

BILL ANALYSIS

Senate Research Center

H.B. 1616
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 1616 promotes transparency and accountability in government. It does this by requiring officeholders and candidates to report on their campaign finance reports any credit, interest, rebate, refund, reimbursement, or return of a deposit fee (Schedule K of the form). They also have to report any proceeds of the sale of an asset or investment purchased with a political contribution, and any other gain received from a political subdivision contribution.

Under current law, officeholders are not required to disclose reimbursements and other amounts received during a reporting period on their campaign finance reports. Without proper reporting requirements, double reimbursement practices can occur and there are little to no records. These double dipping abuses have led to tax dollars being wasted.

Also, registered lobbyists are not required to disclose the name of officeholders who use political funds to compensate or reimburse them (usually for campaign activities). This lack of disclosure allows for potential conflicts of interest between lawmakers and lobbyists.

H.B. 1616 amends current law relating to the reporting or providing of information, including information relating to political contributions, political expenditures, and personal financial information, by public servants, political candidates and committees, and persons required to register under the lobby registration law, and to complaints filed with and the functions of the Texas Ethics Commission.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 254.031(a), Election Code, as follows:

- (a) Requires each report filed under this chapter, except as otherwise provided by this chapter, to include:
 - (1)-(2) Makes no changes to these subdivisions;
 - (3) the amount of political expenditures that in the aggregate exceed \$100, rather than \$50, and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures;
 - (4) Makes no changes to this subdivision;
 - (5) the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$100 or less, rather than \$50 or less, made during the reporting period;

(6)-(8) Makes no changes to these subdivisions;

(9) any of the following received during the reporting period resulting from the use of a political contribution or an asset purchased with a political contribution the amount of which exceeds \$100: credit; interest; rebate; refund; reimbursement; or return of a deposit fee;

(10) any proceeds of the sale of an asset received during the reporting period the amount of which exceeds \$100;

(11) any investment purchased with a political contribution received during the reporting period the amount of which exceeds \$100;

(12) any other gain from a political contribution received during the reporting period the amount of which exceeds \$100; and

(13) the full name and address of each person from whom an amount described by Subdivisions (9), (10), (11), or (12) is received, the date the amount is received, and the purpose for which the amount is received.

SECTION 2. Amends Subchapter B, Chapter 254, Election Code, by adding Section 254.0405, as follows:

Sec. 254.0405. AMENDMENT OF FILED REPORT. (a) Authorizes a person who files a semiannual report under this chapter to amend the report.

(b) Provides that a semiannual report that is amended before the eighth day after the date the original report was filed is considered to have been filed on the date on which the original report was filed.

(c) Provides that a semiannual report that is amended on or after the eighth day after the original report was filed is considered to have been filed on the date on which the original report was filed if:

(1) the amendment is made before any complaint is filed with regard to the subject of the amendment; and

(2) the original report was made in good faith and without an intent to mislead or to misrepresent the information contained in the report.

SECTION 3. Amends Section 254.041, Election Code, by adding Subsection (d), as follows:

(d) Provides that it is an exception to the application of Subsection (a)(3) (relating to failing to include in the report information that is required by this title to be included) that

(1) the information was required to be included in a semiannual report; and

(2) the person amended the report within the time prescribed by Section 254.0405(b) or under the circumstances described by Section 254.0405(c).

SECTION 4. Amends Section 305.005, Government Code, by adding Subsection (l), as follows:

(l) Requires that the registration form include the full name and address of each person who compensates or reimburses the registrant or person acting as an agent for the registrant for services, including political consulting services, rendered by the registrant from:

(1) a political contribution as defined by Title 15 (Regulating Political Funds and Campaigns), Election Code;

(2) interest received from a political contribution as defined by Title 15, Election Code; or

(3) an asset purchased with a political contribution as defined by Title 15, Election Code.

SECTION 5. Amends Subchapter C, Chapter 571, Government Code, by adding Sections 571.080 and 571.081, as follows:

Sec. 571.080. ASSISTANCE FOR CERTAIN FILERS. Requires the Texas Ethics Commission (TEC), using existing resources, to provide a service that enables a candidate or officeholder required to file a report with TEC under Section 254.063 (Semiannual Reporting Schedule for Candidate), 254.064 (Additional Reports of Opposed Candidate), or 254.093 (Semiannual Reporting Schedule for Officeholder), Election Code, to speak to TEC staff to assist the person in preparing and filing the report. Requires that this service be available beginning at 8 a.m. on the date of a deadline for filing a report with TEC and ending at the deadline for filing the report.

Sec. 571.081. AVAILABILITY OF DIRECT TELEPHONE NUMBER OF COMMISSION STAFF TO CERTAIN FILERS. Requires an employee of TEC to on request provide the employee's direct telephone number to a candidate or officeholder required to file a report with TEC.

