

- SUBJECT:** Reporting expenditures for lobbying by local governments
- COMMITTEE:** State Affairs — committee substitute recommended
- VOTE:** 7 ayes — Swinford, Paxton, Van Arsdale, Christian, Farrar, Flynn, Parker
0 nays
2 absent — B. Cook, Veasey
- WITNESSES:** For — Jan Brauner, Americans for Prosperity; Christopher Richey, Young Conservatives of Texas; Jonathan Saenz, Free Market Foundation; Peggy Venable, Americans For Prosperity; (*Registered, but did not testify*): Michael Quinn Sullivan, Texans for Fiscal Responsibility-TFR)

Against — Jack Gullahorn, Professional Advocacy Association of Texas

On — Jim Allison, County Judges & Commissioners Association of Texas; Amy Beneski, Texas Association of School Administrators; Carter Casteel; Jackie Lain, Texas Association of School Boards; Tim Sorrells, Texas Ethics Commission; Donald Lee, Texas Conference of Urban Counties (on committee substitute)
- BACKGROUND:** Local Government Code, sec. 103.001 requires a municipality to have its records and accounts audited annually and to prepare a financial statement based on the audit. Sec. 114.025 requires a county auditor to make monthly and annual reports, disclosing all financial transactions to the commissioners court and to the district judges of the county.

Sec. 140.005 requires the governing body of a school district, open-enrollment charter school, junior college district, or a district or authority organized under Texas Constitution, Art. 3, sec. 52 (county, city, or other political corporation or subdivision) or Art. 16, sec. 59 (conservation, park, and recreational districts) to prepare an annual financial statement, which is to be published in a newspaper distributed where the district or authority is located.

Education Code, sec. 42.006(c) requires that the education commissioner annually repeal or amend rules that require school districts to provide

information through the Public Education Information System (PEIMS). In reviewing and revising PEIMS, the Commissioner must ensure the system reflects:

- accurate and updated information on students and academic performance, personnel, and school district finances;
- data necessary for the Legislature and the Texas Education Agency to provide oversight to the public education system; and
- only those instructional methods required by federal law.

Government Code, sec. 305.005 requires that a person registering as a lobbyist with the Texas Ethics Commission do so in writing. Registration must verify the registrant's full name and address, business contact information, and the full name and address of each person who reimburses, retains, or employs the registrant, among other requirements specific to the nature of the services provided by the registrant and compensation for services.

Any compensation or reimbursement received by each person who reimburses, retains, or employs a registered lobbyist must be reported according to the amount ranges provided in sec. 305.005(g). The Texas Ethics Commission does not require registered lobbyists to report precise amounts.

Under sec. 305.031(a), a registered lobbyist commits an offense if the individual intentionally or knowingly violates a provision of Government Code, ch. 325, other than sec. 305.022 (contingent fees) and sec. 305.028 (prohibited conflicts of interest).

DIGEST:

CSHB 1517 would create new reporting requirements for school districts, registered lobbyists, and local governments for expenditures made on lobbying and legislative communications.

The bill would add Local Government Code, sec. 140.005(c) to require the governing body of a local government entity to prepare an annual financial statement for public disclosure. The financial statement would have to clearly show the total expenditures for lobbying and legislative communications, including:

- total amount paid to registered lobbyists;
- total amount spent on legislative communications made by officers

and employees of a local government entity that would not have been spent if the legislative communications had not been made; and

- total amount spent for membership dues or fees paid to organizations that employed or retained a registered lobbyist on behalf of the local government entity and similarly situated entities.

Amounts spent for legislative communications would include only those amounts that would have not been spent if the legislative communication had not been made. A local government entity would be required to provide detailed information on total expenditures related to lobbying and legislative communications readily available to the public. These expenditures would not be required to include the individual expenses of a registered lobbyist hired by the entity.

A “local government entity” would be an entity listed in Local Government Code, sec. 140.005: a school district, open-enrollment charter school, junior college district, or a district or authority organized under Texas Constitution, Art. 3, sec. 52 (county, city, or other political corporation or subdivision) or Art. 16, sec. 59 (conservation, park, and recreational districts).

“Legislative communication” would be a face-to-face communication between an officer or employee of a local government entity and a member of the legislative branch that was initiated by the officer or employee of the local government entity and that was regarding legislation.

“Member of the legislative branch” would be a member, member-elect, candidate for, or officer of the Legislature or of a legislative committee, or an employee of the Legislature.

“Legislation” would mean:

- a bill, resolution, amendment, nomination, or other matter pending in either house of the Legislature;
- any matter that was or could be the subject of action by either house or by a legislative committee, including the introduction, consideration, passage, defeat, approval, or veto of the matter; or
- any matter pending in a constitutional convention or that could be the subject of action by a constitutional convention.

The bill would amend Local Government Code, sec. 103.001 to require a municipality's annual financial report to meet the reporting requirements for local government entities under sec. 140.005(c). It also would add sec. 114.0251 to require a county's annual report to account for expenditures made on lobbying and legislative communications. The report would have to meet the reporting requirements listed in sec. 140.005(c) for local government entities. If a county did not have an auditor, the county treasurer would report this information to the commissioners court of the county.

Education Code, sec. 42.006(c) would be amended to require PEIMS to reflect information required by Local Government Code, sec. 140.005(c), regarding school district expenditures for lobbying and legislative communications.

