



common cause REPORT FROM WASHINGTON

EXTRA EDITION

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Candidates for Congress in North Carolina, Nebraska, Florida, Texas, Mississippi & Michigan

"Open and Accountable Government," the enclosed special edition of Common Cause's Report from Washington, discusses issues that Common Cause will raise with all candidates for Congress this fall.

One good way to raise these issues is through letters to the candidates -- see Speaking Out, on page 3 of the special report.

Here is the list of names and addresses of the candidates for Congress in your state. Please write this week to each candidate for the House of Representatives from your Congressional District, and to the candidates for U.S. Senator, if your state has a Senate race this fall.

Tell them in your own words why these issues of open and accountable government are important to you. Ask them to speak out for these issues, plainly and specifically, in their campaigns.

Letters really count. Please send yours this week.

NORTH CAROLINA

Robert Morgan SEN
Lillington, NC 27546

William E. Stevens SEN
Hilton Inn
Raleigh, NC 27605

Walter B. Jones CD 01

Harry McMullan CD 01

L. H. Fountain CD 02

David N. Henderson CD 03
Wallace, NC 28466

Ike F. Andrews CD 04

Ward Furrington CD 04

Wilmer Mizell CD 05

Stephen L. Neal CD 05

Richardson Preyer CD 06

R. S. (Steve) Ritchie CD 06

Charles Rose III CD 07

Earl B. Ruth CD 08

W. G. (Bill) Hefner CD 08

James G. Martin CD 09

Harold Milton Short CD 09

James T. (Jim) Broyhill CD 10
Lenoir, NC 28645

Jack L. Rhyne CD 10

Roy A. Taylor CD 11

Albert F. (Doc) Gilman CD 11

NEBRASKA

Charles Thone CD 01

Hess Dyas CD 01

John Y. McCollister CD 02

Daniel C. Lynch CD 02

Wayne W. Ziebarth CD 03

Virginia Smith CD 03

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The Governors Speak Out on Ethics in Government

At the urging of Common Cause the nation's Governors, meeting in Seattle at the National Governors' Conference, unanimously adopted on June 5, 1974, the following recommendations for action at all levels of government. Common Cause endorses these recommendations. They form the core of a program all candidates for office should be asked to support as they go before the voters this fall.

"In 1974, the first obligation of every elected official in this nation is to lead the fight to restore citizen confidence in government.

"As Governors, we are proud of the fact that in the past year almost 40 states have acted to reduce the influence of money and secrecy in their policy processes. Building on this foundation, we now urge and promote action at all levels of government to ensure:

1. Loophole-free campaign finance regulations that provide for a limit on campaign contributions and expenditures and their complete and timely disclosure; pilot projects to determine the feasibility of public campaign financing; independent enforcement procedures, with strong statutory penalties.
2. Stringent ethical codes for government officials, which clearly define conflict of interest; assure appropriate and timely disclosure of personal finances by public officials and candidates; and set up an independent enforcement procedure.
3. Open meetings of all public decision-making bodies, except in limited, specific circumstances; penalties for officials who do not comply; and advance public notice and written minutes.
4. Registration and full disclosure of lobbying activities by all special interest groups.

"As Governors, as elected officials, and politicians, we reaffirm our faith in the capacity of our democratic system to reform and renew itself in a time of crisis, and to maintain the confidence of the governed as well as the consent of the governed. We pledge our most vigorous efforts toward that end."

The Action Plan

We call it Open Up the System.

The Governors of the states, as elected officials, call it restoring citizen confidence in government.

No matter the name—what's remarkable is that a national citizens movement and the highest state officials in the land agree on what's essential for the country: open and accountable government.

Does Congress agree? Not so far. Congress—especially the House of Representatives—has been dragging its feet on political reforms. And that's where we, as Common Cause members, come in.

All 435 seats in the House of Representatives are up for election this fall. So are 34 seats in the U.S. Senate. Common Cause members, through Campaign '74 activities, will inject issues of open and accountable government into each of the 469 federal elections. Campaign '74 is a nonpartisan campaign, an issues campaign similar to the lobbying we conduct when legislatures are in session.

An ambitious program? Yes—but one based on our successful issues campaign in the 1972 elections, when Common Cause was only two years old. Our Open Up the System campaign of 1972 proved that Common Cause could help **define the fundamental issues** facing the country, question and **put the candidates on record** on those issues and then—and this is the heart of the campaign—**follow through** by insisting that winning candidates fulfill their commitments.

What Every Member Can Do

Campaign '74 has many parts, and a role for every Common Cause member. The program includes monitoring campaign finance reports, publicizing Common Cause's issues campaign with citizens, the press and broadcasters, and reporting to constituents what goes on inside Congress.

Open Up the System is the keystone of Campaign '74, for it will reach every Congressional and state legislative candidate, raising fundamental issues of government on which candidates should speak out.

We have a job as Common Cause members to make sure the candidates do address these issues. And the first thing to do is convince them that their constituents care about opening up the system.

Speaking Out

- First, become familiar with the issues outlined here.
- Second, write a letter to each candidate for Congress in your area, saying in your own words why these issues of open and accountable gov-

ernment are important to you as a voter. The names and addresses of candidates in your state accompany this report.

Please write your letters right away. They will pique the candidates' interest and start them thinking about our issues. Then small groups of Common Cause members will follow up by interviewing the candidates to get their answers on a questionnaire.

You need not ask questions of the candidates you write to—they are busy campaigning and have little time to reply to letters. Their eyes and ears are open for issues that concern their constituents, and letters are a good way to catch their attention. The mail can influence the issues candidates talk about and the promises they make to the voters.

- Third, raise these issues in letters to the editors of your local papers, particularly the small dailies and the weeklies that don't cover political issues in depth.

- Fourth, when you attend candidates' meetings and panel discussions, or if there's a question period on the air, raise Open Up the System issues and ask for clear answers. Questions you might ask appear at the end of each chapter in this report.

Later on, the candidates will be interviewed by Common Cause members who will put specific questions to them. These, we hope, will produce commitments on which we can follow through when the elections are over.

Our first and most important job is to make Open Up the System issues a key part of every election campaign—visible and important to every citizen.

Then vague promises of reform won't be enough. The voters will expect results. The newly elected legislators won't be able to waltz on promises made. Their own constituents will demand effective action—and self-government will be back on the track.

A new President has taken office, prescribing openness and honesty for his Administration. We believe our Open Up the System issues can help him accomplish that by providing the meat and bones for the healthy governmental system he seeks.

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Clean Elections

What Is Needed

To end the capacity of money to buy elections and to help restore competition to American politics, Common Cause will continue in 1975 to work for a mixed system of private and public financing for Congressional elections.

Now that major campaign financing bills have passed both the House and Senate, members of Congress are on record on the major provisions needed to clean up elections—a mixed system of public and private funding for Presidential and Congressional elections, creation of an independent enforcement body, limits on contributions, and reasonable spending limits. Many of these features were approved by both houses. A noteworthy exception, however, was the refusal by a majority of the members of the House of Representatives to accept even partial public funding of Congressional races despite approving a comprehensive package of public financing for Presidential races.

This fall, therefore, Common Cause will set out to gain commitments from all candidates for Congress—incumbents and challengers alike—to support legislation in the next Congress creating a matching system of private and public funding for Congressional elections. The public money for this system would come from voluntary dollars checked off by citizens on their tax returns.

Please write to the Congressional candidates in your area and urge them to speak out in behalf of Congressional public financing.

The Problem

Election campaigns are expensive, and getting more so. The cost of materials, postage, media time, office rent, and staff salaries is moving inexorably higher. Reasonable sums of money must be spent in campaigns if candidates are to communicate their views and if we are to have a real system of competitive politics.

Where can candidates get the money they need to run for office? Seldom from a broad base of contributors, without a mixed campaign finance system. More than 90% of the money given in past campaigns has come from less than 1% of the population, in large part from wealthy individuals and special interest contributors. Of course there are many big donors who expect no favors and many honest politicians who would not favor a big giver. But it is universally understood that a great number of political contributions have been made to acquire influence.

Because the present system of campaign financing has depended so heavily on large special interest contributors, much of the public believes these large contributors alone shoulder the burden of financing our political campaigns. Instead, of course, it is really the American taxpayer who bears this burden. It shows up in the increased costs of milk and the high costs of gasoline and the increases in our tax payments. As Senator Russell Long, chairman of the Finance Committee, once said, campaign gifts are bread cast upon the waters to be returned a thousandfold. What the big donor hands over in campaign gifts, he gets back many times over in government preferences and favors.

Citizens might imagine that, having lived through two years of monumental scandals involving old-style influence peddling, the special interests have grown cautious in buying political favors. No such luck. Statistics show that, as of June 10, 1974, registered special interest groups already had available for the 1974 Congressional races almost twice as much money as these same groups reported spending in the 1972 Congressional campaigns.

Another defect of the present system is that most campaign contributions go to incumbents. A Common Cause study of every House and Senate race in 1972 showed that incumbents, regardless of party, received twice as much money as did their opponents. This tremendous imbalance is hardly surprising—money flows to where power resides—but it is so lopsided that it prevents us from having a truly competitive electoral system.

The Solution

When we look at the campaign financing system for Congressional races, even under the law passed this year by Congress—the rising costs, the narrow base of contributors and available funds, the central role and special treatment of big givers and interest groups, and the substantial financial edge of incumbents—it becomes clear why a mixed system of public financing is needed to bring about a cleaner and more competitive electoral system. As the Senate Rules Committee observed in a 1974 report on campaign finance legislation:

"The only way in which Congress can eliminate reliance on large private contributions and still ensure adequate presentation to the electorate of opposing viewpoints of competing candidates is through comprehensive public financing."

Congress has followed this advice as far as Presidential races are concerned—it's now time to end the double-standard approach and finance Congressional races in a similar manner. Because public financing would help produce adequately financed challengers, incumbents are loath to vote

against their self-interest. A double standard was demonstrated in August when 87 House members voted in favor of the matching concept for Presidential races and then switched to vote against the matching concept for their own races.

Common Cause members should point out to candidates that enactment by Congress of contributions and spending limits for Congressional races does not eliminate the need for the matching system.

First of all, even under these limits, interest groups can still give very large amounts to a Congressional candidate. Secondly, the limits do nothing to eliminate the contribution imbalance that favors incumbents, while most challengers do not have enough funds to reach most voters with their views. Third, the limits do not provide any incentive for people to give small contributions nor for candidates to start relying on them as an alternative to larger contributions.

The mixed system of private and public financing encourages candidates to seek, and persons to give, small private contributions. It provides an alternative source of funding for all candidates—incumbents and challengers alike.

Both houses of Congress recognized the wisdom of this approach when they adopted a combined system of public and private financing for Presidential primaries. But the House, unlike the Senate, rejected the concept for Congressional races when it defeated the Anderson-Udall-Conable-Foley Amendment, 228-187.

The amendment, nevertheless, received strong bipartisan backing, with support from more than 40% of the Republicans and almost 50% of the Democrats who voted. Our job now is to build upon this strong base of support by gaining sufficient commitments during our fall Open Up the System program to have a clear majority on record in support of Congressional public financing when the next Congress convenes.

Questions to Ask

When you attend candidates' meetings and talk shows, you might want to ask Congressional candidates these questions:

Will you support legislation creating a mixed campaign finance system of small private contributions and limited federal funds

1. for general elections to Congress?
2. for primary elections for nominations to Congress?

Spotlighting Lobbyists

What Is Needed

Lobbying is a right of all citizens, guaranteed by the U.S. Constitution. But it should operate in the open. Congress recognized the need for disclosure when it enacted the Federal Regulation of Lobbying Act of 1946, but the law has so many loopholes, and has gone unenforced for so many years, that the great bulk of lobbying activities and money spent on lobbying is not disclosed to the public.

Please write to the candidates for Congress in your area and urge them, if elected, to work for a strengthened lobby disclosure law. Tell them there is need not only to cover lobbying of legislative actions but also lobbying of Executive Branch officials.

The Problem

The secret meetings between ITT executives and high Administration officials in 1971 illustrate the problem. In an effort to stop a government antitrust suit against the corporation, ITT officers went right to the top of several Executive Branch offices, including the White House. For example, Edward Gerrity, ITT senior vice president, had lunch with Vice President Agnew on the same day that ITT president Harold Geneen met with Presidential assistants John Ehrlichman and Charles Colson. These meetings reportedly focused on the need to stop the Justice Department's antitrust chief, Richard McLaren, from moving ahead with the suit.

