

BILL ANALYSIS

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S.B. 14
By: Taylor, Van et al.
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 14 proposes several ethics reforms designed to build the public's trust in their elected officials and governmental institutions. The bill includes four key pillars for ethics reform. The first pillar prohibits an elected official convicted of abuse of office (e.g., bribery, extortion, or conspiracy) from receiving a publicly-funded pension check while serving their sentence for that crime. Interested parties observe that just as corrupt elected officials should forfeit their pension while in prison, they should also be removed from office. Towards that end, S.B. 14 requires that members of the legislature, the governor, and statewide elected officials be ejected from office once they are finally convicted of a felony.

S.B. 14's second pillar of ethics reform involves broader disclosure of governmental contracts and legal referral fees. Here, the bill requires that elected officials disclose contracts for goods or services that they or their spouse or dependent child have with governmental entities. Members of the legislature who provide bond counsel services to a public issuer must disclose specific information regarding each issuance, including the amount of the bond issuance, the name of the issuer, and the fees paid to the member or their firm. S.B. 14 further requires that state officers disclose legal referral fees.

The third pillar of ethics reform within S.B. 14 involves shining a brighter light on lobbyist spending on elected officials. Currently, a registered lobbyist must report their spending on transportation, lodging, food and drink, or entertainment for a member of the legislative or executive branch if that expenditure exceeds 60 percent of the legislative per diem (currently \$190). S.B. 14 cuts that reporting threshold in half from 60 to 30 percent of the legislative per diem. The bill also requires that lobbyists disclose their spending on the immediate family members of legislative or executive branch members.

As proposed, S.B. 14 amends current law relating to the ethics of public officers and related requirements; creating criminal offenses.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the governing body of a public retirement system in SECTION 1.01 (Section 810.002, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. PENSION REVOCATION; LOSS OF LEGISLATIVE OFFICE

SECTION 1.01. Amends Chapter 810, Government Code, by adding Section 810.002, as follows:

Sec. 810.002. CERTAIN ELECTED OFFICIALS INELIGIBLE FOR RETIREMENT ANNUITY. (a) Defines "governing body of a public retirement system," "public retirement system," and "qualifying felony."

(b) Provides that this section applies only to a person who is a member of the elected class of the Employees Retirement System of Texas (ERS) as described by Section 812.002(2) (relating to who is eligible for membership in the elected

class of the retirement system) or otherwise eligible for membership in a public retirement system wholly or partly because the person held an elected office.

(c) Prohibits a member of a public retirement system, except as provided by Subsection (d), from being eligible to receive a service retirement annuity under the retirement system if the member is convicted of a qualifying felony committed while in office and arising directly from the official duties of that elected office.

(d) Requires the retirement system to suspend payments of an annuity to a person ineligible to receive the annuity. Provides that a person whose conviction is overturned on appeal or who meets the requirements for innocence under Section 103.001(a)(2) (relating to entitlement of compensation to a person previously accused of a crime), Civil Practice and Remedies Code, is entitled to receive an amount equal to the accrued total of payments and interest earned on the payments withheld during the suspension period and may resume receipt of annuity payments on payment to the retirement system of an amount equal to the contributions refunded to the person.

(e) Provides that a member who is ineligible to receive a service retirement annuity is entitled to a refund of the member's service retirement annuity contributions, including interest earned on those contributions.

(f) Provides that benefits payable to an alternative payee under Chapter 804 (Domestic Relations Orders and Spousal Consent) who is recognized by a domestic relations order established before January 8, 2019, are not affected by a member's ineligibility to receive a service retirement annuity.

(g) Authorizes a court, on conviction of a member for a qualifying felony, to, in the interest of justice and in the same manner as in a divorce proceeding, award half of the service retirement annuity forfeited by the member as a separate property of an innocent spouse if the annuity is partitioned or exchanged by written agreement of the spouses as provided by Subchapter B (Marital Property Agreement), Chapter 4 (Premarital and Marital Property Agreements), Family Code. Prohibits the amount awarded to the innocent spouse from being converted to community property.

(h) Provides that ineligibility for a service retirement annuity under this section does not impair a person's right to any other retirement benefit for which the person is eligible.

(i) Requires the governing body of a public retirement system to adopt rules and procedures to implement this section.

