

- SUBJECT:** Exempting smaller general-purpose PACs from civil fine for late filing
- COMMITTEE:** Elections — committee substitute recommended
- VOTE:** 4 ayes — Berman, Bohac, England, C. Howard
2 nays — Anchia, Burnam
1 absent — Farias
- WITNESSES:** For — (*Registered, but did not testify:* Craig Chick, Texas Association of Realtors; Debra Coffey, Texas Federation of Republican Women; Joann Messina, Dallas County Council of Republican Women)
Against — None
On — Natalia Luna Ashley, Texas Ethics Commission
- BACKGROUND:** Election Code, ch. 251 regulating political funds and campaigns defines a "general purpose committee" to mean a political committee that has among its principal purposes;
- supporting or opposing two or more candidates who are unidentified or are seeking offices that are unknown, or one or more measures that are unidentified; or
 - assisting two or more officeholders who are unidentified.
- Section 254.042 authorizes a civil penalty for a late financial report of \$500 for the first day that the report is late and \$100 for each day thereafter. If a report is more than 30 days late the Texas Ethics Commission (TEC) shall issue a warning of liability by registered mail to the person required to file the report. If the penalty is not paid before the tenth day after the date on which the warning is received, the person is liable for a civil penalty in an amount determined by commission rule, but not to exceed \$10,000.
- DIGEST:** CSHB 89 would add Election Code, sec. 254.164 to establish that the Texas Ethics Commission (TEC) could not impose a civil penalty on a general-purpose committee for a violation related to its financial reporting

if the committee did not accept political contributions totaling \$3,000 or more or make or authorize expenditures totaling that amount or more during:

- the reporting period covered by the report that was subject of the violation; or
- the two reporting periods preceding the reporting period that was subject of a violation.

The bill would take effect September 1, 2007, and would apply only to a violation relating to a report required on or after that date.

**SUPPORTERS
SAY:**

CSHB 89 would exempt a general-purpose committee that has modest contributions from civil penalties that could deplete the majority of the committee's contributed monies. Current law provides that any general-purpose committee is subject to a civil penalty for a late report. Fines related to late reports are \$500 initially and \$100 for each late day afterwards up to \$10,000 for all political entities accepting political contributions. This bill would exclude general-purpose committees from civil penalties if the committees did not accept political contributions of more than \$3,000 or authorize expenditures totaling that amount or more during the reporting period covered by the finance report that was subject to a violation or the two reporting periods preceding the one subject to a violation. The bill would protect general-purpose committees with limited contributions and expenditures, particularly those related to political clubs, from reporting requirements that frequently are burdensome. CSHB 89 would not eliminate the authority for a criminal violation of a class C misdemeanor (maximum fine of \$500) under sec. 254.041.

**OPPONENTS
SAY:**

CSHB 89 could provide encouragement for a large member, well-funded political action committee (PAC) to divide into numerous small PACs in order to evade certain statutory requirements and civil penalties. In addition, by making the exclusion for PACs with contributions of \$3,000 or less, CSHB 89 could create a legal means of hiding or scattering numerous single contributions.

**OTHER
OPPONENTS
SAY:**

In the case of a general-purpose committee with contributions of not more than \$3,000, penalties are disproportionate. A committee of this description is subject to the same penalties as a well-funded campaign for state-wide office that has millions of dollars in contributions for a single

reporting period. The Legislature should consider making penalties related to political funds proportionate to the amount raised.