Geneen also had what he later called a "very friendly session" with Attorney General John Mitchell, who promised to talk to McLaren about the case. And Geneen met with Secretary of the Treasury John Connally to try to get help in delaying the court proceedings against ITT. These private sessions were coupled with an ITT pledge of up to \$400,000 to help finance the Republican Convention, and in July 1971 the Justice Department dropped its appeal and settled the case.

One of the worst aspects of this episode was the secrecy which made it so easy for ITT and the Executive Branch officials involved. ITT's officers had direct access to top government officials, yet the fact of their meetings and the subjects discussed remained highly secret for over a year.

This sort of secrecy characterizes most lobbying campaigns. Certainly not all lobbying involves the high-level deals exhibited in the ITT case, and lobbyists often play a valuable and legitimate role in the political process. Yet the secrecy is almost universal, and therefore lobbying has become identified with under-the-table deals, secret pay-offs, and slick con-jobs.

Unfortunately, this low reputation too often is well deserved. Many

special interest lobbies—through campaign contributions, favors, and immense lobbying budgets—now exercise a far-reaching and often unsavory influence on national policy. And there is virtually no disclosure of what these lobbies do, of how much they spend, or of who is financing their activities.

The Present Law

Information about the receipts and expenditures of lobbyists is supposed to be provided by the 1946 lobby law. But this law has been almost totally useless. It applies only to lobbying of Congress, although some of the most important lobbying today is practiced on executive agencies and departments.

The scant information which lobbyists do report is often preposterous. For example, the National Association of Manufacturers spends enormous sums mobilizing grass-root pressure on Congress from its business members. NAM's 1972 filing with IRS (Form 990) indicates that over \$2.5 million was spent that year on numerous items—staff, research, printings, mailings, telegraph, and so forth—related to this kind of lobbying. Yet the organization does not even file a lobbying report. (On July 25, 1974, Common Cause sued the NAM for failing to comply with the lobby law.)

Ingredients of Reform

Common Cause believes that many of the abuses associated with lobbying can be traced to the secrecy which hides the activities of lobbyists. The solution is not to prohibit lobbying practices, but to require full disclosure. To accomplish this a new lobby disclosure law is needed with the following ingredients:

1. A broad definition of lobbying is essential. It should cover every case where more than a minimum amount is spent by individuals and organizations to influence legislative or executive decisions. It should cover those who lobby directly, solicit others to lobby, or employ lobbyists to act in their behalf. The minimum expenditure figure would exempt individual citizens who are simply exercising their "right to petition" government officials on matters concerning them.

It is important that the legislation apply to those who lobby as a part of their regular job, even though they are not specifically hired as lobbyists.

2. Lobbying of the Executive Branch should be covered. The fact that present law applies only to lobbying of Congress is a glaring inadequacy—some of the most effective and secretive lobbying today involves personal contacts by corporate or union chiefs and special interest lobbyists with officials in executive departments and agencies.

If there is to be a really effective disclosure system, officials in policy-making positions should also be required to log communications from lobbyists. This can be done quite simply by making brief summaries of the communications available in a public record. Without logging by officials, the reports filed by lobbyists on their activities will not tell the full story of a lobbying campaign.

3. Comprehensive disclosure requirements should require lobbyists to report, among other matters, the source and amount of their income, itemized expenditures, the name of officials they have contacted, the actions they have tried to influence, and what they have given or loaned to public officials in money, services or other favors.

This is not a difficult task, and several organizations, including Common Cause, already do most of it.

4. Strong enforcement provisions are essential, and notably lacking in the present law.

Challenge from the States

The magnitude of special interest lobbying in the states has led to the adoption of numerous lobbying disclosure laws. Twelve states have enacted new lobbying laws in the last 18 months. The strictest are those of California, Texas, and Massachusetts.

The California Political Reform Act of 1974 requires lobbyists to register with an independent enforcement commission and submit monthly expenditure reports. Lobbyists are prohibited from making political contributions and are limited to spending not more than \$10 a month on any public official.

The 1973 Texas law gives citizens standing to sue to enforce the law. The Massachusetts law requires reports from lobbyists who attempt to influence certain Executive Branch decisions.

Meanwhile, the U.S. Congress has not only failed to act in this area, it has failed to give new lobby disclosure legislation any serious consideration even though several good bills have been introduced.

Question to Ask

When you attend candidates' meetings and talk shows, here's a question you might ask: Will you vote for legislation requiring comprehensive public disclosure of lobbying activities directed at both Legislative and Executive Branch decisions?

Removing Conflicts of Interest

What Is Needed

The steady decline of confidence in government leaders stems largely from the public's perception that many politicians lack the kind of ethical integrity needed for dedicated public service. For example, a Harris Poll last May showed that 76% of those interviewed agreed that "too many government leaders are just out for their own personal and financial gain." Common Cause believes that one important way for political leaders to regain the public's trust and respect is to periodically disclose their financial holdings and activities and to terminate potential conflicts of interest.

Write to your area's candidates for House and Senate and ask them to support a law requiring public disclosure annually of the financial interests of members of Congress and professional employees and officers of Congress and the Executive Branch. Also urge your candidates, if elected, to give up law practices, financial directorships and other positions that might conflict with their duties to the public.

The Problem

Public officials sometimes have a personal financial interest in the very matters upon which they formulate government policy. Such conflicts of interest exist, for example, when Senators who have substantial investments in the oil industry vote on the oil depletion allowance. They exist when members of the House Banking and Currency Committee are directors of banks or other financial institutions. They exist when Interstate Commerce Commissioners have holdings in shipping firms, and when officials in the Federal Energy Administration know that decisions favorable to oil companies could bring them high-paying jobs in the industry once they leave government service.

Congress and the Executive Branch have grossly inadequate rules for financial disclosure. Officials of both branches are required to report certain financial holdings, but *almost none of this information is made public*. Consequently, citizens are unable to hold their officials accountable for conflicts of interest.

It is right to hold public officials, as servants of the public, to "glass pocket" standards that would not be appropriate for private citizens. Members of Congress allocate huge amounts of public funds, and Executive Branch officials make policy decisions that directly affect the national economy. The public has a right to know that they are free of financial ties that might influence their decisions.

These officials nevertheless retain legitimate rights to privacy. Common Cause believes it is not necessary that their income tax returns be made public routinely. Information about their charitable contributions or alimony payments, for example, is not relevant to the public's need to know.

Common Cause Proposals

Common Cause urges Congress to enact comprehensive financial disclosure legislation covering members of Congress, their professional staff, members of the federal judiciary, and policy-making officials in the Executive Branch. These officials should be required to file annual public reports regarding sources of income, assets, debts, financial transactions, honorariums and gifts. To avoid a gaping loophole, the financial records of their spouses must also be revealed.

In addition, Common Cause urges an immediate end to existing conflict-of-interest situations. For members of Congress these conflicts take two principal forms: 1) the maintenance of law practices, bank and corporate directorships or labor union positions while serving in Congress, and 2) conflicts between financial holdings and committee responsibilities.

Reports filed by Representatives reveal that in 1972, 53 House members were actively associated with a law firm or otherwise practicing law, and in 1973, 31 members were directors or officers of banks or other financial institutions. (Similar data on Senators is not available to the public.) These private activities not only require time and attention from the lawmakers, they automatically place Congressmen in a no-man's land between their obligations to clients or stockholders and their public responsibilities.

A number of Representatives who have holdings in banks or other financial institutions serve on committees that pass on legislation of major interest to the financial community. There are nine such Congressmen on the Banking and Currency Committee, and seven on the Ways and Means Committee. Similar conflicts of interest exist with regard to many other Representatives who have stockholdings in defense-related industries, airlines, oil and gas companies, or farms and ranches—and who sit on committees dealing with these matters.

All this is not to say that some members do not strive mightily to win and hold the trust of their constituents. Many Congressmen voluntarily disclose more than is required, and some have divested their bank holdings or withdrawn from their law practice to avoid potential conflicts. Others have disqualified themselves from voting on matters where they know a conflict exists. But these laudable efforts are the exception rather than the rule. Clearly, voluntary disclosure is not enough.

The Executive Branch is no better. Public financial disclosures are not

made except when a Congressional committee requests it of a cabinet appointee. Determination of conflicts of interest is made not by an impartial outside body, but by officials within the agency who must deal with the private organizations that give rise to the conflicts.

One of the most serious and complex problems in the Executive Branch is the interchange of personnel between government agencies and the private industries they are supposed to regulate. Conflicts of interest can arise from the financial holdings of persons who enter the government from private life or from the official actions of federal employees who hope to move into related private employment.

There is some merit to the argument that government needs industry experts to responsibly regulate industry activity. But conflicts of interest must be scrupulously outlawed. It may be necessary, for example, to limit the number of persons from a particular private field who can join a government agency that deals with that field.

Another remedy is to demand that those entering government completely divest themselves of financial holdings which could create conflicts between objective public service and their own personal or financial gain. Blind trusts could be another answer.

A third area for reform involves post-government employment. This problem can be handled, as it has in some agencies, by requiring agency employees not to accept private jobs that would create conflicts—for example, with an industry that employee had regulated for the government.

Will Congress Act?

In spite of public opinion surveys indicating that the American people suspect massive conflicts of interest and favor laws preventing them, Congress has done little. The Senate has passed financial disclosure requirements on two recent occasions, but the House has not.

Congress lags far behind the states in this respect. Twenty-seven states require public officials to publicly disclose their financial interests—and most of these states provide for strict enforcement. Fourteen states—from Alabama to Wisconsin—have created independent state ethics commissions, including 11 in the last two years.

Question to Ask

When you attend candidates' meetings and talk shows, here's a question you might ask: Will you vote for legislation requiring annual, public disclosure of financial holdings by members of Congress and their professional staff, and by high officials of the Executive and Judicial Branches of government?

Taking Politics Out of the Justice Department

What Is Needed

Events of the past two years have underscored a grave flaw in the structure of the Justice Department. When charges of misconduct are raised against high officials, the Justice Department finds that its duty to enforce the law conflicts with its duty to defend what is done by the Administration it serves. It is an intolerable conflict.

Common Cause believes the need for an independent prosecutor whose office is established by law is thoroughly substantiated. The prosecutor—insulated from political pressures—would be responsible for investigating charges of misconduct by federal officials, including members of Congress. The office should be created by the next Congress.

In addition, the next Congress should devote serious attention to other action it could take to lessen the political role of the Department of Justice. So far little attention has been paid to this issue; it needs careful study that will prepare the way for action.

The Problem

Political scandal in the Justice Department unfortunately is an old story. Remember Attorney General Harry M. Daugherty, Harding's appointee whom President Calvin Coolidge fired for failing to prosecute Interior Secretary Albert Fall, among others.

Presidents since the turn of the century, with notable exceptions, have appointed as Attorney General men who had been their campaign managers or high party officials. By designating a political advisor as Attorney General, a President adds immeasurably to the conflict which exists in the roles of the Attorney General. When the Attorney General serves as political counsellor, patronage dispenser and re-election planner as well as the nation's chief law enforcer and counsel to the President, the resulting conflicts seriously strain the Justice Department's capacity to administer justice evenly. Moreover, these conflicts color the public's perception of the quality of justice in their government.

When a political climate is seen to prevail in the Department of Justice, the Department's every action in a politically sensitive case is suspect. If it does not prosecute, "why not?" If it prosecutes but an acquittal results, "the case was thrown." If there is a conviction, "they didn't go after the higher-ups." The loser is the American system of justice.

It is not only the Executive Branch cover-up of the Watergate scandals that has brought the Justice Department into disrepute. Members of Congress, too, have been treated by the Department as more equal than ordinary citizens. Witness this testimony by Assistant Attorney General Henry E. Petersen, head of the Criminal Division, in testimony before the Senate Judiciary Committee in June 1974:

"While I recognize that everyone is equal before the law, I also recognize that not everybody can be treated equally. And that applies to Senators and Congressmen. . . . (T)here are many, many, many concessions that are made because of the office."

In the politically sensitive fields of campaign finances and lobbying, the Justice Department's failure to prosecute has been notorious under Democratic and Republican Administrations alike. In 1972 the Clerk of the House of Representatives forwarded 4,900 violations of the Federal Election Campaign Act of 1971 to the Department—and three were acted upon. During the 47 years the Corrupt Practices Act was in effect, it was never enforced against a member of Congress.

Independent Prosecutor

When Archibald Cox and Leon Jaworski were appointed successively as Special Watergate Prosecutors, it is worth remembering, they were appointees of the Attorney General, were attached to the Justice Department and served under regulations that the Attorney General could rescind. There was not a statutory office.

In considering legislation, such questions as who appoints the special prosecutor, whom he will be responsible to, and what the jurisdiction of his office will be are legitimate issues for Congress to explore. But it is clear that if the public is to regain its confidence in the integrity of federal law enforcement, a law creating an office of special prosecutor, free from partisan ties, is essential.