SECTION 6. Amends Section 571.122, Government Code, by adding Subsection (e), as follows:

(e) Provides that it is not a valid basis of a complaint to allege that a report required under Chapter 254 (Political Reporting), Election Code, contains the improper name or address of a person from whom a political contribution was received if the name or address in the report is the same as the name or address that appears on the check for the political contribution.

SECTION 7. Amends Subchapter E, Chapter 571, Government Code, by adding Section 571.1222, as follows:

Sec. 571.1222. DISMISSAL OF COMPLAINT CHALLENGING CERTAIN INFORMATION IN POLITICAL REPORT. Requires TEC, at any stage of a proceeding under this subchapter, to dismiss a complaint alleging that a report required under Chapter 254, Election Code, contains the improper name or address of a person from whom a political contribution was received if the name or address in the report is the same as the name or address that appears on the check for the political contribution.

SECTION 8. Amends Section 571.123(b), Government Code, as follows:

(b) Requires that the written notice to the complainant and the respondent include certain information, including, if the respondent is a candidate or officeholder, state the procedure by which the respondent may designate an agent with whom TEC staff may discuss the complaint; and, if the respondent is a candidate or officeholder, state that the respondent may request the direct telephone number of TEC staff member who will perform the processing of the complaint against the respondent.

SECTION 9. Amends Subchapter E, Chapter 571, Government Code, by adding Sections 571.1231 and 571.1232, as follows:

Sec. 571.1231. DESIGNATION OF AGENT BY CERTAIN RESPONDENTS. (a) Provides that this section applies only to a respondent who is a candidate or officeholder.

(b) Authorizes a respondent to a complaint filed against the respondent, by writing submitted to TEC, to designate an agent with whom TEC staff may communicate regarding the complaint.

(c) Provides that for purposes of this subchapter, including Section 571.140 (Confidentiality; Offense), communications with the respondent's agent designated under this section are considered communications with the respondent.

Sec. 571.1232. PROVISION OF TELEPHONE NUMBER TO CERTAIN RESPONDENTS. (a) Provides that this section applies only to a respondent who is a candidate or officeholder.

(b) Requires TEC, on request, to provide to a respondent the direct telephone number of TEC staff member who will perform the processing of the complaint against the respondent.

SECTION 10. Amends Section 145.003, Local Government Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Requires a municipal officer or a candidate for a municipal office filled by election, except as provided by Subsection (c), to file a financial statement as required by this chapter.

(c) Provides that a municipal officer who does not receive compensation for serving as an officer or a candidate for such an office is not required to file a financial statement under this chapter.

SECTION 11. Amends Section 159.003(b), Local Government Code, to require that the statement meet certain criteria, including comply with Sections 572.022 (Reporting Categories; Required Descriptions) and 572.023 (Contents of Financial Statement in General), Government Code, and with the requirements set forth by any commissioners court order requiring additional disclosures

SECTION 12. Repealer: Section 11.064 (Filing of Financial Statement by Trustee), Education Code.

SECTION 13. Repealer: Section 159.034(c) (relating to a person required by order of the commissioners court to file a report under this subchapter being considered to have complied with the order under certain conditions), Local Government Code.

SECTION 14. Repealer: Section 335.1085 (Filing of Financial Statement by Director), Local Government Code.

SECTION 15. (a) Makes application of Section 254.031(a), Election Code, as amended by this Act, prospective.

(b) Provides that Section 305.005(l), Government Code, as added by this Act, applies only to compensation or reimbursement received by a registrant under Chapter 305, Government Code, on or after the effective date of this Act.

SECTION 16. Makes application of the change in law made by this Act to Section 254.041, Election Code, prospective.

SECTION 17. (a) Provides that Section 145.003, Local Government Code, as amended by this Act, applies only to the filing by a municipal officer or candidate of a financial statement that covers the 2011 or a later calendar year. Provides that the filing by a municipal officer or candidate of a financial statement that covers the 2010 calendar year is governed by the law in effect on January 1, 2011, and the former law is continued in effect for that purpose.

(b) Provides that the repeal by this Act of Section 11.064, Education Code, applies only to the filing by a school district trustee of a financial statement that covers the 2011 or a later calendar year. Provides that the filing by a school district trustee of a financial statement that covers the 2010 calendar year is governed by the law in effect on January 1, 2011, and the former law is continued in effect for that purpose.

(c) Provides that the repeal by this Act of Section 335.1085, Local Government Code, applies only to the filing by a director of a venue district of a financial statement that covers the 2011 or a later calendar year. Provides that the filing by a director of a venue district of a financial statement that covers the 2010 calendar year is governed by the law in effect on January 1, 2011, and the former law is continued in effect for that purpose.

SECTION 18. Effective date: September 1, 2011.