

- SUBJECT:** Financial disclosure exemption for certain former state officers
- COMMITTEE:** Elections — committee substitute recommended
- VOTE:** 7 ayes — Denny, Bohac, Anchia, Anderson, Hughes, J. Jones, T. Smith
0 nays
- WITNESSES:** For — (*Registered, but did not testify:* Paula Littles, Texas AFL CIO; B.R. "Skipper" Wallace, Texas Republican County Chairman's Association; Suzy Woodford, Common Cause Texas)

Against — (*Registered, but did not testify:* Ken Bailey, Texas Democratic Party; Edward Sterling, Texas Press Association and Texas Daily Newspaper Association)

On — Coby Shorter III, Office of the Governor, Governmental Appointments Division; (*Registered, but did not testify:* David Reisman, Texas Ethics Commission)
- BACKGROUND:** Government Code, sec. 572.021, requires a state officer, a partisan or independent candidate for an office as elected officer, and a party chairman to file verified financial statements with the Texas Ethics Commission (TEC).

Texas Constitution, Art. 16, sec. 17 states that all officers of the state shall continue to perform the duties of their offices until their successors are duly qualified.
- DIGEST:** HB 2511 would eliminate the requirement for a financial disclosure statement by an appointed state officer who ceased to participate in a state agency's or board's functions due to resignation, expiration of term, abolishment of office, or transfer of duties. Under the bill, an appointed officer who resigned from office or whose term of office expired and who ceased to participate in a state agency's functions would not be required to file a financial statement that was due because of service in that office after the effective date of resignation or after the date the term of office expired. Further, an appointed officer of a state agency that was abolished or the functions of which were transferred to another state agency would

not be required to file a financial statement because of service after the date that the agency was abolished or its functions were transferred.

The bill would require an appointed officer who resigned or whose term of office expired and who did not intend to participate in the functions of the relevant state agency to deliver written notice of the officer's intention to the governor and the Texas Ethics Commission (TEC).

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005. The legislation would apply to the filing of a financial statement by a former appointed officer without regard to resignation, term expiration, or abolishment of the former officer's state agency or transfer to another state agency before, on, or after the effective date.

**SUPPORTERS
SAY:**

HB 2511 would end the requirement that state officers who have ceased to perform their official functions because of resignation, expiration of term, abolishment of office, or transfer of duties file financial disclosure statements with TEC. The need for the bill has arisen particularly with agencies that have been abolished, had their duties transferred, or had their board number reduced. The problem occurs when a board is eliminated – for example, the College Opportunity Board – but references remain in statute pertaining to appointments to the board. This statutory conflict, along with the holdover provision in the Texas Constitution, creates an undue burden on those who have ceased public service and forces them to continue filing financial statements or be subject to a criminal penalty. Such state officers on occasion have had to pay \$500 civil penalties for late filings because they were unaware of their duty to file since they had not performed official functions in more than two years. The current filing requirement also places an unnecessary administrative burden on the state.

Other board members who have resigned because of illness or transfer to another state also have had to continue filing financial statements even though they no longer functioned as state officers. Under these scenarios, the bill would contain a provision stating that appointed officers who resigned or whose terms expired and who did not intend to participate in official functions of a state agency would deliver written notice of such intentions to the governor and TEC. State officers who resigned but continued service until their successor assumed office would not qualify for the financial disclosure exemption.

The bill would clarify statutory provisions that require financial disclosure without conflicting with the holdover provision in the Texas Constitution and without compromising the public's right to know.

**OPPONENTS
SAY:**

Financial disclosure by state officers is a critical form of public disclosure. Even if an appointed officer had left state office before the officer's term expired, the public still would have a right to information about the officer's personal financial history. State boards that have been eliminated as a result of being abolished or consolidated with another agency can have a way of living on for years. Too often, it is easy to write off more obscure offices or boards at a time when a particular demand arises for the public to have information relating to potential conflicts of interest. The requirement for disclosure is not so burdensome as to offset the need for public information.

NOTES:

The committee substitute added the requirement that an appointed officer who resigned or whose term expired would have to notify the governor and TEC of the intent not to participate in the functions of the relevant state agency to qualify for the financial disclosure exemption and that the appointed officer would have to have ceased participating in a state agency's functions.

The companion bill, SB 1276 by Harris, has been referred to the Senate Administration Committee.