An independent special prosecutor, for example, could be given sole jurisdiction over alleged misconduct by officials of the three branches of government and enforcement of the campaign and election laws. He might be given jurisdiction to enforce the Freedom of Information Act, which pertains to government departments, or the Hatch Act, the Civil Service Act, and conflict of interest provisions in various agencies' regulations.

After the firing of Archibald Cox in 1973, both the House and Senate readied legislation to establish an office of special Watergate prosecutor. The legislation was laid aside when Leon Jaworski was named to replace Cox and swiftly evidenced his independence.

Other Issues

To further depoliticize the Department's functions, Congress should devote serious attention to legislation and regulations that might tend to lessen political decision-making in the administration of justice. A Senate subcommittee held brief hearings on this aspect of justice in the spring of 1974.

Congress might consider, among others, the following:

- The Hatch Act, which restrains federal employees from partisan campaigning, could be extended to the Attorney General and his conferees who are Presidential appointees confirmed by the Senate.
- U.S. Attorneys, the chief federal law officers outside of Washington, D.C., could be made part of the career civil service, appointed by the Attorney General from the legal ranks of the Department.
- Similarly, all U.S. marshals could be made subject to the civil service law and appointed by the Department.
- The Justice Department Office of Legal Counsel to the President could be relocated in the White House and included in the functions of Counsel to the President.
- The Justice Department's role in the selection of federal judges could be curtailed. Presently, the Attorney General, the chief federal prosecutor, has the responsibility to recommend, screen and defend before the Senate the Administration's appointments to the federal judiciary. This is an extremely questionable practice when one considers that federal judges, some of whom are ambitious for appointment to a higher court, preside over cases prosecuted or defended by the Justice Department.

The Department of Justice is staffed with career men and women of the highest professional integrity. For them, these last few years have been a Kafka-like dream. Their spirit and self-respect have suffered grievously. Their faith in the integrity of federal justice, as well as the faith of citizens at large, must be restored. The President can do much, but he must also have the help of Congress.

Question to Ask

When you attend candidates' meetings and talk shows, here is a question you might ask: In order to increase the accountability of government officials, will you support legislation establishing an independent special prosecutor for crimes committed by government officials?

Open Government

What Is Needed

Widespread secrecy throughout government keeps the public from knowing how decisions affecting them are made.

If citizens are to have confidence in their government, however, they must be allowed to observe the process by which these decisions are reached: how gas prices are set, how business is regulated, how matters affecting the public's health are resolved, and so on. Information about such decisions as these must be readily available to the public. Today, it often is not.

You can help change this situation. Write to your area's candidates for the House and Senate and ask if they will vote for legislation requiring open meetings and open decision-making in the Executive Branch and the regulatory agencies of the federal government.

The Problem

Too many public officials, shuddering at doing the public's business in public, embrace secrecy at all levels of government activity. Documents are classified by the thousands, information sought by the public and by Congress is buried under "executive privilege," agency decisions are made behind closed doors.

Last year, for example, a Senate subcommittee tried to get reports on natural gas reserves which were submitted by gas producers to the Federal Power Commission. The FPC claimed the reports, used in setting gas prices, were confidential and didn't release them. This policy makes it easy for gas producers to underestimate the availability of natural gas and have higher prices set by the FPC. There is no Congressional or public scrutiny of the data and therefore no responsible evaluation of how much consumers must pay for natural gas. In fact, one Commission official ordered the documents destroyed, and it was mechanical failure of an incinerator, not concern for the public interest, which prevented that destruction.

Unnecessary and arbitrary secrecy removes responsiveness and accountability from government. Citizens, deprived of the necessary information, cannot hold officials accountable for their actions and officials, in turn, feel no pressure or responsibility to respond to citizens' needs.

But there is no justification for the secrecy of regulatory commissions. These agencies' decisions affect all Americans.

The Federal Power Commission is but one example. It is no secret that

industries regulated by the FPC have played a role in the Commission's membership and decisions. Effective public scrutiny is a countering force, but the Commission has moved to minimize such scrutiny, illustrated by its refusal to release natural gas reserve reports.

Industries regulated by the Interstate Commerce Commission have devised several ways of influencing Commission decisions. There is evidence that some Commissioners were cleared by industry executives before being nominated, and industry has tempted Commissioners with lucrative positions after they leave the ICC. Twelve of the last 17 Commissioners to leave accepted positions with ICC-regulated companies. Money from industry flows into campaigns of key Congressmen on ICC oversight committees. And, in 1973, 16 industry groups rented desk space at ICC to keep track of policy information.

Keep It Buried

The government's classification system for documents is used frequently to prevent public disclosure of officials' activities. Security experts have testified that over 75 percent of current classification is unnecessary. In 1972, a Senate subcommittee estimated that some 55,000 government officials had authority to classify that could be transferred to lower level officials. Such transfer goes unreported and documents remain classified indefinitely because of inadequate declassification procedures.

The number of officials with classification authority was cut back in 1972, and automatic declassification schedules were instituted, but a Senate committee said last year that overclassification is still an enormous problem.

Non-Access To Information

Difficulties encountered by citizens and Congress in obtaining information from the Executive Branch stem partly from weaknesses in the 1966 Freedom of Information Act. That Act requires federal agencies to release certain information and provides for legal action to obtain information that is denied.

Congress' ability to obtain information is hampered by executive privilege claims, frequently used in recent years to guard Executive Branch secrets and to prevent Presidential aides from testifying before Congressional committees. It deprives Congress of necessary information to legislate and to investigate the implementation of past laws. Any inquiry into the conduct of government officials is stymied.

Legislative Remedies

Common Cause believes secrecy in the Executive Branch can be greatly reduced through strong legislation. During the past two years a variety of bills, now pending before Congress, have been introduced to bring government affairs into the open.

1. Open Meetings. Sen. Lawton Chiles (D Fla.) introduced the Government in the Sunshine Act (S 260) which would require Congressional committees and regulatory agencies to hold public meetings. It also would require a public record of all outside communications designed to influence agency proceedings. The companion House bill is HR 10,000, introduced by Rep. Dante Fascell (D Fla.). Both bills are pending before the Government Operations Committees.

2. Classification Reform. Several bills introduced in the Senate and House would correct abuses of the classification system, including strict standards for classifying documents, a limit on the number of officials with classification authority and timetables for automatic declassification. These bills also are pending before the Government Operations Committees.

3. Congressional Access to Information. The Senate passed legislation (S 2432) enabling Congress to obtain information from the Executive Branch. It limits executive privilege and requires specific justification whenever it is asserted, with disputed claims to be decided by the courts. The bill is pending before the House Rules Committee.

Question to Ask

When you attend candidates' meetings and talk shows, here's a question you might ask: Will you support legislation that would establish "sunshine" open meetings laws for the Executive Branch and the independent regulatory agencies of the federal government?

Congressional Reform

What Is Needed

Stagnant . . . rigid . . . unresponsive. These are harsh but accurate descriptions that are routinely applied to Congress today.

The seniority system, the Senate's filibuster rule, secrecy and out-moded committee assignments hamper decisive and innovative Congressional action on national problems while citizens' confidence in Congress erodes further and further.

That confidence has been eroding for years. Congress has taken some important reform steps in the past two years, but not enough has been done to halt the decline. A recent Harris Survey showed the public's rating of Congress reached an all-time low: 69% of those interviewed gave Congress a negative rating. This erosion of confidence results not so much from a lack of conscientious legislators, for there are many of them, as from the institutional failings of Congress.

The Representatives and Senators have allowed old rules, secret procedures and rigid practices to prevent Congress from dealing with urgent problems. Some committees, like the tax-writing, appropriations and military committees, have inordinate power, and they abuse it.

These institutional weaknesses can be overcome, and many concerned members of Congress are ready to act when enough public pressure for reform is focused on all members. This was evident in 1973, for example, when the House voted to open most of its committee meetings to the public. But complete and basic institutional renewal is long overdue in both House and Senate. The kind of reforms needed are peculiar to each house, but you can help bring them about.

Please write to your area's candidates for the U.S. House of Representatives and Senate and urge them, if elected, to act decisively in the next Congress on these specific issues: seniority, filibuster, secrecy and out-moded committee assignments. Remember that the filibuster rule is strictly a Senate procedure.

Open Meetings

When Senators stride into a committee room to write a bill, the doors quickly slam shut behind them. The public and the press cannot follow. The public's business is done in secret.

In the House—and, significantly, in three progressive Senate committees—the situation is different. There the committee doors stay open, and the public and press can watch members of Congress drafting and voting on legislation.

Since the House adopted an open-meetings rule in 1973, 80 percent of the bill-drafting sessions of its committees have been open to the public. Many of the closed sessions concerned U.S. defense.

The Senate in 1973 refused to adopt an anti-secrecy rule. As a result, most Senate committees are closed when Senators meet to draft and vote on bills. But there are three notable exceptions. The Senate Interior, Government Operations and Banking Committees voluntarily are doing their work in the open—with good results. In addition, a new Senate Budget Committee will do its work in the open under a Common Cause-sponsored provision in its charter.

Opponents of open bill-drafting meetings argue that the presence of press and public will impede a committee's work and force members to make decisions outside the meeting room. House members expressed similar fears before they adopted open meetings; today their views have changed. Almost 18 months experience with open bill-drafting meetings in the House has shown that debate and discussion are candid, that tough decisions are made in the meetings, that work is not slowed and that citizens are better informed about their Representatives' work.

There is no justification for Senate committees to continue to draft legislation behind closed doors. Secrecy facilitates abuse of the legislative process, insulates Senators and committees from legitimate pressures from citizens and prevents citizens from holding their Senators accountable for actions they take in committee.

Conference Committees. There is another form of committee meeting in Congress that should be open to the public: the conference committee. After the Senate and House pass a bill, it goes to a conference in which senior members of each house compromise differences. Many laws, especially tax legislation, are written in conference. The public and press should surely be able to view these most important meetings.

Party Caucuses. A third category of meetings that the public should be allowed to observe firsthand is the party caucus. Caucuses are the organizations of party members—Democrats and Republicans—in the Senate and House. They meet periodically when Congress is in session.

Caucus decisions are made in utmost secrecy—closed meetings and secret votes—but the decisions are important to the public because they affect key procedural matters (selecting committee chairmen, for example) and party policy on substantive issues (the House Democratic caucus forced a House vote on ending the Vietnam war, for example). The caucuses are more than private party sessions because of their effect on public issues.

Common Cause proposes that caucus meetings be open and votes publicly recorded on rules changes, legislative policy, and elections where two or more candidates compete.

The Seniority System

The manner in which Senate Democrats select committee chairmen is another institutional shackle on accountability. Neither merit, nor past performance, nor expertise, nor any other factor—save longevity—determines who chairs a Senate committee.

The archaic practice of automatically elevating to the chairmanship the person who has been around longest once held sway throughout Congress. But it has lost favor in recent years and only Senate Democrats cling to it tenaciously. And even there a breach occurred in mid-1974 when Democratic members of the new Budget Committee were selected without regard to seniority, an action approved by the Senate Democratic caucus.

House Democrats in 1973 modified their seniority practice by requiring each committee chairman to be subject to a vote of the party caucus if an election is sought by one-fifth of the members. Republicans in both houses have adopted procedures for electing their top committee member.

Committee chairmen must be accountable to their colleagues in some manner. They have immense power from their control over the activities of committees and therefore of legislation: they set the agenda, schedule meetings, select bills for consideration, create subcommittees and name colleagues to them, control committee staff and handle bills when they are under debate in the Senate and in conference.

Such far-reaching power is open to great abuse. Senate Democrats can create a safeguard against abuse by requiring committee chairmen to stand individually before their fellow party members for re-election. Common Cause favors a procedure for electing each chairman in the party caucus by majority vote on individual ballots at the beginning of each new Congress.

The Senate Filibuster

Only the filibuster rule in the Senate equals the seniority system as an undemocratic and outmoded procedure. This rule requires an affirmative vote by two-thirds of the Senators present to end debate on pending legislation. A determined minority can block legislative action by endless talk.

The rule has been used often over the years to block action favored by a majority in the Senate. As of August 1974, there had been 90 cloture votes to end a filibuster since the rule was adopted in 1917—only 17 were successful. Mostly, the rule has been used to block civil rights proposals, but in recent years it also has thwarted or delayed Senate votes on such items as election reform, consumer protection and business subsidies.

The rule also diminishes the quality of debate on issues by forcing Senators into endless tactical maneuvers on which discussion focuses; debate on the merits of the issues goes begging.

