

- SUBJECT:** Legislative caucus financial disclosure and contribution period limits
- COMMITTEE:** House Administration — favorable, with amendment
- VOTE:** 9 ayes — Black, Goolsby, Bailey, Conley, Dear, McDonald, Telford, West, Willis
- 1 nay — Chisum
- 1 absent — Combs
- WITNESSES:** For — Tom Smith, Public Citizen
- Against — None
- On — Sarah Woelk, acting executive director, Texas Ethics Commission
- BACKGROUND:** The House Administration Committee in 1994 eliminated House funding that it had formerly provided for certain legislative caucuses. In January 1995 the House adopted HR 4, the housekeeping resolution for the 74th Legislature, which prohibits House members from paying legislative caucus dues from their House operating accounts and prohibits use of House operating funds to attend caucus meetings, functions or activities. HR 4 defines a caucus as an organization made up exclusively of members of the Legislature, or of legislators and the lieutenant governor or governor.
- HR 4 prohibits House caucuses from knowingly accepting a contribution from outside the caucus 30 days before a regular legislative session and during the session. The resolution states that until caucuses are required by law to report contributions and expenditures to another entity, they must report them to periodically to the chief clerk of the House. They also must regularly provide the chief clerk a current membership list.
- DIGEST:** HB 2, as amended, would amend the Election Code to prohibit legislative caucuses from accepting contributions from nonmembers 30 days before and during a regular legislative session, and would require caucuses to file financial disclosure reports with the Texas Ethics Commission twice a year. A legislative caucus would be defined as an organization composed

exclusively of legislators, or legislators and the governor or lieutenant governor, that elects or appoints officers and that is intended to provide research and other support of policy development and other interests the members hold in common.

Legislative caucus contributions and expenditures would not be considered to be officeholder contributions or expenditures. Caucuses would be required to refuse and return any prohibited contribution within 30 days of receipt. A contribution postmarked prior to 30 days before a regular session could be accepted.

It would be a Class A misdemeanor (maximum penalty one year in jail and a \$4,000 fine) for a nonmember to contribute or for a caucus to accept a nonmember contribution during the prohibited period. Violators would be liable to the state for three times the amount of the unlawful contribution.

The Ethics Commission would be required to create forms expressly for Legislative caucus reports. The two reports each year would have to list:

- The name and address of any noncaucus member whose total contributions or loans exceeded \$50, the date and amount of the donation and details about loans;
- details of expenditures totaling more than \$50 and a listing of expenditures of less than \$50;
- the total amount or listing of contributions from noncaucus members of \$50 or less; and
- the total amount of contributions, including those from caucus members, and expenditures.

A report would be have to be filed by July 15 covering January 1 to June 30 and by January 15 covering July 1 to December 31. Caucuses would be

required to keep records of all required financial reports for at least two years beyond the filing deadline.

HB 2 would take effect immediately if approved by a two-thirds vote of the membership of each house.

**SUPPORTERS
SAY:**

HB 2 would bring legislative caucuses under the same contribution and expenditure reporting requirements as legislators, including the prohibition on contributions during legislative sessions. It would eliminate the appearance of a double standard for legislative caucuses and individual legislators. The public has a right to know who is funding legislative caucuses, which can play key roles in legislative deliberations. This is especially true now that caucuses derive much of their funding from private sources.

The disclosure requirements should be in statute, not just the housekeeping resolution, so that they can be enforced effectively. The caucus reporting provisions in the current housekeeping resolution (HR 4) are not binding on future legislatures, do not affect the Senate and set no penalties for failure to comply. The Senate has no provisions for Senate caucuses to register or file financial disclosure reports. Attempting to sanction caucus members would be cumbersome and unworkable and would impede legislative deliberations.

HB 2 would make legislative caucus reports easily accessible and assure they are kept in the same central location as all other such reports, at the Ethics Commission. This would be a boon for open government and make the fundraising period for caucuses consistent with that for state officials.

Private funds contributed to a caucus just before and during a regular legislative session could be seen as an indirect attempt to influence the legislators who belong to the caucus. No limit would be placed on contributions to caucuses by the members themselves.

Requiring disclosure of contributions made to a legislative organization that shapes the law would not be restricting the right of free speech or assembly any more than disclosing contributions to candidates or officeholders. Courts have consistently upheld disclosure of contributions and reasonable

limits on contributions. No limits would be placed on how the caucuses can spend their contributions. Caucus membership would not be disclosed to the Ethics Commission, only the contributions and expenditures.

OPPONENTS
SAY:

The housekeeping resolution adopted by the House already requires caucuses to report contributions and expenditures to the chief clerk, which makes this bill unnecessary. The House has many ways to sanction members who do not comply with House rules. The organization and regulation of legislative caucuses are internal matters of each house of the Legislature and should be dealt with internally, not regulated by the Ethics Commission or the courts.

Caucuses are not political action committees and do not contribute to or promote candidates for public office. They should not be required to file with the State Ethics Commission, which could have unforeseen consequences.

Requiring caucuses to disclose contributors would impinge on state and federal constitutional rights to free speech and the right to assemble. Art. 1, sec. 27 of the Texas Constitution gives citizens the right to "assemble together for their common good," and courts have consistently supported the fewest restrictions on this fundamental right. By imposing statutory restrictions, including criminal penalties, and paperwork requirements, the bill would discourage formation of, and membership in, legislative caucuses, which are often organized informally for limited purposes.

The limited influence of caucuses on the legislative process makes financial disclosure unnecessary. Caucuses rarely vote as a block and aspire mainly to provide information to like-minded members to assist them in evaluating legislation. Adding statutory restrictions would only impede this important function.

OTHER
OPPONENTS
SAY:

Caucuses should be held to the same financial disclosure standards as legislators, and the bill should include contribution disclosure requirements for special sessions. The Election Code requires state officeholders and their supporting political actions committees to report contributions made during a special session within 30 days after the special session adjourns.

A great deal of important legislation may be considered during a special session, and the public should not have to wait several months to know if legislative caucuses received large contributions from private interests during a special session.

NOTES:

The committee amendment added a requirement that separate reporting forms be established for legislative caucuses and clarified that contributions to or expenditures by a caucus not be considered officeholder contributions or expenditures, that the total amount of contributions of \$50 or less from caucus members need not be itemized and that the total reported amount of all contributions accepted by a caucus includes contributions from caucus members.