

BILL ANALYSIS

Senate Research Center

C.S.S.B. 19
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.S.B. 19 is an ethics omnibus bill consisting of two substantive articles. Article 1 expands the transparency and disclosure requirements for state ethics reports. Specifically, the article expands the personal financial statement reporting requirements for each state officer, elected official, or candidate to include the disclosure of written contracts for goods or services with governmental entities if the aggregate value of those contracts exceeds \$10,000 per reporting year. The bill requires that personal financial statements disclose each written contract with a governmental entity for goods in the amount of \$2,500 or more; or services including professional, consulting, or legal services in the amount of \$5,000 or more. Further, C.S.S.B. 19 requires that filers that own a majority interest in a business disclose that businesses' contracts with governmental entities for goods or services above the respective \$2,500 and \$5,000 threshold amounts. Article 1 further requires that legislators that provide bond counsel services to a public issuer disclose specific information regarding the issuances to which they are counsel, and the fees paid for those services, as part of their personal financial statement. Similar to state campaign finance reporting requirements, Article 1 adds a provision allowing a person required to file a personal financial statement to self-correct their statement eight days after filing.

Article 2 includes several provisions aimed towards curing real or perceived conflicts of interest. Towards that end, the bill prohibits a person who is registered as a lobbyist from serving in elective office unless that person is an elected officer for a political subdivision with a population of 150,000 or less, or the presiding officer of a political subdivision of 50,000 or less, provided they do not receive a salary or wage from the political subdivision. These provisions do not preclude a person who is no longer registered as a lobbyist from running for office. The bill also bars a member of the Texas Legislature, United States Congress, or statewide office from registering as a lobbyist.

The bill also prohibits a retired member of the legislature from lobbying for one, two-year legislative cycle following their retirement. This prohibition would not apply to former legislators lobbying without compensation. Lastly, C.S.S.B. 19 prohibits a legislator licensed to practice law from receiving a referral fee for legal services. In other states, these fees have been at the center of allegations involving bribery and kickback schemes affecting public officials.

C.S.S.B. 19 amends current law relating to the ethics of public officers and related requirements and creates criminal offenses.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

ARTICLE 1. DISCLOSURE OF CONTRACTS WITH GOVERNMENTAL ENTITIES

SECTION 1.01. Amends Section 572.023, Government Code, by amending Subsection (b) and adding Subsection (e), as follows:

(b) Provides that the account of financial activity consists of:

(1)-(12) Makes no change to these subdivisions;

(13) and (14) Makes nonsubstantive changes;

(15) if the aggregate cost of goods or services sold under one or more written contracts described by this subdivision exceeds \$10,000 in the year covered by the report, identification of each written contract, including the name of each party to the contract:

(A) for the sale of goods in the amount of \$2,500 or more or services, including professional services as defined by Section 2254.002 (Definitions), consulting services as defined by Section 2254.021 (Definitions), or legal counsel, in the amount of \$5,000 or more;

(B) to which the individual or any business entity of which the individual, has at least a 50 percent ownership interest is a party; and

(C) with a governmental entity or a person who contracts with a governmental entity, to fulfill one or more of the person's obligations to the governmental entity under that contract; and

(16) if the individual is a member of the legislature and provides bond counsel services to an issuer, as defined by Section 1201.002(1) (defining "issuer"), identification of certain issuances as set forth for each issuance for which the individual served as bound counsel.

(e) Defines "governmental entity" for the purpose of this section.

SECTION 1.02. Amends Subchapter B, Chapter 572, Government Code, by adding Section 572.0295, as follows:

Sec. 572.0295. PERSONAL FINANCIAL STATEMENT. (a) Authorizes a person who files a report under this chapter to amend the report.

(b) Provides that a 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 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.

ARTICLE 2. CONFLICTS OF INTERESTS

SECTION 2.01. Amends Section 141.001, Elections Code, by amending Subsection (a) and adding Subsections (d) and (e), as follows:

(a) Requires a person, to be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, to:

(1)-(4) Makes no change to these subdivisions;

(5) Makes a nonsubstantive change;

(6) not be required to be registered as a lobbyist under Chapter 305, Government Code; and

(7) Redesignates text of existing Subdivision (6) as Subdivision (7).