Common Cause supports a simple remedy to the problem: a guarantee of 15 working days on any piece of legislation before the Senate, during which time no votes to end debate can be taken. Then, a simple majority of the Senate can vote to end the filibuster and bring the legislation to a vote.

Rotation of Committee Assignments

In the House of Representatives, members generally serve on the same committee during their entire tenure, which may continue for 20 years or more. This situation frequently creates problems of tunnel vision, lethargy and cozy ties to programs, groups and interests that a committee ought to be viewing with a stern eye.

Unlike the Senate, where members serve on several committees at once and frequently shift, House members specialize in a few subjects during their careers. They become steeped in the subjects, but—too often—they also become defenders and promoters of government activities and subsidies that need critical review.

Common Cause favors a system of rotating House members among committees. A member would move from one committee to another every six to eight years.

A major advantage of rotation is that it would weaken the quiet alliances that develop over the years between committee members and the special business, labor and other interests affected by legislation handled by the committee, alliances encouraged by campaign contributions.

Rotation also would expose members to broader government policy. A member would bring more perspective to deliberations on all legislation and would less frequently have to defer to some senior member with an encyclopedic knowledge of a subject gained from 20 years on a committee.

In sum, rotation would bring new blood into House legislative work on a regular schedule, would help revitalize the tired and plodding performance of House committees, and would provide far greater opportunity for the younger members of the House.

In the House, a major precedent for rotation was established in July 1974. Members of the new Budget Committee are barred from serving for more than four consecutive years on this key committee.

Questions to Ask

When you attend candidates' meetings and talk shows, here's some questions you might ask of candidates for the House:

"Will you vote to establish rules requiring House-Senate conference committee meetings to be open to the public, as House bill-drafting sessions already are?"

"Will you vote for a rule that no Representative can serve longer than 8 years on a particular committee before being required to change to a different committee?"

If your state has a U.S. Senate race this year, you might ask your candidates for U.S. Senator:

"Will you vote to establish Senate rules requiring committees to conduct open bill-drafting sessions, except in cases of national security and personal privacy, as the U.S. House already does?"

"Will you vote to restrict Senate filibusters by allowing a simple majority of Senators, rather than the current two-thirds majority, to limit debate after assuring at least 15 days' consideration for any legislation on which a filibuster is threatened?"



Sculptor Kay Worden, a Common Cause member in Weston, Mass., created this Open Up the System bronze, featuring John Gardner. It stands in the reception area of the national office.

Photographed by S. Karin Epstein,
Common Cause volunteer



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AN ACT

relating to the activities, registration, and reporting requirements of persons engaging in activities designed to influence legislation; providing for enforcement of the Act; providing penalties; prohibiting certain acts; repealing Chapter 9, Acts of the 55th Legislature, 1st Called Session, 1957 (Article 183-1, Vernon's Texas Penal Code); and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. POLICY. The legislature declares that the operation of responsible democratic government requires that the fullest opportunity be afforded to the people to petition their government for the redress of grievances and to express freely to individual members of the legislature, to committees of the legislature, and to members of the executive branch, their opinions on legislation, on pending executive actions, and on current issues. To preserve and maintain the integrity of the legislative process, it is necessary that the identity, expenditures, and activities of certain persons who, by direct communication to such officers, engage in efforts to persuade members of the legislative branch or executive branch to take specific actions be publicly and regularly disclosed.

Sec. 2. DEFINITIONS. As used in this Act:

(1) "Person" means an individual, corporation, association, firm, partnership, committee, club, or other organization, or a group of persons who are voluntarily acting in concert.

(2) "Legislation" means a bill, resolution, amendment, nomination, or other matter pending in either house of the legislature; any other matter which may be the subject of action by either house, including the introduction, consideration, passage, defeat, approval, or veto of the matter; or any matter pending in or which may be the subject of action by a constitutional convention.

(3) "Legislative branch" means a member, member-elect, candidate for, or officer of the legislature or a legislative committee, or an employee of the legislature.

(4) "Executive branch" means an officer, officer-elect, candidate for, or employee of any state agency, department, or office in the executive branch of government.

(5) "Communicates directly with" means contact in person or by telephone, telegraph, or letter.

(6) "Compensation" means money, service, facility, or thing of value or financial benefit which is received or to be received in return for or in connection with services rendered or to be rendered.

(7) "Expenditure" means a payment, distribution, loan, advance, reimbursement, deposit, or gift of money or any thing of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure.

(8) "Secretary" means the Secretary of State of the State of Texas.

Sec. 3. PERSONS REQUIRED TO REGISTER. (a) The following

persons must register with the secretary as provided in Section 5 of this Act:

(1) a person who makes a total expenditure in excess of \$200 in a calendar quarter, not including his own travel, food, or lodging expenses, or his own membership dues, for communicating directly with one or more members of the legislative or executive branch to influence legislation; and

(2) a person who receives compensation or reimbursement from another to communicate directly with a member of the legislative or executive branch to influence legislation.

(b) A person, other than a member of the judicial, legislative, or executive branch, who, as part of his regular employment, communicates directly with a member of the legislative or executive branch to influence legislation, whether or not any compensation in addition to the salary for that regular employment is received for the communication, must register under Subsection (a), Paragraph (2), of this section.

Sec. 4. EXCEPTIONS. The following persons are not required to register under the provisions of this Act:

(1) persons who own, publish, or are employed by a newspaper or other regularly published periodical, or a radio station, television station, wire service, or other bona fide news medium which in the ordinary course of business disseminates news, letters to the editors, editorial or other comment, or paid advertisements which directly or indirectly oppose or promote legislation, if such persons engage in no further or other activities and represent

no other persons in connection with influencing legislation; and

(2) persons appearing before a legislative committee at the invitation of the committee and who receive no compensation for their appearance other than reimbursement from the state for expenses and engage in no further or other activities to influence legislation.

Sec. 5. REGISTRATION. (a) Every person required to register under Section 3 of this Act shall file a registration form with the secretary within five days after the first undertaking requiring registration except as otherwise provided herein.

(b) The registration shall be written, verified, and shall contain the following information:

(1) the registrant's full name and address;

(2) the registrant's normal business and business address;

(3) the full name and address of each person who made a contribution or paid a membership fee in excess of \$500 during the preceding 12-month period to the registrant or to the person by whom the registrant is reimbursed, retained, or employed regardless of whether it was paid solely to influence legislation;

(4) the full name and address of each person:

(A) by whom the registrant is reimbursed, retained, or employed to directly communicate with a member of the legislative or executive branch to influence legislation; and

(B) on whose behalf the registrant is to communicate directly with a member of the legislative or executive branch to

influence legislation; and

(5) a specific description of the matters on which the registrant expects to communicate directly with a member of the legislative or executive branch to influence legislation, including, if known, the bill numbers and whether the registrant supports or opposes each bill listed.

(c) If a registrant's activities are done on behalf of the members of a group other than a corporation, the registration form shall include a statement of the number of members of the group and a full description of the methods by which the registrant develops and makes decisions about positions on policy.

(d) A registrant shall file a supplemental registration indicating any change in the information contained in the registration within 10 days after the date of the change.

Sec. 6. ACTIVITIES REPORT. (a) Every person registered under Section 5 of this Act shall file with the secretary a report concerning the activities set out in Subsection (b) of this section. The report must be filed:

(1) between the 1st and 10th day of each month subsequent to a month in which the legislature is in session covering the activities during the previous month; and

(2) between the 1st and 10th day of each month immediately subsequent to the last month in a calendar quarter covering the activities during the previous quarter.

(b) The report shall be written, verified, and contain the following information:

(1) the total expenditures made by the registrant for directly communicating with a member of the legislative or executive branch to influence legislation, including expenditures made by others on behalf of the registrant for those direct communications if the expenditures were made with his express or implied consent or were ratified by him. Such report shall include a breakdown of expenditures into the following categories:

- (A) postage and telegraph;
- (B) publication and advertising;
- (C) travel and fees;
- (D) entertainment;
- (E) gifts, loans, and political contributions; and
- (F) other expenditures;

(2) a list of legislation supported or opposed by the registrant, by any person retained or employed by the registrant to appear on his behalf, or by any other person appearing on his behalf, together with a statement of the registrant's position for or against such legislation.

(c) Each person who made expenditures on behalf of a registrant that are required to be reported by Subsection (b) of this section or who has other information required to be reported by the registrant under this section or Section 5 shall provide a full, verified account of his expenditures to the registrant at least seven days before the registrant's report is due to be filed.

Sec. 7. TERMINATION NOTICE. (a) A person who ceases to

1 engage in activities requiring him to register under Section 3
2 of this Act shall file a written, verified statement with the
3 secretary acknowledging the termination of activities. The notice
4 is effective immediately.

5 (b) A person who files a notice of termination under this
6 section must file the reports required under Section 6 of this
7 Act for any reporting period during which he was registered under
8 this Act.

9 Sec. 8. MAINTENANCE OF REPORTS. (a) All reports filed
10 under this Act are public records and shall be made available for
11 public inspection during regular business hours.

12 (b) The secretary shall design and provide appropriate
13 forms, covering only the items required to be disclosed under
14 this Act, to be used for the registration and reporting of
15 information required by this Act, maintain registrations and
16 reports in a separate, alphabetical file, purge the files of
17 registrations and reports after five years from the date of filing,
18 and maintain a deputy available to receive registrations and
19 reports and make such registrations and reports available to the
20 public for inspection.

21 Sec. 9. PENALTY. (a) A person, as defined in this Act,
22 who violates any provision of this Act other than Section 11
23 commits a Class A misdemeanor. A person, as defined in this Act,
24 who violates Section 11 of this Act commits a felony of the third
25 degree. Nothing in this Act relieves a person of criminal
26 responsibility under the laws of this state relating to perjury.

1 (b) A person who receives compensation or reimbursement
2 or makes an expenditure for engaging in direct communication to
3 influence legislation and who fails to file the registration form
4 or activities report required by this Act, in addition, shall pay
5 to the state an amount equal to three times the compensation,
6 reimbursement, or expenditure.

7 Sec. 10. FALSE COMMUNICATIONS. No person, for the purpose
8 of influencing legislation, may:

9 (1) knowingly or wilfully make any false statement or
10 misrepresentation of the facts to a member of the legislative or
11 executive branch; or

12 (2) knowing a document to contain a false statement, cause
13 a copy of the document to be received by a member of the
14 legislative or executive branch without notifying such member in
15 writing of the truth.

16 Sec. 11. CONTINGENT FEES. No person may retain or employ
17 another person to influence legislation for compensation contingent
18 in whole or in part on the passage or defeat of any legislation,
19 or the approval or veto of any legislation by the governor, and
20 no person may accept any employment or render any service for
21 compensation contingent on the passage or defeat of any legislation
22 or the approval or veto of any legislation by the governor.

23 Sec. 12. ADMISSION TO FLOORS. No person who is registered
24 or required to be registered under the provisions of this Act may
25 go on the floor of either house of the legislature while that
26 house is in session except on invitation of that house.

1 Sec. 13. ENFORCEMENT. (a) The provisions of this Act may
2 be enforced by the attorney general or any county or district
3 attorney.

4 (b) A district court in Travis County may issue an
5 injunction to enforce the provisions of this Act on application
6 by any citizen of this state.

7 Sec. 14. VENUE. An offense under this Act, including
8 perjury, may be prosecuted in Travis County or in any other county
9 where it may be prosecuted under the Code of Criminal Procedure,
10 1965, as amended.

11 Sec. 15. REPEALER. Chapter 9, Acts of the 55th Legislature,
12 1st Called Session, 1957 (Article 183-1, Vernon's Texas Penal
13 Code) is repealed.

14 Sec. 16. EFFECTIVE DATE. This Act takes effect January
15 1, 1974.

16 Sec. 17. SEVERABILITY. If any provision of this Act or
17 the application thereof to any person or circumstance is held
18 invalid, such invalidity shall not affect other provisions or
19 applications of the Act which can be given effect without the
20 invalid provision or application, and to this end the provisions
21 of this Act are declared to be severable.

22 Sec. 18. EMERGENCY. The importance of this legislation
23 and the crowded condition of the calendars in both houses create
24 an emergency and an imperative public necessity that the
25 constitutional rule requiring bills to be read on three several
26 days in each house be suspended, and this rule is hereby suspended,

1 and that this Act take effect and be in force from and after
2 January 1, 1974, and it is so enacted.

President of the Senate

Speaker of the House

I hereby certify that H.B. No. 2 was passed by the House on February 8, 1973, by the following vote: Yeas 114, Nays 25; that the House refused to concur in Senate amendments to H.B. No. 2 on May 24, 1973, by the following vote: Yeas 106, Nays 37, and requested the appointment of a Conference Committee to consider the differences between the two Houses; and that the House adopted the Conference Committee Report on H.B. No. 2 on May 28, 1973, by the following vote: Yeas 145, Nays 1.

