 10 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

While the engrossed and the substitute each enact restrictions on the expenditure of public money for lobbying activities, the scope and purpose of each version differs as follows:

- whereas the engrossed applied only to counties and municipalities, the substitute applies to a range of other governmental and nonprofit entities in addition to political subdivisions;
- whereas the engrossed prohibited any expenditure of public money or provision of compensation to directly or indirectly influence or attempt to influence the outcome of any pending legislation, the substitute omits that prohibition; and
- the substitute instead imposes certain conditions on the manner in which an applicable entity authorizes an expenditure of public money or other compensation to contract for such a purpose with a person required under state law to register as a lobbyist.

The substitute omits a provision from the engrossed prohibiting a county or municipality from establishing a nonprofit association or organization that engages in certain activities in advocating for or against, influencing, or seeking to influence pending legislation on behalf of the county or municipality. The substitute does not include provisions from the engrossed which specified that the bill expressly does not prevent the following:

- advocacy-related actions by an elected officer or employee of a county or municipality regarding pending legislation, if those actions do not require registration as a lobbyist under state law and to the extent those actions exceed the following actions mentioned in the substitute:
 - providing information for a member of the legislature;
 - appearing before a legislative committee; or
 - communicating directly with one or more members of the legislative branch to influence pending legislation;
- reimbursement of such an officer or employee for related travel expenses;
- payment of fees, dues, or compensation to certain nonprofit state associations or organizations, subject to certain conditions; and
- expenditure of public money or other compensation to a registrant specifically for lobbying activities regarding pending legislation relating to the military, military service members, or military veterans.

The substitute includes the following provisions that were not in the engrossed regarding compensated registrants:

- a prohibition against an applicable entity reimbursing a registrant for an expenditure for food, beverages, or entertainment;
- a prohibition against an applicable contracted registrant communicating directly with a member of the legislative branch regarding pending legislation that specifically proposes to amend certain Tax Code provisions; and
- an exemption from lobbyist registration requirements for a qualifying person who has an attorney-client relationship with a political subdivision.

The substitute includes the following additional provisions that were not in the engrossed:

- a repeal of provisions requiring a political subdivision to disclose and itemize certain expenditures relating to lobbying activities after entering into a consulting services contract; and
- a requirement for an applicable entity that contracts with a registrant to publish certain related information on its website.

Whereas the engrossed provided for the enforcement of its provisions through court action for injunctive relief, the substitute provides instead for the filing of a sworn complaint with the Texas Ethics Commission. The substitute updates the person who may take the action to reflect the additional entities to which the substitute applies.