The bill would require lobbyists who registered with the Texas Ethics Commission to indicate, if applicable, whether a local government entity reimbursed, retained, or employed them to communicate directly with a member of the Legislature or executive branch to influence legislation or administrative action.

A "local government entity" would be a county, municipality, school district, junior college district, or other political subdivision of the state. It would not include an association, corporation, or organization of governmental entities organized to provide to its members education, assistance, products, or services or to represent its members before the legislative, administrative, or judicial branches of the state or federal government.

The bill also would require reporting to the Texas Ethics Commission as an exact amount any compensation or reimbursement received from a local government entity that reimbursed, retained, or employed the lobbyist or on whose behalf another organization or association reimbursed, retained, or employed the lobbyist.

The Texas Ethics Commission would modify the commission's website to permit a person viewing the site to sort a list of registered lobbyists by any field of information required under sec. 305.005, including whether an entity retaining the lobbyist was a local government entity.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS
SAY:**

CSHB 1517 would provide for greater disclosure of the taxpayer funds being spent when local governments advocated for certain positions at the Legislature. Individual citizens fear their concerns may be overshadowed by lobbyists funded by taxpayer dollars.

Lobbying on behalf of local governments is a booming industry, and some reports show that Texas cities have more than 140 lobbyists registered on their behalf, with contracts worth as much as \$9 million annually. County-related tax entities reportedly pay more than 100 registered lobbyists as much as \$5 million, while individual counties and independent school districts reportedly each pay more than 25 registered lobbyists close to \$1 million. Associations receiving dues from cities or counties, sometimes paid with tax dollars, also pay hundreds of thousands of dollars to lobbyists. Currently, there is no easy way for a citizen to learn how taxpayer money is being spent to influence legislation or what positions are being advocated.

Increased oversight is necessary to repair a flawed disclosure system. Citizens should be able to obtain accurate information about how their local government is using tax dollars to lobby the Legislature, so they could decide whether they supported such activities and reflect that in their vote in the next local election. The reporting of direct expenses incurred by local officials and funds spent by local governments on association dues would help provide necessary transparency. Amending state law to remove the inadequacies in the lobbying registration process and the confusion regarding expenses would help reinstate individual citizens' authority over their local governments. Changes to the current disclosure system are necessary to provide the public full access to government operations.

**OPPONENTS
SAY:**

CSHB 1517 would impose unnecessary requirements on local governments and school boards. Many of the disclosures required by the bill already are authorized through the Public Information Act and other established reporting requirements in statute. Under the bill, local government employees such as health inspectors, human resources personnel, and maintenance engineers, who generally would never

approach the Legislature on behalf of their employers, would be subject to the additional reporting requirements.

It also is questionable whether a local government employee who exchanged pleasantries with a legislator while in the halls of the Capitol would have to report an unplanned discussion on the local drought because water bills always are pending in the Legislature. The bill's proposed disclosure system only would serve to discourage local government officials and employees and school board members from visiting their legislators during and out of session for fear that they might not accurately report their visit, leaving only those with deep pockets to be represented at the state level.

Local governments and school boards hire lobbyists to reduce the time they must spend away from their communities. When citizens elect their local officials and school board members, it is to represent the needs of the local community at all levels of government. With actions of the state Legislature often having a direct effect on how local governments and school boards meet the needs of local constituents, citizens should expect these officials to participate in the policy process. Because the legislative process can move quickly, many local governments and school boards feel it is necessary to have an on-the-ground presence in Austin to provide for timely input to legislators on the potential impact bills could have on their constituents. While ideally individual citizens personally would be voicing their concerns at the Capitol, these individuals often have full-time jobs and other obligations that do not give them time to monitor all the legislation that circulates through the Capitol.

OTHER
OPPONENTS
SAY:

CSHB 1517 would not go far enough. Taxpayers want a more efficient and accountable government, not a government that hires lobbyists that end up advocating against their interests. The bill should instead propose a strict ban on lobbying using taxpayer dollars.

Transparency and more detailed disclosure should not be limited to local governments and school boards. The bill should extend the reporting requirements to all sectors, public and private.

NOTES:

HB 1517 originally was reported favorably, as substituted, by the State Affairs Committee and set on the April 24 General Calendar and recommitted on a point of order. The bill was reconsidered in the State Affairs Committee and reported favorably as substituted on April 25.

Compared to the first committee substitute, the recommitted substitute removed requirements for registered lobbyists to report a short description of the specific issues lobbied on and the client's position for which the lobbyist was reimbursed, retained, or employed by a local government entity. It also eliminated the related requirement for the Texas Ethics Commission to adopt rules allowing for a listing of these issues in a lobbyist's registration. The recommitted substitute also removed language specifying how these reports could be amended and language specifying that the section was not subject to a criminal penalty

The recommitted substitute also removed requirements that local government entities report positions advocated for each expenditure made on legislative communications, and that they make readily available a financial statement describing total expenditures for lobbying and legislative communications on request of any person.

CSHB 1517 would cost \$82,000 in fiscal 2008-09. The Texas Ethics Commission estimates a cost of \$12,000 to modify the current registration system for registered lobbyists. Other costs include updating the website to add the sort feature at a cost of \$40,000 to program the search engine and \$23,500 in software and hardware expenses. It would cost \$65,500 in fiscal 2008 and \$16,500 thereafter to maintain the system.