Chief Clerk of the House

H.B. No. 2

I hereby certify that H.B. No. 2 was passed by the Senate, with amendments, on May 22, 1973, by the following vote: Yeas 30, Nays 1; at the request of the House, the Senate appointed a Conference Committee to consider the differences between the two Houses; and that the Senate adopted the Conference Committee Report on H.B. No. 2, on May 28, 1973, by a viva-voce vote.

Secretary of the Senate

APPROVED: _____

Date

Governor

C*O*M*M*O*N C*A*U*S*E—The producers of the television show M*A*S*H spent several days at the national Common Cause office this summer. The reason? First, Larry Gelbert and Gene Reynolds are members of our citizens' lobby. Second, they are planning a new comedy series about a young woman lobbyist who works for government reform. They found a lot of material here!

MEMBERSHIP—Sometimes it is easier to realize what more members can mean to an organization if you can see just what their dues money would provide. More members can make a big difference in Common Cause's programs. For example, just a 1% increase in renewals of membership for the last three months of this year would finance another CC lobbyist.

A "small" uncomplicated lawsuit could be paid for by 5,000 new members (\$75,000) while 10,000 new members would pay for the equivalent of the Common Cause lawsuit against CREP (\$150,000). Another major issue campaign could be financed by 15,000 new members (\$225,000).

You can do much to expand CC's activities. Write to CC Membership Department, 2030 M St. Washington, D.C. 20036, and ask for a starter kit. The kits contain material for recruiting five new members and include a card for ordering more materials.

PICTURE POWER—CC members in Oklahoma City have found a way to combat legislative secrecy. The Oklahoma legislature recently installed an electronic voting machine, but no records were kept of the votes that led up to final passage or defeat of legislation. If you were in the chamber, you could see the votes; if not, they were as good as secret.

Craig Goff and Betty Yacavino, both of Norman, devised a plan. Mrs. Yacavino took color pictures of the electronic vote board during the few minutes after each vote and before erasure.

Tabulating the votes recorded on the photographs, Common Cause then compiled a summary of each legislator's voting record and distributed it to the press. The Oklahoma Observer magazine printed the information in full.

The Speaker of the House complained that the picture project disrupted floor proceedings and it had to be stopped. However, Common Cause-Oklahoma members are continuing to fight for open and recorded votes by their elected officials.

CHARTER CHANGE—The D.C. Government Corporation Office has approved a Common Cause charter change, approved by CC members 65,992 to 646 in last winter's CC board election. The reworded charter identifies Common Cause's goals and lobbying methods and explicitly commits the organization to non-partisan activities.

NEXT BOARD MEETING—The CC Governing Board will hold its last meeting of 1974 on Nov. 15-16 at the Sheraton-Park Hotel in Washington, D.C. Members of Common Cause, and the public as well, are invited to attend.

CC MEMBER SPEAKS UP—A newspaper column by Rep. William Scherle (R-Iowa), who said Common Causers had been "duped" into financing CC's "slick influence-grabbing," was too much for Common Cause member Imogene Kasal. In a letter to the editor of the Earlham, Iowa, Echo, Mrs. Kasal set the Congressman straight:

"I am a member of Common Cause, and I consider the \$15 membership fee to be one of the best investments I have made during my adult life. Those of us who believe in the goals of Common Cause have hope for the future of our nation. We tend to be constituents who vote regularly, who attempt to be knowledgeable about the workings of our government, and who have enough confidence in the system to believe that it can work as the Founding Fathers intended it should."

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Steam Is Building Up for Lobbying Controls

When relationships with the power brokers are at issue, Congress is mighty slow to act. It took 31 years to strengthen the unenforced 1940 campaign finance law. It has puttered along for 28 years without changing its committee structures while adding more and more federal activities to its agenda. This year, when the Bolling-Martin committee produced a unanimous plan to reorganize House committees, entrenched Congressmen teamed up with special interests to throttle it.

The Federal Regulation of Lobbying Act passed Congress in 1946 and hasn't been amended since—or enforced either. But steam is building up on the lobbying issue.

Common Cause is stoking the fire, not only in Congress but in the states as well. In our Campaign 74 program this fall, Common Cause members are asking both Congressional and state legislative candidates for commitments to support stronger lobby regulations if and when they take office next year.

Already in 1974 five states have passed new laws or regulations for lobby disclosure—Arizona, California, Kansas, Minnesota and, for the first time, West Virginia. Iowa's Senate greatly improved its 1973 lobby disclosure rule, and the District of Columbia got its first municipal lobbying act. Voters in Idaho and Oregon will have a chance in November to approve lobby regulation issues on their state ballots.

The states are moving—and so are at least some members of Congress.

New Legislation in Congress

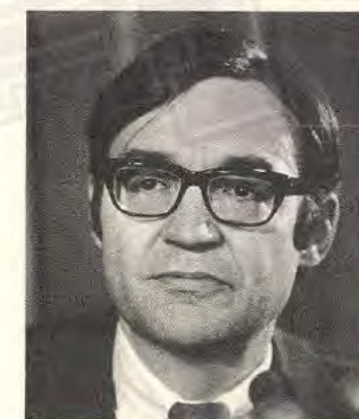
On July 18 Reps. Tom Rainsback (R-Ill.), Wayne Owens (D-Utah) and Donald Mitchell (R-N.Y.) introduced the Public Disclosure of Lobbying Act of 1974 (HR 16013), a bill that would replace the old, discredited law with tough new disclosure requirements. The legislation now has 54 co-sponsors (listed on the next page).

Common Cause staff lobbyists worked with the original sponsors in drafting the bill, and though it does not cover quite all the activities Common Cause recommended, it has our full support.

Action on the bill by Congress cannot be expected this year, but we hope that hearings on lobby regulation will begin early in the next Congress. Introduction of the Rainsback-Owens-Mitchell bill has started the ball rolling, and Common Cause staff members are working for similar momentum in the Senate.

Innovations in House Bill. One of the most important provisions of the House bill is the creation of a Federal Lobbying Disclosure Commission with subpoena and civil proceeding powers. The present law contains no such provision. In fact, Rep. Owens said, "In its 20-year lifespan, the law has produced only one successful prosecution, and that occurred when the defendants pleaded guilty."

Under the bill the bi-partisan enforcement commission would be composed of the U.S. Comptroller General and seven members appointed by the President and confirmed by the Senate. The commission would monitor



Congratulations to Federal Energy Administrator John Sawhill, who has directed FEA policy-makers to keep and make public a record of contacts with lobbyists.

compliance with the law, and violators would be liable to fines of up to \$5000 and up to two years' imprisonment by the courts.

What Is a Lobbying Group?

Another major aspect of the bill is its criteria for identifying lobbyists. Many lobbying groups presently fail to register and report under the 1946 law, basing their refusal on a 1954 Supreme Court ruling which they interpret to require registration only by organizations whose "principal purpose" is lobbying.

That interpretation has been described by Rep. Railsback as a "giant loophole. Quite obviously," he said, "many organizations have been able to avoid compliance because their lobbying activities, while substantial, are simply not their principal purpose."

Common Cause has filed suit against the non-registered National Association of Manufacturers, challenging its interpretation of the law as erroneous. The suit states that the NAM moved its headquarters to Washington, D.C. for the express purpose of lobbying and spends much of its time on lobbying efforts, though the organization says that lobbying is not its primary function.

HR 16013 bases the requirement for lobbyist registration on an expenditure threshold—the amount of money spent. Under the bill, any individual or group spending \$250 or more on lobbying activities in a quarterly filing period would be required to register.

The bill would also require lobbyists to report their activities quarterly, including documentation of their salaries, expenditures and purposes of the expenditures. The reports would be submitted to the enforcement commission.

Contacts with Executive Branch agencies would also have to be reported. The current law requires reporting only contacts with the Legislative Branch.

One major omission in the bill, in Common Cause's view, is the lack of requirement for executive agencies to log contacts made by lobbyists, as Federal Energy Administration officials now do.

Senate Legislation

Sens. Robert Stafford (R-Vt.) and Edward Kennedy (D-Mass.) also have introduced bills dealing with lobby disclosure. Although they are similar to HR 16013 in some respects, they have major drawbacks, most notably the failure to include lobbying of the Executive Branch.

CC staff members are contacting other Senators who have expressed interest in introducing disclosure bills. In this way we hope to lay the groundwork for action early in 1975.

House Lobby Disclosure Bill Sponsored By 54 Members

These 54 Representatives are co-sponsors of the Public Disclosure of Lobbying Act of 1974 (HR 16013 and successive bills).



It would be helpful if Common Cause members in the districts of these Representatives write to thank them for co-sponsoring this legislation. When you write, be sure to ask your Representative, if re-elected in November, to press for hearings on the legislation early in 1975. The address is: House of Representatives, Washington, D.C. 20515.

ALABAMA
John Buchanan, R
ARIZONA
Morris Udall, D
CALIFORNIA
Alphonzo Bell, R
George Brown, D
Yvonne Burke, D
Phillip Burton, D
Ronald Dellums, D
Don Edwards, D
Robert Lagomarsino, R
Pete McCloskey, R
Fortney Stark, D
COLORADO
Patricia Schroeder, D
CONNECTICUT
Ella Grasso, D
FLORIDA
Dante Fascell, D
ILLINOIS
Tom Railsback, R
LOUISIANA
John Breaux, D
MAINE
William Cohen, R
MARYLAND
Lawrence Hogan, R
Marjorie Holt, R
Clarence Long, D
MASSACHUSETTS
Paul Cronin, R
Robert Drinan, D
Michael Harrington, D
Margaret Heckler, R
John Moakley, D
Gerry Studds, D
MICHIGAN
John Conyers, D
Donald Riegle, D

MISSISSIPPI
Thad Cochran, R
MISSOURI
James Symington, D
NEW HAMPSHIRE
James Cleveland, R
NEW JERSEY
Frank Thompson, D
NEW YORK
Herman Badillo, D
Shirley Chisholm, D
Elizabeth Holtzman, D
Frank Horton, R
Jack Kemp, R
Donald Mitchell, R
John Murphy, D
Bertram Podell, D
Angelo Roncallo, R
OHIO
Charles Carney, D
Samuel Devine, R
Thomas Luken, D
Charles Mosher, R
PENNSYLVANIA
John Heinz, R
Joseph Viorito, D
RHODE ISLAND
Robert Tiernan, D
SOUTH CAROLINA
Mendel Davis, D
James Mann, D
TEXAS
Alan Steelman, R
UTAH
Gunn McKay, D
Wayne Owens, D
GUAM (non-voting delegate)
Won Pat

Federal Energy Office Order

The Federal Energy Administration (FEA) published a regulation for its employees Sept. 19 that requires that names of all outsiders who meet with FEA policy-makers must be regularly made public. In addition, written records must be kept of all oral communications on policy matters from persons, such as Congressmen, who are not parties to FEA proceedings.

The purpose, FEA said, "is to insure that sources of

influence that would not otherwise be apparent to the public are identified" and to maintain the integrity of the agency's decision-making process.

Common Cause promptly congratulated FEA Administrator John Sawhill for the "notable precedent" his agency set. "Your action provides an important model for an Administration pledged to openness," CC Chairman John Gardner telegraphed to Sawhill. "The next steps would be for President Ford to issue an executive

Special Interest Money Flows to Candidates

The big money that buys political influence is flowing to candidates more strongly than ever.

In July, Common Cause's campaign monitors released an analysis showing that registered committees of special interest groups had collected by June 10 almost twice as much money as the same groups reported spending in the entire Congressional campaigns of 1972. The figures will mount still higher when our monitors finish tabulating the reports filed Sept. 10.

Members of the press also have been busy investigating the distribution of special interest campaign funds. Among their findings are these:

■ Morton Mintz of the Washington Post reported on Sept. 1 that the Associated Milk Producers, according to their president, are prepared to spend \$1.5 million on House and Senate candidates in the 1974 elections in order to get legislation restricting imports of dairy products. The sum is three times as much as they gave to Congressional candidates in 1972.

■ Brooks Jackson of the Associated Press reported on Sept. 16 that maritime union political committees had contributed some \$333,300 to 141 members of the House and Senate who voted this year for the Energy Security Transportation Act. That special interest legislation required that 20 to 30 percent of oil imports must be transported on U.S. ships.

■ On Sept. 15 Morton Mintz reported that political committees of the American Medical Association already had made campaign contributions to almost half of the 435 members of the House of Representatives, including 108 of the 162 co-sponsors of the AMA's Medicare health insurance bill. According to Mintz, the AMA committees had given a total of \$25,000 to 10 members of the House Ways and Means Committee, of whom 6 are co-sponsors of the AMA bill. The legislation has had hearings before that committee.

order instructing all federal policy-makers to keep and publish logs of lobby contacts and for Congress to pass a strong lobby registration law."

