

SUBJECT: Ethics law revisions

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 14 ayes — Wolens, S. Turner, Alvarado, Brimer, Carter, Counts, Craddick,  
Danburg, Hilbert, Hunter, Longoria, McCall, Ramsay, Stiles

0 nays

1 absent — D. Jones

WITNESSES: For — Suzie Woodford, Common Cause; Tom “Smitty” Smith, Public  
Citizen

Against — None

On — Karen Lundquist and Tom Harrison, Texas Ethics Commission

DIGEST: HB 3207 would make various changes to ethics law in the Election Code  
and Government Code.

If a candidate for public office did not hold the office being sought and a campaign communication or political advertising stated the office being sought but not with word “for,” the candidate would commit the offense of misleading use of office title, punishable as a class A misdemeanor (maximum penalty of 1 year in jail and a \$4,000 fine).

Lobbyists registering with the Ethics Commission would have to include the subject matter of the legislation or the administrative action that was the subject of the lobbyist’s direct communication with a member of the legislative or executive branch.

The fund-raising and reporting requirements applicable to legislative caucuses would also apply to entities established by a legislative caucus for research, education or other activities.

Restrictions on accepting contributions during the regular legislative session would not apply to candidates subject to the Judicial Campaign Fairness Act.

The venue for recovery of delinquent civil penalties imposed by the Ethics Commission would be Travis County.

Candidate information provided when appointing a campaign treasurer would have to include the candidate's telephone number.

The bill would generally remove gender designations, change the designation of the old State Ethics Advisory Commission to the Texas Ethics Commission, and update newly codified civil statutes.

The changes made by the bill would apply only to offenses committed after its effective date, September 1, 1997.

**SUPPORTERS  
SAY:**

HB 3207 would make a number of changes to ethics statutes that have been recommended by the Ethics Commission in its biennial report to the Legislature and the governor. Most changes represent a cleanup of existing provisions or a codification of commission advisory opinions that have clarified current law.

The proposed change in the requirements for the offense of misleading use of office title has been spurred by numerous citizen complaints alleging that candidates not holding an office make it appear that they do by failing to use the word "for" with the office in campaign literature. An early ethics opinion suggested that in order to minimize the risk of confusion and prevent deception, non-incumbent candidates should use words like "for" in their literature. HB 3207 would codify that recommendation in an attempt to clarify the law and reduce the number of complaints. Requiring non-incumbent candidates to use the word "for" is a compromise that would not unduly limit candidate speech but still prevent deceptive advertising and other communications that falsely imply that a candidate is an incumbent.

Requiring that lobbyists register the subject matter of legislation that they discuss with legislators would be clean-up of ethics law revisions enacted last session (SB 452 by Rosson) meant to remove an overly detailed

requirement that lobbyists include the bill number of legislation in their registration. SB 452 inadvertently deleted the required disclosure of the subject matter of legislation, pertinent information that should be revealed.

Applying fund-raising restrictions for legislative caucuses to entities established by the caucuses would close a loophole that had been used to allow caucuses indirectly to raise funds during the regular legislative session despite the fund-raising prohibition.

The change exempting those covered under the Judicial Campaign Fairness Act from the prohibition against raising funds during the regular legislative session would simply codify the current interpretation of existing law (Ethics Advisory Opinion No. 351, November 22, 1996).

**OPPONENTS  
SAY:**

The requirement that non-incumbent candidates use the word “for” with the office sought in all campaign literature under the threat of criminal penalty would constitute an undue restriction on free speech. Candidates could accomplish the purpose of the law without specifically using the word “for.” For example “Elect John Doe as Sheriff” makes it clear that John Doe does not already hold the office and should not subject a candidate to possible jail time for committing a Class A misdemeanor.

Preventing research entities and other affiliates established by legislative caucuses from fund raising during the legislative session could have an adverse impact on caucuses that raise funds for scholarships. Contributions for non-political purposes should be specifically exempted from the restrictions.