SECTION 1.02. Amends Chapter 601, Government Code, by adding Section 601.011, as follows:

Sec. 601.011. VACANCY ON FINAL FELONY CONVICTION OF MEMBER OF LEGISLATURE, GOVERNOR, OR STATE ELECTED OFFICIAL. Provides that a member of the legislature, the governor, or a state elected official convicted of a felony vacates the member's, governor's, or official's office on the date the conviction becomes final.

ARTICLE 2. DISCLOSURE REQUIREMENTS

SECTION 2.01. Amends Section 572.023, Government Code, by amending Subsection (b) and adding Subsections (e) and (f), as follows:

(b) Sets forth the content of the account of financial activity, including identification of certain written contracts and certain information regarding bond issuances for which a member of the legislature served as bond counsel.

(e) Defines "governmental entity."

(f) Provides that Subsection (b)(15) does not require the disclosure of an employment contract between a school district or open-enrollment charter school and an employee of the district or school.

SECTION 2.02. Amends Section 572.0252, Government Code, as follows:

Sec. 572.0252. New heading: INFORMATION ABOUT LEGAL REFERRALS. Requires a state officer who is an attorney to report on the financial statement making or receiving any referral for compensation for legal services; the date the referral is made or received; the style of the case referred, if applicable; the percentage of the legal fee paid or received that was agreed to between the parties to the referral as the referral fee, or if the referral fee is not determined as a percentage of the legal fee, the agreed amount of the fee paid or received. Deletes existing text requiring that a state officer who is an attorney report the category of the amount of any fee accepted for making a referral for legal services.

ARTICLE 3. REPORTING OF LOBBYIST EXPENDITURES

SECTION 3.01. Amends Section 305.0061, Government Code, by amending Subsections (a), (b), and (c) and adding Subsection (h), as follows:

(a) Requires the registrant, if a registrant or a person on the registrant's behalf and with the registrant's consent or ratification makes expenditures that exceed 30, rather than 60, percent of the amount of the legislative per diem in a day for transportation or lodging for a member of the legislative or executive branch or for the immediate family of a member of the legislative or executive branch, to also state certain information on the report filed under Section 305.006 (Activities Report).

(b) Makes conforming changes.

(c) Makes conforming changes.

(h) Requires each registrant, if more than one registrant or persons acting on behalf of more than one registrant and with each registrant's consent or ratification collaborate to make an expenditure described by Section 305.006(b) (relating to the requirement that a report contain the total expenditures made to communicate with a member of the legislative or executive branch to influence legislation or administrative action) together, to report the total value of the shared expenditure as required, if the total value of the shared expenditure exceeds the amount provided under Subsection (a), (b), or (c).

SECTION 3.02. Reenacts Section 305.024(a), Government Code, as amended by Chapters 92 (S.B. 1011) and 206 (H.B. 1508), Acts of the 79th Legislature, Regular Session, 2005, and amends it by redesignating Paragraph (A) as Subparagraph (i) and Paragraph (B) as Subparagraph (ii).

SECTION 3.03. Amends Section 305.024, Government Code, by adding Subsection (d), to require the registrant to notify a member of the legislative or executive branch when the registrant has reported, as to that member of the legislative or executive branch, expenditures that, in the aggregate, equal the monetary limits for expenditures under Subsection (a)(2).

SECTION 3.04. Amends Section 305.031(a), Government Code, by including Section 305.024(d) as an exception to the provision that a person commits an offense if the person intentionally or knowingly violates a provision of this chapter.

SECTION 3.05. Repealer: Section 305.024(c) (relating to the total value of a joint expenditure), Government Code.

ARTICLE 4. ELECTED OFFICIALS PROHIBITED FROM LOBBYING

SECTION 4.01. Amends Section 141.001, Election Code, by amending Subsection (a) and adding Subsections (e) and (f), as follows:

(a) Includes the requirement that for a person to be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, the person not be required to be registered as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code. Makes a nonsubstantive change.

(e) Provides that except as restricted by Section 7.103(c), Education Code, if applicable, Subsection (a)(7) does not apply to an office of a political subdivision with a population of 150,000 or less, other than the office of presiding officer of the governing body of the political subdivision, provided that the officeholder does not receive a salary or wage for that office or the office of the presiding officer of the governing body of a political subdivision with a population of 50,000 or less, provided that the presiding officer does not receive a salary or wage for that office.

