

SUBJECT: Prohibiting use of public money for certain lobbying activities

COMMITTEE: State Affairs — committee substitute recommended

VOTE: *After recommitted:*

9 ayes — Phelan, Harless, Holland, Hunter, P. King, Parker, Raymond, Smithee, Springer

3 nays — Hernandez, Guerra, E. Rodriguez

1 absent — Deshotel

SENATE VOTE: On final passage, April 17 — 18-13 (Alvarado, Hinojosa, Johnson, Lucio, Menéndez, Miles, Powell, Rodríguez, Seliger, Watson, West, Whitmire, and Zaffirini)

WITNESSES: *On House companion bill, HB 281:*

For — Adam Cahn, Cahnman's Musings; Tamara Colbert, Paul Hodson, and Shelby Williams, Convention of States; Cheryl Johnson, Galveston County Tax Office; Ed Heimlich, Informed Citizens; Robin Lennon, Kingwood TEA Party, Inc.; Crystal Main, NE Tarrant Tea Party; Terry Holcomb and Summer Wise, Republican Party of Texas; Mark Dorazio, Republican Party of Texas State Republican Executive Committee; Mark Ramsey, Republican Party of Texas, SREC SD7; Terry Harper, RPT; Cary Cheshire, Texans for Fiscal Responsibility; Chuck DeVore, Texas Public Policy Foundation; Terri Hall, Texas TURF and Texans for Toll-Free Highways; Saurabh Sharma, Young Conservatives of Texas; and 21 individuals; *(Registered, but did not testify:* Justin Keener, Americans for Prosperity-Texas; Chris Hill, Collin County; Darrell Hale, Collin County Commissioner; Michael Cassidy, Convention of States; Peter Morales, COS; Stacy McMahan, East Texans for Liberty; Angela Smith, Fredericksburg Tea Party; James Lennon, Kingwood TEA Party; Mark Keough, Montgomery County; Fran Rhodes, NE Tarrant Tea Party; Richard Davey, NETTP; Gail Stanart, Republican Party of Texas; Mia McCord, Texas Conservative Coalition; Jimmy Gaines, Texas Landowners Council; Donnis Baggett, Texas Press Association; Jonathan

Saenz, Texas Values; Nicole Hudgens, Texas Values Action; Ellen Troxclair, TPPF; Roger Falk, Travis County Taxpayers Union; Walter West II (RET), VHSE and RPT; and 32 individuals)

Against — Don Allred, Oldham County; Tom Forbes, Professional Advocacy Association of Texas; Becky St. John, Texas Association of School Boards; (*Registered, but did not testify*: Brie Franco, City of Austin; TJ Patterson, City of Fort Worth; Sally Bakko, City of Galveston; Brad Neighbor, City of Garland; David Palmer, City of Irving; Scott Swigert, City of Mont Belvieu; Jeff Coyle, City of San Antonio; Amanda Gnaedinger, Common Cause Texas; Adam Haynes, Conference of Urban Counties; Leon Klement and John Klement, Cooke County; Jay Elliott, Falls County; Bill Kelly, City of Houston Mayor's Office; Adrian Shelley, Public Citizen; Cyrus Reed, Sierra Club Lone Star Chapter; Amy Beneski, Texas Association of School Administrators; John Love, Texas Municipal League; Tammy Embrey, The City of Corpus Christi; Julie Wheeler, Travis County Commissioners Court; Anna Alkire; Tracy Fisher)

On — Ian Steusloff, Texas Ethics Commission

BACKGROUND: Local Government Code sec. 89.002 allows a county commissioners court to spend money from the general fund for membership fees and dues of a nonprofit state association of counties if:

- a majority of the court votes to approve membership;
- the association exists for the betterment of county government and the benefit of all county officials;
- the association is not affiliated with a labor organization;
- neither the association nor an employee directly or indirectly influences or attempts to influence legislation pending before the Legislature; and
- neither the association nor an employee directly or indirectly contributes money, services, or items of value to a political campaign or endorses a candidate for public office.

DIGEST: CSSB 29 would prohibit the governing body of a political subdivision

from spending public money to directly or indirectly influence or attempt to influence the outcome of legislation pending before the Legislature relating to:

- taxation, including implementation, rates, and administration;
- bond elections;
- tax-supported debt; and
- ethics and transparency of public servants.

The bill would apply to a political subdivision that imposed a tax and a regional mobility authority, toll road authority, or transit authority.