In April, at a meeting with Sawhill, Gardner urged adoption by FEA of a model lobby registration regulation that included logging. Testimony at the Watergate hearings had made clear that high Administration officials regularly keep logs of their meetings and telephone calls, but the records are kept private.



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Drawing by Rob London,
Common Cause volunteer

May 23, 1973

Lobby Control Bill Passed by Senate

Capitol Staff

Capitol News, Pages 8, 9, 30

A House-Senate conference team put one more piece in the bill, then the Senate approved a version of lobby control legislation, and a campaign finance bill is still struggling for life in a Senate committee.

Conferees on an ethics bill that requires public officials to reveal what they are worth and where their money comes from agreed Tuesday morning on standards of conduct for officials.

The standards discourage acceptance of gifts or favors making investments, or taking jobs that would cause a conflict of interest for a public official.

Monday, the five House and five Senate conferees agreed on a financial disclosure provision that committee chairman Rep. Jim Nugent of Kerrville called "the roughest section" of the ethics bill controversy.

The financial disclosure provision they have agreed on requires a statement of income, landholdings, trust benefits and business interests to be made by those covered by the bill.

The people to be covered, and the manner in which they are to be covered by reporting provisions of the bill, still remains as a bone of contention between the two conference teams.

The Ethics Conference Committee will meet again Wednesday morning.

The Senate passed Tuesday

afternoon a lobby control bill, and Lt. Gov. Li Hobby, anticipating criticism, leaped to its defense.

The bill, which substitutes for one passed by the House as part

(See LOBBY, Page 6)

LEGISLATURE WEDNESDAY

House: Convenes at 9:30
a.m.

Senate: Convenes at 10:30
a.m.

LOBBY

(From Page One)

of Speaker Price Daniel Jr's "reform" package, "will be decried by some as a 'weaker' bill than that originally passed by the House," Hobby said.

He said it was actually stronger "because the original version . . . did not meet the constitutional tests of the 1st and 14th amendments." He said, "The Senate was confronted with a need to write an adequate lobby control bill, without invading the equally-important right of freedom to petition the government."

One of his senators, Oscar Mauzy of Dallas, didn't agree. Mauzy offered a dozen amendments to the bill during floor debate Tuesday, seeing all but two of them defeated.

Speaker Daniel, who watched the debate from a corner of the senate chamber, said Mauzy's amendments "Generally try to to put back (in the Senate bill) the House-passed disclosure requirements."

Most of the amendments attempted to broaden the circumstances under which lobbyists and their employers must report how much they spend to influence governmental affairs.

Two were defeated by tie votes, which Hobby could have broken in Mauzy's favor had he supported them. Among Mauzy's proposals were reporting requirements for lobbying efforts made with the governor, reports of money spent to lobby out of session and a requirement that those who employ lobbyists also disclose their expenditures.

Dec. 13, 1974

Lobbyists Reminded To Report

Capitol Staff

House Speaker Price Daniel Jr. has put "all lobbyists and special interest groups" on notice that the new lobby control law will be enforced for the Constitutional Convention or any special session called after Dec. 31.

The new law requires registration and expense reports be filed by persons who spend more than \$200 in any three-month period trying to influence legislation by direct communication with a legislator or member of the executive branch; persons who are hired to lobby, and those who, as part of their regular employment, seek to influence legislation.

DA Says Lobby Control May Be Unconstitutional

Austin Dist. Atty. Robert O. Smith says the new Lobby Control Act may be unconstitutional because it requires lobbyists to self-incriminate themselves by admitting to what probably amounts to bribery.

Smith has requested an attorney general's opinion on the constitutionality of the act passed by the last session of the legislature.

Under the new Lobby Registration Act (House Bill 2 during the session), anyone who tries to influence legislation must report his expenditures for that purpose — including taking legislators to lunch, letting them use the company

airplane, campaign contributions and other expenses.

And, the state's new bribery statute contained in the penal code which went into effect Jan. 1, says that a person commits an offense if he offers "any benefit" to a public servant with the intent of influencing his official performance.

In the request for the attorney general's opinion, Smith said, "The first

question is whether the term 'benefit' as defined includes

... certain gifts, loans and political contributions and probably entertainment ..."

He said those items would not have been enumerated as defenses in the penal code if they were not regarded as "benefits."

The request continued, "If this opinion is correct, then reporting as required by the Lobby Control Act requires self incrimination ..."

111



May 24

PHONE AC [REDACTED]

HB 2

Biggam — the
senate bill
considerably
weakens the
house version.
His motion not to
concur in senate
amendments prevailed
by 106-37.



REP. PRICE DANIEL JR.

Daniel raps weakened City odor ordinance bill on lobby control studied

Post State Capital Bureau

AUSTIN—Vitriolic criticism rained down Wednesday on a severely weakened lobby control bill recommended by a Texas Senate subcommittee.

House Speaker Price Daniel Jr., who backed the original strong version of the proposal as one of his key governmental reforms, called the subcommittee's 3-1 approval of the watered-down substitute "a step backwards."

The subcommittee measure

is even weaker, he claimed, than the present loophole-ridden lobby control law passed in 1957.

Randall Wood of Common Cause, a citizens' lobby

Legislative news/page 20A

group, accused the subcommittee of "betraying" reform-minded Texans by reducing Daniel's, tough bill to a laughably weak condition.

The Senate subcommittee

substitute would contain none of the provisions of the original bill which passed the House 114-25 Feb. 8, or the recommendations of Lt. Gov. Bill Hobby's Citizens Conference on Ethics in Government, Wood complained.

The subcommittee version is almost "word for word" the same as an ethics proposal introduced by Sen. W. T. "Bill" Moore, D-Bryan, which

Please see Daniel/page 27A

A Houston ordinance to control odors is being drawn up for consideration by the City Council, an odor pollution symposium was told Wednesday.

Victor N. Howard, director of the city's pollution control division, said the ordinance would be enforced with the aid of a small, portable, odor-measuring device known as a scentometer.

Other vital pieces of equipment will be the poses of his investigators, Howard

Daniel raps weakened bill on lobby control

From page 1

Wood claimed is "with all due respects, a joke."

"It is now obvious that the members of Lt. Gov. Hobby's citizens conference wasted their time and effort and that the opinions of the citizens were not worth nearly as much as the opinions of the special interest lobbyists," he added.

"Any lobbyist who registers and fully reports his expenditures under the provisions of this substitute bill will do so out of the goodness of his heart and not because the lobby bill would require it."

Hobby was out of town Wednesday and could not be reached.

Rep. John Bigham, D-Belton, the main House sponsor of the proposal, claimed the subcommittee had "completely aborted our efforts for reform."

"It creates loopholes people haven't even dreamed of yet," he said.

Both Bigham and Daniel pointed out that the subcommittee version still has to be approved by the Senate Jurisprudence Committee and the full Senate.

"It's just incredible to me to think that this is the Senate's best effort to improve our lobbyists registration and regulation provisions," Daniel said. "I feel almost certain it

will be changed in committee or on the Senate floor."

The subcommittee proposal was defended by one of its authors, Sen. C. H. "Ike" Harris, R-Dallas, who said it is more "reasonable" than the House-passed version.

Among the major changes from the House proposal made by the subcommittee were:

- Removal of a state ethics commission as the enforcement agency.

- Elimination of a requirement that all persons register as lobbyists and report their expenses if they spend more than \$150 every three months, even if they are not paid to influence legislation.

- Deletion of a provision that would require lobbyists before state agencies and the governor's office to register and report their activities.

- Removal of a requirement that expense reports be filed not only by lobbyists, but by their employers as well.

- Inclusion of new wording that would allow lobbyists to report only the total amounts of their expenses rather than itemized lists.

Harris was joined in approving the revisions by Democratic Sens. Don Adams of Jasper and Max Sherman of Amarillo.

The lone dissenting vote was cast by the House bill's Senate sponsor, Democrat Oscar Mauzy of Dallas, who complained about taking the

enforcement powers away from an ethics commission and giving it to the secretary of state.

That simply would be "too much authority for any political appointee," Mauzy said.

The ethics commission — provided in the lobby control, ethics and campaign reporting reform bills Daniel proposed — has been a major sticking point in the senate.

Gov. Dolph Briscoe and Hobby have claimed such a commission would be too political.

The subcommittee version would require only paid lobbyists to register and report their contributions, payments, loans and other financial dealings to the secretary of state on a monthly basis.

A lobbyist's personal living costs, office expenses, clerical help, lodging and travel within the United States and its territories would not have to be reported.

The proposal would specifically exempt making public the membership rolls for dues structures of chambers of commerce and trade associations such as the Texas Manufacturers Association, the Texas Chemical Council, the Texas Railroad Association and others.

The secretary of state could promulgate rules for complying with the bill, but they could be overturned by a majority of either the House or Senate Administration Committees.

April 28 Juriss. Center Lobby Bill

Out of control

Consensus statement on legislature



PHONE AC 510 / 170 7225

701 WEE

HB 2 - Lobby Bill

May 24 (Thursday)

Maury motion to grant
House request for
Conference Committee
adopted by voice vote.

Committee Appointees:

Maury, Herring, McKnight,
Harris, Ogg.

Bigman motion not to concur
in Senate amendments, because
they considerably weakened the
House version, (over)

prevailed by 106 y, 37 m.

May 26, 1973

Conferees Agree On Lobby Changes

AUSTIN, Tex. (AP) — Senate negotiators on lobby control legislation said Friday they probably will agree to correct all but one of Speaker Price Daniel Jr.'s objection to their bill.

Daniel sent a letter Thursday to Atty. Gen. John Hill in which he set out eight objections to the Senate bill, which Daniel claims lobbyists helped write. Sen. O. H. Harris, R-Dallas, said the Senate conferees "are going to respond favorably" to all those objections except the one that deals with persons or organizations lobbying with their own representatives or senators.

Daniel said failure to require registration of persons who restrict their lobbying to their own legislators—as the Senate bill allows—means virtually nobody would have to register.

Rep. Buddy Temple, D-Di-boll, cited this difference between the House and Senate bills as one where he stood with the speaker.

"Have you read the First Amendment to the U. S. Constitution lately?" Harris asked Temple.

"Not lately," Temple said.

"That's the right to petition your government," Harris said, meaning to meet Daniel's objection would be to put into the bill an unconstitutional requirement that a man would have to register as a lobbyist before he could talk to his own legislator.

The conferees agreed to consider both bills when they meet again at 8 a.m. Saturday.

Meeting Daniel's objections "leaves us very few areas for us to quarrel with—ethics (creation of an ethics commission) obviously one of them," Harris said.

"The house version of the bill calls for an ethics commission to enforce the law. The Senate bill provides for the administration of the law by the secretary of state.

Lobby Bill Rejected By House

Capitol Staff

Three months after completing work on a lobby registration bill, the Texas House had it back on their hands again Thursday, and after debating it for almost an hour decided that the Senate amendments were not acceptable and sent it to conference committee.

Some portions of the bill passed by the House Feb. 8 were later declared unconstitutional by the attorney general. Since receiving the bill the Senate Jurisprudence Committee has worked out a complete substitute that House sponsors say is weaker than the present law they had sought to strengthen.

Rep. John Bigham of Belton said the lobby registration statute as drafted by the Senate applies only to activities involving the legislature, excluding attempts to influence the governor in veto and raises the penalty for falsification of a lobby registration statement from a felony to a misdemeanor.

Some House members did not agree with Bigham that the Senate bill was "weaker," saying it should be adopted rather than take a chance on the bill dying in a conference committee as the session nears end.

Over the weekend House Speaker Price Daniel Jr. issued a burning statement accusing the lobby of conspiring to cripple the bill by pushing through the weaker Senate version so late in the session that the House would pass it rather than let the subject die.

Members of the lobby are right outside the door working and they're working hard," added Rep. Richard Geiger of Dallas.

Liberal Rep. Arthur Temple added that the present law is inadequate... the evidence of this inadequacy is all around us.

Is the lobby in the state going to write legislation under which they are going to be regulated or is the House and Senate?" he asked.

The House voted 106-37 to send the bill to a conference committee, adding an additional provision that instructs the committee to report back by 11 a.m. Monday. The session ends at midnight Monday.

Senators Peck at Lobby Bill, Delay Action to Next Week

Associated Press substitute for the lobby-control bill passed by the House, a prudence Committee sniped at a of Speaker Price Daniel Jr.'s lobby control bill Friday, and reform program.

