

SUBJECT: Filing of campaign finance reports with the Texas Ethics Commission

COMMITTEE: Elections — committee substitute recommended

VOTE: 6 ayes — Berman, Bohac, England, Burnam, Farias, C. Howard

0 nays

1 absent — Anchia

WITNESSES: For — None

Against — None

On — (*Registered, but did not testify*: Natalia Luna Ashley, Texas Ethics Commission)

BACKGROUND: Election Code, ch. 251 includes requirements for notices, reports, or other documents related to political funds and campaigns to be filed timely by mail with the Texas Ethics Commission (TEC). Election Code, sec. 251.007 states that delivery, submission, or filing by first-class U.S. mail or common or contract carrier is timely if:

- it is properly addressed with postage or handling charges prepaid; and
- it bears a post office cancellation mark or a receipt mark of a common or contract carrier indicating a time within the period or before the deadline, or if the person required to take the action furnishes satisfactory proof that it was deposited in the mail or with a common or contract carrier within the period or before the deadline.

In 1999, the 76th Legislature established procedures for electronic reporting of political contributions and expenditures by officeholders, candidates, and political committees and required TEC to make electronic reports accessible to the public. These provisions were added to existing provisions relating to reports filed on paper.

DIGEST: CSHB 27 would amend the Election Code to require that a campaign finance report on paper or computer diskette be delivered to TEC by hand or overnight delivery through the U.S. mail or a contract carrier.

The bill would take effect September 1, 2007.

SUPPORTERS SAY: CSHB 27 would reduce the discrepancy between when campaign reports filed by electronic means and those filed by mail are received by the TEC and made available to the public. It also would assure that reports, such as those that must be filed eight days before election day, actually reached TEC prior to the election. The bill would follow a recommendation from TEC's "Recommendations for Statutory Changes," which suggests reconsideration of the current provision on timeliness of filing by mail.

Often members of the press or interested public have Internet access to a candidate's electronic filing before the opposing candidate's paper report ever reaches TEC. By requiring hand delivery or overnight delivery, CSHB 27 could reduce the lag time when paper reports or those on diskette reached the commission by mail and make for more even-handed reporting availability. The need for this change would be especially compelling in contested elections of wide public interest. Permitting reports transmitted by fax could proliferate paper filings and should be discouraged.

OPPONENTS SAY: The attempt by CSHB 27 to reduce the amount of time between when a campaign finance report is mailed and when it is available to the public could create more problems than it would solve. The bill's mandate of overnight delivery would be unrealistic because not all towns in Texas have access to overnight delivery services, and two-day delivery service to Austin is all that is available in some remote areas. Other areas of the state can arrange for overnight delivery to Austin by contract carrier, but this can involve driving up to 30 miles to a nearby town with a pickup box and meeting a 2 p.m. cutoff time. The provisions allowing for hand delivery similarly would be impractical for candidates who live several hundred miles from Austin. A candidate who needs or chooses to file by mail should not be deprived of the additional time available to a candidate who filed electronically.

CSHB 27 would put the interests of the media ahead of those of actual candidates and their campaign treasurers. The public would not suffer significant harm by leaving the current mailing provisions in place.

OTHER
OPPONENTS
SAY:

To assure that TEC received all campaign finance reports at about the same time, the Legislature should consider requiring the electronic filing of all reports by computer or allowing candidates to file via fax. These approaches would be more practical than the methods contained in CSHB 27.

NOTES:

The committee substitute differs from the introduced version by applying the delivery requirements to campaign reports contained on computer diskettes as well as to those on paper.

A related bill, HB 769 by Dutton, which would permit the transmission of campaign finance reports to TEC by fax, has been referred to the House Elections Committee.