CSSB 29 would not prohibit an officer or employee of a political subdivision from:

- providing information or appearing before a legislative committee at the request of a member;
- advocating for or against, influencing, or attempting to influence pending legislation while acting as an elected officer; or
- advocating for or against, influencing, or attempting to influence pending legislation if those actions would not require a person to register as a lobbyist.

The governing body of a political subdivision could spend money in its name for membership fees and dues of a nonprofit state association or organization of similarly situated political subdivisions in certain circumstances listed under Local Government Code sec. 89.002 and if the organization did not influence legislation under prohibitions in this bill.

If a political subdivision or organization engaged in an activity prohibited by this bill, a taxpayer or resident of the subdivision would be entitled to appropriate injunctive relief to prevent any further activity. A taxpayer or resident who prevailed in an action would be entitled to recover reasonable attorney's fees and costs incurred in bringing the action.

A political subdivision that used public money to influence or attempt to

influence pending legislation would have to disclose on a comprehensive annual financial report the total amount spent that fiscal year to compensate registered lobbyists. This provision would not require a political subdivision or authority to prepare a separate comprehensive annual financial report for that disclosure and would apply only to a fiscal year that began on or after the bill's effective date.

The bill would apply only to an expenditure or payment of public money made on or after September 1, 2019, including a payment made under a contract entered into before, on, or after the bill's effective date. A contract term providing for a prohibited payment would be void on the bill's effective date for being counter to public policy.

The bill would take effect September 1, 2019.

**SUPPORTERS
SAY:**

CSSB 29 would help end the practice of local governments using tax dollars to lobby the Legislature for legislation that would take even more money from citizens and residents. The bill would prohibit political subdivisions, including cities, counties, school districts, and transportation authorities, from hiring contract lobbyists to influence legislation specifically related to taxation, bond elections, tax-supported debt, and ethics.

Local governments use millions of dollars of taxpayer money each year for lobbying, diverting those funds from important community services. The lobbyists typically represent the best-funded and most well connected individuals, not average citizens. Payments are made with no transparency because local governments do not divulge how much money is used to pay these lobbyists.

Not only is it unfair for taxpayer money to be used for lobbying activities against most taxpayers' interests, but large metropolitan areas have the budget to spend much more on contract lobbying than rural districts, giving them an advantage. This bill would level the playing field between urban and rural areas, giving them equal representation at the Legislature.

CSSB 29 would ensure that taxpayer dollars were not used against taxpayer wishes but also would continue to allow lobbying on other topics. Local governments would have to report lobbying expenses in a comprehensive annual financial report, ensuring transparent use of public funds. The bill also would allow local elected officials and their staff to lobby the Legislature for any issue and local governments to join an organization representing local governments, as is already allowed for counties.

OPPONENTS
SAY:

CSSB 29 would limit the ability of cities, counties, school districts, and other local governments to advocate on behalf their communities. It is not an efficient use of taxpayer money to pay for certain local government employees, who have other needs and full-time jobs in the community, to travel to the Texas Capitol to attend multiple committee hearings, visit legislative offices, and field requests from members.

The premise of the bill — that local government lobbyists advocate against the interests of taxpayers — is incorrect. Local governments hold transparent open meetings to gain community input and are also subject to open records. Residents and taxpayers ultimately have the ability to set the legislative agenda. Local government lobbyists often protect the interests of residents against private lobbyists. This bill would remove local control and have a chilling effect on local engagement at the Legislature. If local governments could not lobby the Legislature, future legislation that constituted an unfunded mandate could further cost taxpayer money.

CSSB 29 also would leave cities, counties, and other local governments open to liability for any number of simple activities. The bill is not specific as to what is meant by "directly or indirectly influencing" legislation, which may lead to confusion and a large number of suits filed against the local government. Those actions would ultimately come at the expense of the taxpayer.

The bill would void certain contracts that would be counter to public policy, infringing on private contract rights and raising questions about the constitutionality of the bill.

OTHER
OPPONENTS
SAY:

While CSSB 29 is a necessary step to end the practice of taxpayer-funded lobbying, the bill should go further to better protect taxpayer interests. It should have a better enforcement mechanism, rather than making taxpayers pay to go to court and face lawyers paid for with public tax dollars. The bill would be more effective if violations were reported to the Office of the Attorney General and individuals who violated the bill had to pay with their own money.

NOTES:

CSSB 29 was reported favorably without amendment from the House Committee on State Affairs on May 6, placed on the General State Calendar for May 17, recommitted to committee, and reported favorably as substituted May 17.