(d) Provides that, except as provided by Section 7.103(c) (prohibiting certain persons from serving on the State Board of Education), Education Code, Subsection (a)(6) does not apply to:

(1) an office of a political subdivision with a population of 150,000 or less, other than the office of presiding officer of the governing body of the political subdivision, provided that the officeholder does not receive a salary or wage for that office; or

(2) the office of the presiding officer of the governing body of a political subdivision with a population of 50,000 or less, provided that the presiding officer does not receive a salary or wage for that office.

(e) Provides that, in Subsection (d), a presiding officer or other officeholder is not considered to have received a salary or wage if the officeholder refuse to accept a salary or wage offered or budgeted for that office.

SECTION 2.02. Amends Subchapter A, Chapter 305, Government Code, by adding Section 305.0031, as follows:

Sec. 305.0031. **CERTAIN ELECTED OFFICERS MAY NOT REGISTER.** (a) Prohibits a member of Congress, a member of the legislature, or a holder of a statewide office from registering under this chapter.

(b) Provides that a registration under this chapter expires on the date a person takes office as a member of Congress, a member of the legislature, or holder of a statewide office.

SECTION 2.03. Amends Subchapter C, Chapter 572, Government Code, by adding Sections 572.062 and 572.063, as follows:

Sec. 572.062. **FORMER LEGISLATOR: LOBBYING RESTRICTED; CRIMINAL OFFENSE.** (a) Defines "administrative action," "communicates directly with," "legislation," "member of the executive branch," "member of the legislative branch," and "legislative cycle."

(b) Prohibits a former member of the legislature, except as provided by Subsection (c), from engaging in activities that require registration under Chapter 305 (Registration of Lobbyists) before the end of the legislative cycle following the legislative cycle in which the former member last served as a member of the legislature.

(c) Provides that Subsection (b) does not apply to a former member who does not receive compensation other than reimbursement for actual expenses for communicating directly with a member of the legislative or executive branch to influence legislation or administrative action.

(d) Provides that a former member who violates this section commits an offense. Provides that an offense under this section is a Class A misdemeanor.

Sec. 571.063. **CERTAIN REFERRALS FOR LEGAL SERVICES PROHIBITED; CRIMINAL OFFENSE.** (a) Prohibits a member of the legislature or an executive officer elected in a statewide election who is a member of the State Bar of Texas or who is licensed to practice law in another state or a United States territory from making or receiving any referral for legal services for monetary compensation or any other benefit.

(b) Defines "referral for legal services" for purposes of this section.

(c) Provides that a person commits an offense if the person violates this section. Provides that an offense under this section is a Class B misdemeanor.

SECTION 2.04. Amends Chapter 601, Government Code, by adding Section 601.009, as follows:

Sec. 601.009. ELECTED OFFICER MAY NOT BE REGISTERED LOBBYIST. (a) Prohibits a person from qualifying for a public elective office if the person is required to be registered as a lobbyist under Chapter 305.

(b) Provides that, except as provided by Section 7.103(c), Education Code, Subsection (a) does not apply to:

(1) an office for which the federal or state constitution prescribes exclusive qualification requirements;

(2) an office of a political subdivision with a population of 150,000 or less, other than the office of presiding officer of the governing body of the political subdivision, provided that the officeholder does not receive a salary or wage for that office; or

(3) the office of the presiding officer of the governing body of a political subdivision with a population of 50,000 or less, provided that the presiding officer does not receive a salary or wage for that office.

(c) Provides that, in Subsection (b), a presiding officer or other officeholder is not considered to have received a salary or wage if the officeholder refuses to accept a salary or wage offered or budgeted for that office.

ARTICLE 3. TRANSITION; EFFECTIVE DATE

SECTION 3.01. (a) Provides that the changes in law made by this Act in amending Section 141.001(a), Election Code, and in adding Section 601.006, Government Code, apply on to the eligibility and qualification requirements for a candidate, officer, or employee whose term of office or employment will begin on or after the effective date of this Act. Makes application of this Act prospective.

(b) Provides that Section 572.062, Government Code, as added by this Act, does not apply to a person who was a member of the legislature on June 1, 2015, unless the member assumes an office other than a legislative office after the effective date of this Act.

(c) Provides that Section 572.063, Government Code, as added by this Act, applies only to conduct that occurred on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 3.02. Effective date: January 10, 2017.