

BILL ANALYSIS

Senate Research Center

H.B. 3207
By: Wolens (Armbrister)
State Affairs
5-16-97
Committee Report (Amended)

DIGEST

Currently, the Texas Ethics Commission is required to submit a report to the governor and legislature by December 31 of each even-numbered year. The report contains advisory opinions issued by the commission in the preceding two years, and commission recommendations for statutory changes. H.B. 3207 would correct technical errors in the Election Code and the Government Code and codify a commission opinion regarding conflicting provisions of the Election Code pertaining to fund raising by state judges.

PURPOSE

As proposed, H.B. 3207 outlines provisions and provides a civil penalty regarding the regulation of political contributions and expenditures and political advertising, the registration of lobbyists, personal financial disclosure by certain holders of and candidates for public office, restrictions on certain representation before a state agency by a member of the legislature, and the publication of summaries of opinions of the Texas Ethics Commission.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 251.004, Election Code, as follows:

Sec. 251.004. New heading: VENUE. Provides that venue for the recovery of delinquent civil penalties imposed by the Texas Ethics Commission under this title is in Travis County.

SECTION 2. Amends Section 252.0032, Election Code, to require a campaign treasurer appointment by a candidate to include the candidate's telephone number in addition to the information required by Section 252.002. Provides that a campaign treasurer appointment that is filed in a certain manner is not invalid because it fails to comply with Subsection (a)(2), rather than Subsection (a). Makes a conforming change.

SECTION 3. Amends Section 253.034, Election Code, to provide that this section does not apply to a political contribution made to or accepted by a holder of an office to which Subchapter F applies. Makes a conforming change.

SECTION 4. Amends Section 253.0341(e), Election Code, to redefine "legislative caucus" to include an entity established by or for a legislative caucus to conduct research, education, or any other caucus activity.

SECTION 5. Amends Section 254.036(b), Election Code, to set forth text to be included in an affidavit required to be accompanied by each report filed under this chapter.

SECTION 6. Amends Section 254.036, Election Code, by adding Subsections (e)-(g), to provide that a report filed under this chapter is considered to be under oath by the person required to file the report regardless of the absence of or defect in the affidavit of verification, including a signature. Provides that a person required to file a report under this chapter is subject to prosecution under

Chapter 37, Penal Code, regardless of the absence of or defect in the affidavit of verification. Provides that this section applies to a report that is filed electronically or otherwise.

SECTION 7. Amends Section 254.040, Election Code, as follows:

Sec. 254.040. New heading: **PRESERVATION OF REPORTS; RECORD OF INSPECTION**. Requires the commission, each time a person requests to inspect a report, to place in the file a statement of the person's name and address, whom the person represents, and the date of the request. Requires the commission to retain that statement in the file for one year after the date the requested report is filed. Provides that this subsection does not apply to a request to inspect a report by a member or employee of the commission acting on official business, or an individual acting on the individual's own behalf.

SECTION 8. Amend Section 255.006, Election Code, to set forth instances in which a person commits an offense. Sets forth instances in which a person represents that a candidate holds a public office the candidate does not hold, for purposes of this section. Makes conforming changes.

SECTION 9. Amends Section 255.007, Election Code, to set forth a notice required to be written on each political advertising sign. Provides that it is an exception to the application of Subsection (b) that the political advertising sign was printed or made before the effective date of the amendment to this section made by H.B. 3207, Acts of the 75th Legislature, Regular Session, 1997, and complied with Subsection (a) as it existed immediately before that date. Makes a conforming change.

SECTION 10. Amends Section 305.005(f), Government Code, to set forth information the registration is required to contain.

SECTION 11. Amends Section 572.027(b), Government Code, to provide that if the deadline under which a candidate files an application for a place on the ballot falls after, rather than not later than, the 35th day before, rather than after, the date of, rather than on which, the election in which the candidate is running, the candidate shall file the statement not later than the 5th day before the date of that election.

SECTION 12. Amends Section 572.030(c), Government Code, to require the copies to be mailed not later than the 15th day after the applicable, rather than filing, deadline for filing an application for a place on the ballot or a declaration of write-in candidacy for candidates required to file under Section 572.027(a), (b), or (c).

SECTION 13. Amends Section 572.052(a), Government Code, to provide that a member of the legislature may not, for compensation, represent another person before a state agency in the executive branch of state government unless the member discloses to the agency that the member is being compensated for the representation.

SECTION 14. Amends Sections 2002.011 and 2002.012, Government Code, as follows:

Sec. 2002.011. **TEXAS REGISTER**. Sets forth information to be contained in the Texas register.

Sec. 2002.012. **SUMMARIES OF OPINIONS AND REQUESTS FOR OPINIONS**. Requires the Texas Ethics Commission, rather than the State Ethics Advisory Commission, to prepare and forward to the secretary of state, certain information.

