

SUBJECT: Electronic reporting of certain political contributions and expenditures

COMMITTEE: Elections — committee substitute recommended

VOTE: 9 ayes — Danburg, J. Jones, Averitt, Denny, Gallego, Greenberg, Hodge, Madden, Uher
0 nays

WITNESSES: For — Kenneth W. Anderson, Republican Party of Texas; Harold Cook, Texas Democratic Party; Fred Lewis, Coalition for Electronic Filing and Public Citizen
Against — None

DIGEST: CSHB 2611 would amend the Election Code to require candidates for statewide office, for a district office filled by voters of more than one county, including courts of appeal, for state senator or state representative, and for the State Board of Education, as well as political committees, to file campaign finance reports by computer diskette, modem, or other means of electronic transfer. The Ethics Commission would provide computer software for this purpose, but people filing electronic reports could use other software that met commission specifications.

Candidates, officeholders, or political committees would be exempt from the electronic filing requirement if they filed an affidavit with the commission stating that neither they nor their staff members used computer equipment to solicit or acknowledge political contributions or to track contributions, contributors, or expenditures. They also would be exempt from electronic filing if contributions made to and expenditures made by them did not exceed \$20,000 in a calendar year. Once the \$20,000 limit was exceeded in a calendar year, they would have to file electronic reports for the next reporting period and for every reporting period thereafter.

Candidates or specific-purpose committees for political subdivisions that had not yet created a governing board and were located in more than one county (such as water districts), as well as individuals required to report direct campaign expenditures, would be exempt from the electronic filing

requirement. Multicounty judges and district attorneys also would be exempt. Candidates, officeholders, and political action committees exempted from the requirement could continue to file campaign finance reports on paper.

CSHB 2611 would require that computer software provided by or approved by the Ethics Commission use a standardized format and provide secure and encoded transmission of data. The software would have to be capable of use by a person with basic computing skills and would have to be compatible with Windows or Macintosh operating systems or any other popular system used with personal computers. Also, the software would have to permit information to be imported or exported to and from a report without having to be reentered. Before the commission adopted specifications for computer software, it would have to hold at least one public hearing and to accept public comments for at least 10 days following the hearing.

CSHB 2611 would require state agencies, cities, counties, independent school districts, and public libraries to allow candidates, officeholders, and political committees to file campaign finance reports on computers typically available for public use. The public entity would not have to provide supplies, such as paper or computer diskettes. The public entity could place reasonable restrictions on the use of its computers except that it could not prohibit someone from using its computers during regular business hours if the reporting deadline was less than 48 hours away.

The bill would prohibit officeholders from using their official computers to file campaign finance reports electronically.

CSHB 2611 would require the Ethics Commission to post an electronic report on the Internet no later than the second business day after the report was filed. Before making the report available on the Internet, the commission would have to remove a contributor's address, except for the city, state, and zip code. Deleted address information would have to remain on the report maintained at the commission but would not be available electronically.

In addition to making information from reports available electronically, the Ethics Commission would have to provide access to computer terminals at the commission's office, provide information on computer diskettes that could be purchased for a reasonable cost, and provide modems or other electronic access to the information.

The bill would prohibit the commission from requiring someone to provide identification in order to examine a report.

CSHB 2611 would stipulate that reports due on January 1, 2000, would be the first required to be filed electronically unless the Ethics Commission did not have the software available. If the software was not available, reports due on July 1, 2000, would be the first required to be filed electronically.

CSHB 2611 would take effect September 1, 1999.

**SUPPORTERS
SAY:**

Texas citizens who want to know who is spending money in the political process and how the money is spent face a cumbersome, almost impossible task in trying to figure out who is backing a certain candidate. Without prompt and accurate information, voters who wish to make more informed choices have few options. Electronic filing would be a basic, fundamental step toward campaign finance reform. At least 15 states have passed laws facilitating the electronic filing of and access to campaign finance information.

Under current law, candidates may file campaign finance reports in written form, and the reports are not available on the Internet. Interested citizens either must go to the Texas Ethics Commission in Austin and inspect the paper reports or must ask for the reports to be mailed at a cost of 10 cents per page or faxed at a cost of \$2 per page.

Texas requires candidates and officeholders to report periodically where they are getting their money. However, if the information is not being used because it is so hard to obtain, this does not really represent disclosure.

Requiring electronic filing would not place a burden on less well-funded candidates or on candidates who were not computer-literate. Candidates who did not use computers in their campaigns or who collected or spent less than \$20,000 a year would be exempt from the requirement. Also, the bill would ensure that these candidates had access to publicly accessible computers.

Posting campaign financial reports on the Internet would enable Texans to view campaign spending right up until an election. Big donors often give big donations in the last month of the election, when they have a better idea which candidate has a good chance of winning. This last-minute giving also

makes it hard to track contributions until after the election is over. If voters wanted to know what special-interest groups were backing a given candidate, they could obtain this information before the election.

Exempting multicounty judges and district attorneys from electronic filing requirements would be fair because they file their financial reports with the Ethics Commission, while single-county judges and DAs file with their counties and would not have to file electronically.

The computer software that the Ethics Commission would have to provide is an important part of electronic filing. CSHB 2611 would address important considerations by requiring that data transmission was secure and encoded, that anyone with basic computing skills could use the software, and that information could be imported and exported in a standard format without the need for reentry. This would be important for candidates and committees who had an extensive database.

Prohibiting the Ethics Commission from posting contributors' addresses on the Internet would be an important safety precaution to protect the privacy of individuals and would ensure that this information was not commercially usable.

OPPONENTS
SAY:

Coming up with a software program that met everybody's needs would be very difficult. Some candidates likely would find it difficult to comply with this bill's requirements. Program software needs to include searchable features and be easy to use for individuals required to file financial reports electronically.

NOTES:

The committee substitute modified the original bill by adding the exemption for multicounty judges and district attorneys and the requirements for electronic filing software. It also added the provisions that candidates could use publicly accessible computers, that public entities would not have to provide materials such as diskettes or paper, and that officeholders could not use their own official computers to file campaign finance reports. It also added the stipulations on timing of the first electronically filed reports. The substitute also deleted a provision that would have given the commission until February 1, 2000, to post reports on the Internet.

The Legislative Budget Board estimates that CSHB 2611 would cost the state \$500,834 in general revenue during fiscal 2000-01. The Senate version of HB 1, the general appropriations bill for fiscal 2000-01 includes \$465,149 for electronic filing, but the House version includes no funding. The conference committee on HB 1 is considering a contingency rider to fund electronic information filing.

A similar bill, SB 418 by Moncrief, would require electronic filing of campaign reports and also allow a candidate, officeholder, or political committee to report fictitious contributors for the purpose of determining if the contributor information was being used in violation of the restriction on the use, sale, or distribution of contributor information. SB 418 was considered by the Senate on second reading on April 26, postponed, and withdrawn from the Intent Calendar on April 30.