(f) Provides that for purposes of Subsection (e), a presiding officer or other officeholder is not considered to have received a salary or wage if the officeholder refuses to accept a salary or wage offered or budgeted for that office.

SECTION 4.02. Amends Subchapter A, Chapter 305, Government Code, by adding Section 305.0031, as follows:

Sec. 305.0031. CERTAIN ELECTED OFFICERS MAY NOT REGISTER. (a) Prohibits a member of Congress, a member of the legislature, or a holder of a statewide office from registering under this chapter.

(b) Provides that a registration under this chapter expires on the date a person takes office as a member of Congress, a member of the legislature, or a holder of a statewide office.

SECTION 4.03. Amends Chapter 601, Government Code, by adding Section 601.010, as follows:

Sec. 601.010. ELECTED OFFICER MAY NOT BE REGISTERED LOBBYIST. (a) Prohibits a person from qualifying for a public elective office if the person is required to be registered as a lobbyist under Chapter 305.

(b) Provides that except as restricted by Section 7.103(c), Education Code, if applicable, Subsection (a) does not apply to an office for which the federal or state constitution prescribes exclusive qualification requirements, an office of a political subdivision with a population of 150,000 or less, other than the office of presiding officer of the governing body of the political subdivision, provided that the officeholder does not receive a salary or wage for that office, or the office of the presiding officer of the governing body of a political subdivision with a population of 50,000 or less, provided that the presiding officer does not receive salary or wage for that office.

(c) Provides that for purposes of Subsection (b), a presiding officer or other officeholder is not considered to have received a salary or wage if the officeholder refuses to accept a salary or wage offered or budgeted for that office.

ARTICLE 5. CLOSING REVOLVING DOOR

SECTION 5.01. Amends Subchapter C, Chapter 572, Government Code, by adding Section 572.062, as follows:

Sec. 572.062. FORMER LEGISLATOR: LOBBYING RESTRICTED; CRIMINAL OFFENSE. (a) Defines "administrative action," "communicates directly with," "legislation," "member of the executive branch," "member of the legislative branch," and "legislative cycle."

(b) Prohibits a former member of the legislature, except as provided by Subsection (c), from engaging in activities that require registration under Chapter 305 before the end of the legislative cycle following the legislative cycle in which the former member last served as a member of the legislature.

(c) Provides that Subsection (b) does not apply to a former member of the legislature who does not receive compensation other than reimbursement for actual expenses for communicating directly with a member of the legislative or executive branch to influence legislation or administrative action.

(d) Provides that a former member of the legislature who violates this section commits an offense. Provides that an offense under this section is a Class A misdemeanor.

ARTICLE 6. PROHIBITION ON CERTAIN USES OF CAMPAIGN ACCOUNT

SECTION 6.01. Amends Subchapter B, Chapter 305, Government Code, by adding Section 305.029, as follows:

Sec. 305.029. EXPENDITURES FROM POLITICAL CONTRIBUTIONS RESTRICTED. (a) Defines "political contribution."

(b) Prohibits a person required to register under this chapter, notwithstanding any other provision of law, before the second anniversary of the date the last term for which the person was elected ends, from knowingly making or authorizing an expenditure under this chapter from political contributions accepted by the person as a candidate or officeholder.

ARTICLE 7. TRANSITION; EFFECTIVE DATE

SECTION 7.01. (a) Makes application of Section 141.001(a), Election Code, as amended by this Act, and Section 601.010, Government Code, as added by this Act, prospective.

(b) Makes application of Sections 305.0061, 305.024, and 305.031, Government Code, as amended by this Act, prospective.

(c) Provides that Section 305.029, Government Code, as added by this Act, applies to a political contribution, political expenditure, or lobbying expenditure made on or after January 18, 2019, from funds accepted as a political contribution, regardless of the date the funds were accepted.

(d) Makes application of Subchapter B, Chapter 572, Government Code, prospective to January 8, 2019.

(e) Provides that Section 572.062, Government Code, applies only to a member of the legislature who ceases to be a member on or after the effective date of this Act.

(f) Makes application of Section 810.002, Government Code, prospective.

SECTION 7.02. Effective date: January 8, 2019.