The measure was left before the The subcommittee removed committee for possible action all administrative agencies Tuesday. from the measure on the The bill is a subcommittee ground it might be an uncon-

stitutional infringement on the right of people such as attorneys, accountants and engineers to appear before state agencies.

Randall Wood, executive director of Common Cause, a self-styled citizens' lobby, said his group would not have to register under present law because it does not spend money on legislators.

But Common Cause flies all of its expenditures with the secretary of state, anyway, he said, and it believes other influence groups should be required to do the same.

Sen. O. H. Harris, R-Dallas, disagreed. "My position is that anyone in the eighth senatorial district ought to be able to see me for whatever reason they want to, regardless of how much money he spends," Harris said.

Wood said he supports the bill's provision that anyone who spends more than \$150, in a three-month period, excluding travel and lodging expense to come to Austin and lobby for legislation should have to report it.

Sen. Walter Mengden, R-Houston, said a friend of his took him and their wives out recently and spent more than \$150 on the evening. He asked if the friend would have to register under the bill. Wood said he would if he lobbied with Mengden to pass certain legislation.

"You're either stupid or you're naive to be presenting this bill, and I don't want to get personal," Mengden said.

Wood said a friend like that might end up spending \$2,000 or \$3,000 on Mengden during a legislative session, and every time talk about the oil field unitization bill. "Don't you think he should register?" Wood asked.

"Heavens no, not if he's my friend," Mengden snapped.

Rep. John Bigham, D-Belton, told the committee two constitutional lawyers had worked on the bill to correct weaknesses outlined in an attorney general's opinion.

Weaker Lobby Bill

May 16, 1973

Approved by Panel

Associated Press

The Senate Jurisprudence Committee Tuesday reported out the weaker of two lobby control proposals it has been considering.

Approved was the plan written by Sen. Ike Harris, R-Dallas, which exempts all state employees from registering as lobbyists and also omits many types of legislative contact from being classified as lobbying.

Defeated was the bill by Sen. Oscar Mauzy, D-Dallas, requiring just about anyone spending over \$150 to influence legislation to register as a lobbyist. It also set up a state ethics commission.

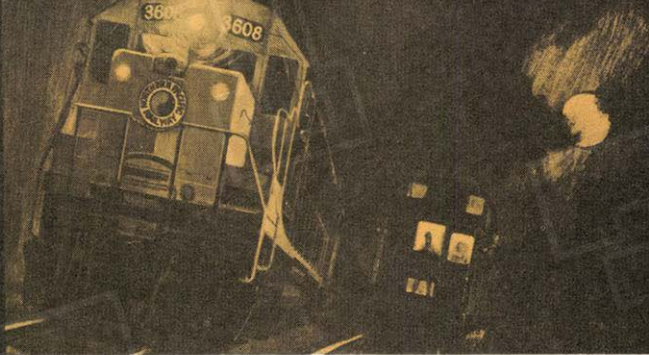
The bill, already passed in a different form by the House, now goes to the Senate floor for debate.

Voting with Mauzy were Sens. Jim Wallace and Bob Gammage, Houston Democrats, and Bill Braecklein, D-Dallas.

The committee also approved

its version of the House-passed "open records" bill. The Senate version would add several exemptions for records required to be given to the public, including: information in personnel files, some real estate information, personal correspondence, "information related solely to the internal personnel rules and practices of an agency," student records, several types of securities and financial records.

NORTHERN PACIFIC RAILWAY



*Return
hook
to*

Senate Concurred in House amendments to:

- SB 450 Relating to creation of hospital districts.
 - SB 205 Defining issues to include State of Texas as to refunds on bonds.
 - SB 485 Making a supplemental appropriation to Texas A & M.
 - SB 613 Relating to enforcement of state building standards designed to aid the physically handicapped.
 - ✓ SB 256 Relating to purchase of paper by State Board of Control.
 - SB 298 Relating to powers of the Sabine River Authority.
-
- HB 83 Relating to tuition fee charged to students enrolled at state-supported institutions of higher education who have earned a degree on the basis of completion of four or more years of college study.
Bill engrossed by vote of 16y, 15n.
-
- HB 746 Relating to deposits required by municipal corporations and other entities for installing certain services.
Mauzy motion to take up bill prevailed by 27y, 4n.
(a) Mauzy amendment adopted.
(b) Mauzy amendment (new sec. 4; provides that any future formula change will apply to those already retired) adopted.
(c) Mauzy amendment adopted.
Bill engrossed. Three day rule suspended by 26y, 5n.
Final passage.
-
- SB 715 Relating to District Attorneys and Criminal District Attorneys duties of office.
(1) Hightower amendment (prohibits private practice of law by District Attorneys in certain areas) adopted.
Bill engrossed by voice vote. Three Day Rule Suspended by 31y, 0n. Final passage by voice vote.
-
- SB 761 Relating to filing for office at city or town elections.
Ogg motion to suspend rules to take up bill prevails. Bill engrossed by voice vote.
Three Day Rule Suspended. Final passage.
-
- SB 521 Relating to liability of districts for catastrophe injury for pupils.
(1) Wallace amendment adopted.
(2) Gammage amendment (same rules of negligence and liability that already apply) adopted.
Engrossed by voice vote. Three Day Rule failed to suspend by 13y, 10n.
-
- HB 2 Relating to State Ethics Commission.
Harris: we all know Texas already has a very good lobby control act.

Tuesday, May 22, 1973 page 2

Tuesday, May 22, 1973 page 2

- (1) Mauzy amendment (speaks to definition of lobbying; places period after legislation on line 24 sec. 4 and strike following)
Mauzy: the language in the bill does not include people who lobby before the Governor for or against passage of a bill.
Harris: [against] this is already included.
Amendment failed by 15y, 15n.
 - (2) Mauzy amendment (defines consideration as money, service, facility, etc.)
Harris: [against] its already in the bill.
Amendment fails by 15y, 15n.
 - (3) Mauzy amendment (adds members elect, employees of members, employees of Governor and Lt. Governor to person who if contacted, the person contacting must register as a lobbyist)
Amendment failed by 14y, 16n.
 - (4) Mauzy amendment (attempts to put employer back in bill by making same financial statement as lobbyist) failed by 12y, 19n.
 - (5) Mauzy amendment (adds "groups of persons acting in concert) adopted by voice vote.
 - (6) Mauzy amendment (persons who spend more than \$150 in quarter to be included)
Failed by 12y, 19n.
 - (7) Mauzy amendment (extends bill to cover interim) failed by 14y, 17n.
 - (8) Mauzy amendment (strikes sec. 19)
Mauzy: if this passes in bill, you will repeal the legislative bribery bill which we have already passed.
Harris: [against]
Failed by 13y, 18n.
 - (9) Mauzy amendment (requires reporting by amount, date, purpose, etc.)
Failed by 14y, 17n.
 - (10) Mauzy amendment (requires reporting of persons and employees who are hired for one shot items)
Harris point of order: a similar point already defeated.
Chair: overruled.
Amendment failed by 11y, 20n.
 - (11) Mauzy amendment (puts law into effect as the old lobby control act is repealed) adopted.
 - (12) Mauzy amendment (creates ethics commission) fails by 10y, 21n.
 - (13) Harris amendment (repairs typographical errors) adopted.
- Bill engrossed by voice vote. Three Day Rule Suspended. Final passage.

Bill engrossed by voice vote. Three Day Rule Suspended. Final passage.

SENATE ADJOURNED UNTIL 10:00 AM, Wednesday, May 22, 1973.

3-8-73 Bill Would Exclude Lobbyists From State Board Positions

Capitol Staff

Lobbyists would be forbidden to serve on state boards, agencies and commissions under a bill introduced by a Houston senator.

Sen Jim Wallace said his bill would disqualify lobbyists from being appointed to a state board and also prevent lobbyists from serving on the board.

"One of the hardest things to justify about state government is the fact that paid lobbyists are appointed to state boards which set policy and many times regulate the industry which the lobbyists are representing," said Wallace.

He said his bill is "one of the most needed reforms" in state government.

"If our government is to be fair, objective and protective of the interests of all the people and not particular vested interests, we must keep paid advocates off state agencies," Wallace said.

Wallace said that if his bill is passed lobbyists serving on state boards on its effective date — Sept. 1. — would have to "make a choice and resign from one or the other."

Wallace said two years ago there were 12 lobbyists serving on state boards and commissions, but currently "we have confirmed two."

One is Joe Golman of Dallas, recently confirmed by the Senate as a member of the Cosmetology Commission. Golman is registered as a lobbyist for several groups, including motion picture theater owners.

Wallace said Charles Jungmichael, a member of the Lower Colorado River Authority, "represents several insurance companies."

Lobby Bill Must Be Revised

Hill Rules Portions of It Are Discriminatory or Too Broad

BY BILL COLLIER
Chronicle Austin Bureau

Austin — A tough House-passed lobby registration bill has been chided into a Senate subcommittee for revision after Atty. Gen. John Hill ruled portions of it discriminatory or overly broad and opponents picked up the cry of "unconstitutional."

But House speaker Price Daniel Jr., who advocates the bill as part of his pledged reform program, said Tuesday he is "pleased" with Hill's ruling and does not believe it weakens the bill.

Daniel noted Hill greenlighted the bill's exemption from registration of those spending less than \$15 for lobbying in a calendar quarter, which Daniel said was the biggest constitutional question raised by opponents.

The lobby registration bill, sponsored by Rep. John Bigham of Belton, seeks to keep the activities of persons attempting to influence legislative or executive decisions in the open.

Bigham described the extensive registration and reporting provisions in the bill as "attempting to track the dollar flow" from special interests to lobbyists and from lobbyists to legislators and other state officials.

Hill distributed his ruling to members of the Senate Jurisprudence Committee as the committee began its Tuesday hearing on the bill, sponsored in the Senate by Sens. Bob Gammage of Houston and Oscar Mauzy of Dallas.

Hill upheld most of the bill and the \$150 cutoff, commenting that "in the political world, there is a readily ascertained correlation between the value of interests to be protected and the amounts of money ordinarily spent in attempting to protect them."

But Hill also ruled that:

- The force registration of people spending money for an advertising campaign to solicit others to contact their legislators "impermissibly burdens the right of free speech."

- The omission of judicial personnel acting officially from the list of registration exemptions is not permissible.

- Arbitrary discriminations among persons similarly situated and engaging in similar activities is unconstitutional.

He cited as an example the bill's exemptions from registration for clergy or newsmen.

Vague definitions and reporting requirements should be corrected to avoid "overbreadth." It could be impossible to comply with some of the reporting requirements, he said.

- Criminal penalties may not be imposed selectively, and the bill must be rewritten to effect the conviction of legal entities other than natural persons.

In the body of the opinion, Hill also warned that "we do not believe, however, that it is constitutionally permissible to attempt regulation of grass-roots lobbying activities or campaigns of public persuasion which do not in themselves amount to direct governmental contacts."

The sudden arrival of the Hill ruling as the committee hearing opened threw Gammage and Mauzy off balance, and the only favorable witness they presented was Bigham.

Bigham detailed the provisions of the bill, questioned sharply by Houston Sen. Walter H. Mengden Jr., and Jasper Sen. Don Adams.

Adams said he felt his constituents should be free to contact him at will, "even if they spend \$500 a day," without reporting.

Mengden complained that company representatives coming to Austin to straighten out a permit with a state agency would have to register. "I'm concerned about people that are not lobbyists that are being brought into this bill," he said.

Austin Sen. Charles Herring, committee chairman and the person who requested Hill's ruling, presented as an "impartial witness" Houston attorney George Rice of the law firm Butler, Binion, Rice, Cook and Knapp.

Austin Sen. Charles Herring, committee chairman and the person who requested Hill's ruling, presented as an "impartial witness" Houston attorney George Rice of the law firm Butler, Binion, Rice, Cook and Knapp.

Rice, at first echoing some of Hill's objections, struck out on his own and shredded the bill apart section by section.

Rice claimed the bill constitutes a "burdening and trammelling of the right to do business with your own government."

Callan Graham of Junction, a longtime lobbyist and former member of the legislature, said the bill "goes after the wrong people."



State Sens. Bob Gammage, left, D. Houston, and Oscar Mauzy, D-Dallas, put their heads together

Lobbyists, he said, "know they have to maintain an image of truth and veracity and keep their skirts clean. The lobby has been maligned for the conduct of a few that was assumed to be unethical."

The lobby registration bill "gives the false impression that you (legislators) are easily corruptible," Graham concluded.

Calvin S. McIntosh of Austin, representing the Texas Society of Assn. Executives, a group of trade association executives, said he thinks the present lobby control

on a bill they cosponsor that would require lobbyists to disclose legislative expenses.

law, passed in 1957, is sufficient.