SECTION 15. Amends Chapter 159A, Local Government Code, as follows:

Sec. 159.001. New heading: **APPLICABILITY OF SUBCHAPTER**. Provides that this subchapter applies to a county with a population of 50,000, rather than 500,000, or more.

Sec. 159.002. **DEFINITIONS**. Redefines "county or district officer."

Sec. 159.003. New heading: **FINANCIAL STATEMENT REQUIRED**. Redesignated from

existing Section 159.004. Deletes text regarding determination of substantial interest. Requires the statement to be filed with the county clerk, rather than auditor, of the county in which the officer or candidate resides; and to comply with Sections 572.022 and 572.023, Government Code, rather than filed on the form provided by the county auditor and verified. Deletes existing Sections 159.005-159.007, regarding contents of financial statement, reporting categories, and determination of dependent child.

Sec. 159.004. New heading: FILING DATES; TIMELINESS OF FILING. Redesignated from existing Section 159.008. Sets forth requirements and provisions and deletes text regarding filing dates and timeliness of filing. Deletes existing Section 159.009, regarding filing dates for candidates. Prohibits the county auditor or county clerk from granting an extension to a candidate for office as a county or district officer, rather than for a person required to file under this section.

Sec. 159.005. PREPARATION OF FORMS. Sets forth requirements and provisions regarding the preparation of forms to be used for filing the financial statement.

Sec. 159.006. DUPLICATE STATEMENTS. Redesignated from existing Section 159.010. Outlines provisions regarding duplicate financial statements.

Sec. 159.007. New heading: PUBLIC ACCESS TO STATEMENTS. Redesignated from existing Section 159.013. Deletes text regarding the filing of a financial statement. Provides that Subsection (b) does not apply to a request to see a financial statement by the county auditor or an employee of the county auditor who is acting on official business or the county clerk or an employee of the county clerk who is acting on official business; in a county that does not have a county auditor. Deletes existing Sections 159.011 and 159.012 regarding timeliness of filing and duties of the county auditor. Makes conforming changes.

Sec. 159.008. CRIMINAL PENALTY. Redesignated from existing Section 159.014. Provides that a county or district officer or candidate commits an offense if the officer or candidate knowingly fails to file a statement as required by this subchapter. Makes conforming changes.

Sec. 159.009. VENUE. Redesignated from existing Section 159.015.

Sec. 159.010. CIVIL PENALTY. Redesignated from existing section 159.016. Sets forth persons a person who determines that a person required to file a financial statement under this subchapter has failed to do so is authorized to notify in writing. Requires the county attorney, district attorney, criminal district attorney, or local administrative judge, rather than the county auditor, to determine whether the person to whom the notice relates has failed to file a statement, rather than required to be filed under this subchapter is late, on receipt of a written notice under Subsection (a). Requires the county auditor, district attorney, criminal district attorney, or district judge, rather than auditor, to mail by certified mail a notice of the determination to the person filing the statement, rather than to the county attorney or the district or criminal district attorney. Provides that if the person filing the statement fails to file the statement before the 30th day after the person receives the notice under Subsection (b), the person is liable to the county for an amount not to exceed \$1,000, rather than \$100. Authorizes the commissioners court to appoint an attorney to collect the penalty if the person filing the statement is the criminal district attorney. Deletes text prohibiting to county attorney or the district or criminal district attorney from initiating suit for the penalty until a certain date. Makes conforming changes.

SECTION 16. Amends Section 159.033, Local Government Code, to authorize the commissioners court of a county with a population of less than 125,000 to adopt, by order, a financial disclosure reporting system for the county auditor. Authorizes the commissioners court of a county with a population of 125,000 or more to adopt, by order, a financial disclosure reporting system. Authorizes the commissioners court to restrict the reporting requirement to certain persons if reporting is required under Subsection (b).

SECTION 17. Amends Section 171.004, Local Government Code, by adding Subsection (d), to provide that a local public official is not required to file an affidavit under this section if the official has filed a financial statement under Chapter 159, but the official shall refrain from participation in the matter as provided by this section.

SECTION 18. Repealer: Section 159.031, Local Government Code (County covered by subchapter).

SECTION 19. Makes application of this Act prospective.

SECTION 20. Makes application Section 254.036, Election Code, as amended by this Act, prospective.

SECTION 21. Makes application of this Act prospective.

SECTION 22. Effective date: September 1, 1997.

SECTION 23. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Amendment 1.

Page 11, lines 19-21, strike Subdivision (2), and substitute with existing Subsection (2).

Page 23, lines 5 and 6, strike SECTION 17, and renumber subsequent SECTIONS of the bill appropriately.

Page 23, line 7, strike "(a)".

Page 23, lines 15-20, strike all of Subsection (b).

Amendment 2.

Page 23, line 3, add new SECTION 16 and renumber proposed SECTIONS appropriately.

Amendment 3.

Page 5, line 2, add new SECTION 7 and renumber existing proposed SECTIONS appropriately.