

SUBJECT: Limiting the use of public money to contract with a lobbyist

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 8 ayes — Paddie, Harless, Hunter, P. King, Metcalf, Shaheen, Slawson, Smithee

5 nays — Hernandez, Deshotel, Howard, Lucio, Raymond

SENATE VOTE: On final passage, April 15 — 17-13 (Alvarado, Blanco, Eckhardt, Gutierrez, Hinojosa, Johnson, Menéndez, Miles, Powell, Seliger, West, Whitmire, Zaffirini)

WITNESSES: No public hearing.

DIGEST: CSSB 10 would prohibit certain political subdivisions or other entities from spending public money or providing other compensation to contract with a registered lobbyist to communicate directly with members of the legislative branch to influence pending legislation. The bill would except expenditures:

- authorized by a majority vote of the governing board of the political subdivision or entity in an open meeting; and
- voted on by the governing body as a stand-alone item on the agenda at the meeting.

The bill would apply only to a political subdivision that imposed a tax; a political subdivision or special district that had the authority to issue bonds; a regional mobility authority; a transit authority; a regional tollway authority; a special purpose district; a public institution of higher education; a community college district; a publicly owned utility; and river authority or water supply corporation.

A political subdivision or entity that made an expenditure as authorized above to contract with a lobbyist would have to publish on its website:

- the amount of money authorized for the contract;
- the name of the person;
- a copy of the contract;
- the amount of money, if any, spent by the entity for membership fees or dues to a nonprofit state association or organization of similarly situated entities that contracted with lobbyists; and
- a copy of the entity's current legislative agenda or resolution.

A lobbyist that contracted with an entity in accordance with the bill could not communicate directly with a member of the legislative branch on behalf of the entity regarding pending legislation that would amend certain laws on the calculation of property tax rates. A political subdivision or other entity could not provide reimbursement to a lobbyist for an expenditure made for food, beverages, or entertainment.

If a political subdivision or other entity did not comply with the requirements of this bill, a resident of or person receiving services from the entity could file a sworn complaint with the Texas Ethics Commission against the entity.

The bill would not prevent an officer or employee of a political subdivision or other entity from:

- providing information for a member of the legislative branch;
- appearing before a legislative committee; or
- communicating directly with one or more members of the legislative branch to influence pending legislation.

The bill would specify that a person did not have to register as a lobbyist if the person had established an attorney-client relationship with a political subdivision to provide legal services and was entitled to receive compensation, reimbursement, or expenses under an agreement under which the person was retained or employed by the political subdivision.

The bill would repeal Government Code sec. 2254.030, which governs required disclosure and itemization of certain expenditures relating to

lobbying activities.

The bill would take effect September 1, 2021, and apply only to a contract entered into on or after that date.

**SUPPORTERS
SAY:**

CSSB 10 would bring more transparency to the practice of local governments using taxpayer money to contract with lobbyists at the Texas Capitol. Local governments use millions of dollars of taxpayer money each year for lobbying, diverting those funds from important community services. Those payments can be made without much transparency and may even be used to advocate for bills that would increase the tax burden on local residents.

Contracted lobbyists often are used to advocate for legislation that would increase spending, give local governments more taxing authority, and increase regulatory power, which means taxpayer money can be spent to lobby on issues that would harm taxpayers against their wishes and without their knowledge. The bill would prohibit political subdivisions — including cities, counties, special districts, transportation authorities, and other governmental entities — from using public funds to contract with registered lobbyists, unless it had been approved at a public hearing, to better support local taxpayers. In addition, any lobbyist with whom a local government had contracted would be prohibited from advocating for legislation regarding property tax rates, ensuring that local governments could not spend taxpayer money to attempt to raise tax rates.

CSSB 10 would ensure that taxpayer dollars were not used against taxpayer wishes but still would allow local governments to contract with lobbyists as long as it had been approved in an open meeting. The bill would promote transparency measures, such as posting the lobbyist contract online, as well as good governance practices, such as prohibiting local funds from being used to pay for a lobbyist's food, drink, or entertainment.

The bill would not prevent an employee or officer of a local government from lobbying the Legislature directly for any issue, nor would it prevent

local governments from joining an organization or association that represented similar governments. Only contracted lobbyists would be prevented from lobbying the Legislature on property taxes.

CRITICS
SAY:

CSSB 10 would prevent local governments from meaningfully participating in state policymaking by restricting cities, counties, special districts, and other governmental entities from contracting with a lobbyist to advocate on certain issues. This could limit local control and have a chilling effect on local engagement at the Legislature.

CSSB 10 would prohibit local governments from advocating for legislation on property tax calculations, effectively eliminating a locality's ability to represent its residents. Property tax bills are of critical importance since these revenues help fund local services, and often it is necessary to contract with tax experts to better advocate for these issues. The bill would create an unfair playing field because business advocates and other special interest organizations still could hire an unlimited number of lobbyists. If local governments' ability to hire lobbyists was limited, they could be prevented from fighting future unfunded mandates or other bills that could cost taxpayers money.

In addition, local governments do not advocate against the interests of their taxpayers. They hold transparent open meetings to gain community input, are subject to open records, and otherwise engage with residents on local issues. If government officials advocated for policies that residents did not support, they could be voted out of office, so local residents ultimately have the ability to set the legislative agenda. Lobbyists are contracted because local government employees and officials have full-time jobs responding to needs in their communities, so they often do not have additional time or money to travel directly to the Texas Capitol. Instead, they rely on contracted lobbyists to protect the interests of residents just as the state advocates its interests in Washington D.C.

OTHER
CRITICS
SAY:

CSSB 10 would not go far enough to prevent taxpayer money from being used to lobby the Legislature. The bill includes a loophole for lawyers by specifying that a person would not have to register as a lobbyist if the

person had an attorney-client relationship with a political subdivision. This would mean that the good governance measures in the rest of the bill would not apply to lobbyists who were lawyers, negating any improvements in the current system. This provision would actually further harm the system by incentivizing more professional lawyers to participate in lobbying activities.