McIntosh opposed at length the "excessive reporting" required in the proposal and claimed people would "fear reprisals" from the ethics commission that would be created to oversee enforcement.

Frank R. Kenfield and W. J. Jones of the Houston Chamber of Commerce, James Crawford of the Dallas Chamber, Alf Jernigan of the East Texas Chamber and Pledger Cate of the South Texas Chamber all posed the bill.

TEXAS

LOUISIANA

H. S. ANDERSON TRUCKING COMPANY

A

OIL FIELD and HEAVY HAULING — Hot Shot Service

Need to get amended
copy of AB 2
as it passed
House & any
changes in
Jurisprudence Committee.

need copy of
SB 69—

Hold conference
to analyze bills.
many

Vi

Anne Rubio
or Dell

Copies
to S.O.
Bramm
& Litton

Senate subcommittee given lobby control measure

By FELTON WEST, Chief
Post State Capital Bureau

AUSTIN — The House passed lobby control bill, which Speaker Price Daniel Jr. hailed as the best in the nation, was sent to a Senate subcommittee for two weeks Tuesday after coming under strong attack in a three-hour hearing.

Meanwhile, Texas Atty. Gen. John Hill issued an opinion saying the bill (HB2) was partly constitutional and partly unconstitutional. He suggested several changes to make it fully constitutional.

The bill came under attack from spokesmen for several chambers of commerce, including Houston's, from the Texas Society of Association Executives and from a retired capital lobbyist during the Senate Jurisprudence Committee's hearing.

The committee then sent it to a five-man subcommittee

at the request of the Senate sponsors, Oscar Mauzy, D-Dallas, and Bob Gammage, D-Houston.

Committee chairman Charles Herring, D-Austin, appointed a special subcommittee on motion of Sen. Bill Meier, D-Fort Worth. The subcommittee is chaired by Sen. O. H. "Ike" Harris, R-Dallas, and includes Mauzy, Meier, Don Adams, D-Jasper, and Max Sherman D-Amarrillo.

Observers speculated from the panel's makeup that it will bring back a lobby control bill of some type to the full committee, but probably a bill not nearly as strong or far-reaching as the House version.

Although Atty. Gen. Hill found some parts of the bill unconstitutional in his opinion, he said he thought what is perhaps its most controversial part is constitutionally "permissible."

This is a provision that would require registration as a lobbyist by anyone who spent more than \$150 in a calendar quarter, not including travel expenses or membership dues, to communicate directly with state executive or legislative officials to influence legislative or administrative action.

Hill held, however, that it would be unconstitutional, as the bill proposes, to attempt regulation of "grass roots" lobbying activities or campaigns of public persuasion which do not in themselves amount to direct governmental contacts.

The bill's requirement that persons who spend more than \$150 in a calendar quarter in advertising campaigns to solicit others to communicate with state officials "impermissibly burdens the right of free speech in the context of the proposed legislation," Hill said.

The attorney general also found the bill included some constitutionally impermissible exemptions which would be arbitrary discriminations and would have to be corrected.

Speaker Daniel said he was pleased with the attorney general's opinion and thought the bill could be changed to meet his objections. "I'm confident we can follow through on his suggestions and meet them by action in the Senate or in a House-Senate conference committee," Daniel said.

However, George Rice, a Houston lawyer in the firm of Butler, Binion, Rice, Cook and Knapp, questioned the constitutionality — and desirability — of many features of the bill not questioned in the attorney general's opinion.

Rice wrote an analysis of the bill at Sen. Herring's request and discussed it for the jurisprudence committee at Tuesday's hearing. Although Herring said he was

not appearing either for or against the bill, Rice raised so many questions about it that he left the impression he opposed it.

Rice said the bill would go behind trying to merely control the actual lobbyist who directly communicates with state officials and require registration and reporting of spending by those who hire the direct communicators.

To that extent, "we believe the courts will hold it unconstitutional," he said.

Rice said he doubted the courts would uphold the bill's requirement that lobbying organizations reveal the names of their members paying membership fees of more than \$250 a year because the U.S. Supreme Court held that Alabama could not force the National Association for the Advancement of Colored People to reveal its membership list.

He also raised numerous other questions about the bill's constitutionality, particularly its provisions that would require registration as lobbyists and expense reporting by those trying to influence administrative action.

Two Houston Chamber of Commerce spokesmen, vice president of operations W. J. Jones and public affairs manager Frank R. Kenfield, testified HB 2 would hamper the chamber's role as "spokesman for our community" on legislative and administrative matters.

They, as well as chamber of commerce spokesmen from Dallas, South Texas and East Texas, urged that such chambers be excluded from the proposed lobby control regulation. They pleaded that chambers not be required to reveal their dues membership lists, saying that would hurt their revenue, and not be

forced to make the proposed categorical breakdown in reporting spending that the bill would require.

The strongest attack on the bill, however, came from Calvan Graham of Austin, a retired lobbyist and former legislator who once represented the Texas Catholic Conference.

Graham said the proposed lobby control law is not needed and would put an onerous burden of registering and bookkeeping on ordinary citizens, as well as honorable said it would do nothing to prevent corruption or "enhance the reputation of the legislature" with the public.

There have been a number of scandals in the state in recent years and "in not one of them has a lobbyist been involved," he claimed.

He said both legislators and lobbyists have been "maligned" as the result of the

activities of a few unethical persons who "wouldn't have to report (under the lobby bill) or if they did, they wouldn't."

Calvin McIntosh of Austin, president of the Texas Society of Association Executives, representing more than 200 trade associations, told the committee his association strongly opposes the bill because it would impose a burden of regulation that could "greatly decrease interest in government. It would produce nightmare of accounting," he said.

Rep. John Bigham, D-Temple, principal House sponsor of the bill, was the only witness appearing for the bill. It caught a barrage of questions from the senators.

The hearing was in marked contrast to the House committee hearing on the bill last January, when not a single lobbyist or anyone else testified against it.

Post-3-14-73

March 13th

Senate hearing on HB #2

Opinion from John Hill issued today. Reference to it indicated panel members had not had time to read it but that it recommends some changes and may challenge constitutionality of HB #2 as presented.

Rep. Bigham presented HB #2 to Jurisprudence Committee. Hearing chamber was filled; people lined the walls. Bigham was not allowed to get past page 3 when he was interrupted continually by Adams and Mengden and eventually, Ogg. All of their questions were patronizing and in no case did they offer constructive criticism. Adams and Mengden were playing to the audience. Typical questions: If the girl scouts hire a bus and come visit us and they ask about the bill concerning 18-yr olds, must they register? (That from Ogg). Wallace and Sherman asked legitimate questions. Hobby asked a 5-minute question that got lost in syntax. Bigham's reply: "I don't know the answer to that." Mengden asked one legitimate question concerning lawyers who are paid to lobby for several clients. Several questions indicated problems in the wording of the bill. The genuine glee and the demeaning attitude

in which they were brought up was anything but conducive to solving the problems.

Chairman Herring called an attorney, George Rice, to testify. He started out by questioning its constitutionality according to Texas Bill of Rights, Art I and Federal, also. He also quoted a supreme court ruling which established precedence as to definition of a lobbyist. Outlook: grim!

Verold Palmer

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OIL FIELD and HEAVY HAULING — Hot Shot Service

Hearing Tuesday,
March 13 At 2 p.m.

Senate Jurisprudence
in the Gov's Cmte. Room

HB 2 - Bigham

AB 350 - Moore

SB 69 - Maury

Jobbing bills

Va attending

(need to check later w/ Sue
Lowe in Sen. Maury's office
to confer on changes)

Bigham

PURPOSE: Regarding the State Ethics Commission.

(Lobby Control)

January 12 Bill introduced and referred to Committee on State Affairs.

February 7 Bill on second reading:

Bigham: This is the lobby registration bill. Is one of the speaker's reform bills. Intent is to track lobby money and to make the information known to the public. Protects the right to know. Protects the right to communicate with public officials. Definition section will take care of coverage of labor unions and others. Protects right of state agencies to petition. Those are some of the changes in definitions.

Peveto: Under penalty sections, how do you put a corporate person in jail? Do you prosecute an individual representing a corporation or association?

Bigham: We will take care of those questions in conjunction with particular sections.

Bock: Does club include PTA?

Bigham: Yes.

Bock: School boards?

Bigham: No.

Doyle: Section 3 bothers me.

Bigham: There will be a committee amendment.

Sullivan: Would persons include a church?

Bigham: No.

(1) Committee amendment No. 1 (Strike all of Section 3 and adds new Section 3, Persons required to register.)

Doyle: The amendment doesn't change the definition of person: How about a county judge making telephone calls to his legislators if he spends more than \$150 in a calendar quarter.

Bigham: He would be excepted.

Doyle: Exception.

Bigham: Concede the point. This new section 3 is intended to clear things up. We found that a \$10.00 expenditure would discourage citizen petition of the legislature and so we raised it to \$150. The bill is intended to cover those intending to influence legislation. We made reasonable exceptions so that members of state agencies and the legislature branch would not have to register.

(1)Doran amendment to amendment (changes in exemptions to restrict to elected legislators) withdrawn.

(2)Doran amendment to amendment (to exclude people contacting their own representative) motion to table prevails 81y, 62n.

(3)Hale amendment to amendment (to take out of Committee amendment #1, lines 9 and 10 on page 15, section 2 of the Committee amendment)

Temple: Anyone who spends \$150 should have to register. This amendment would open a giant loophole.

(3a)Temple motion to table amendment fails 71y, 73n.

Bigham: \$150 is a reasonable amount for a citizen to use to petition legislators and state officials. (Asks that Hale amendment be defeated)

Hale: My amendment tries to carry out the language of section 1 of the bill which is the spirit of the bill.

Hale amendment fails 72y, 74n. Hale requests verification. Martin and Weddington struck. Amendment fails 72y, 72n.

(4)Doyle amendment to amendment (delete Section 1 of page 14 and renumbering).

Doyle: Delete Section 1 of page 14 in its entirety. Omit all of subsection b on page 15 of Committee amendment #1.

Bigham: Doyle's amendment does away with Committee amendment.

Does away with provision enabling person to petition Legislature or State Agency or official.(Requests tabling of amendment)

Doyle: Professional lobbyists are going to comply. The nonprofessional lobbyists will get caught.

Temple: If amendment to amendment goes through, then a nonprofessional would not be required to register. Refers to corporation officials.

Doyle: Agrees with Temple, but feels this is beneficial. Refers to PTA and Board of Regents.

Geiger: (to Doyle) What does amendment mean by attempt to communicate. Extend Mr. Doyle's time. Record vote 94y, 40n.

Doyle: Motion(to table amendment to amendment)passes, 82y, 55n.

Simmons: Just want to delete Subsection 5 from the bill.

Harris: Explain Subsection 5 to me.

Simmons: Want Subsection 5 deleted because it would punish those who haven't really lobbied yet, but just represent themselves as lobbyists.

Bigham: Author accepts amendment. Amendment is superfluous.

Amendment to amendment passes, 136y, 3n. Amendment is adopted as amended.

(2)Committee amendment (strike paragraphs 1, 2, and 3 of Subsection b of Section 6)

Bigham: Faced with problem of reporting total expenditures. Language in original was too broad.

(1)Scoggins amendment to amendment (strike salaries and fees in section 1d.

Motion to table amendment prevailed by vote of 105y, 37n.

- (2) Newton amendment to amendment (strike provisions relating to reporting of expenditures) Motion to table prevailed by vote of 96y, 44n.

Amendment adopted by vote of 125y, 16n.

- (3) Sullivant amendment (to exempt announcements in church bulletins) adopted by voice vote.
- (4) Simmons amendment (Add "except as provided herein" to section 5a) adopted by voice vote.
- (5) Newton amendment (Amend page 6, line 8 of second printing; relating to time for reporting, eliminating duplication) Motion to table prevailed by vote of 100y, 14n.
- (6) Calhoun amendment (strike section 16b, page 12; relating to enforcement by injunction) Motion to table prevailed by 92y, 51n.
- (7) Simmons amendment (Strike words "this act", page 13, line 16) adopted by voice vote.
- (8) Simmons amendment (Amend section 15a, line 2, page 12, by adding "with culpable intent between violates" and "a")
Simmons: Only adds requirement of culpable intent. Would protect people "back home" who innocently violate.
- (8a) Substitute amendment (Substitute "willfully" for "with culpable intent" and adds "knowingly" between "or and "files" on line 3) adopted by voice vote.
- (9) Nugent amendment (Strike section 11, substitute language of HB1 relating to duties of the commission) adopted by vote of 142y, 1n.
- (10) Short amendment (Charge \$5 for registration) Motion to table prevailed by vote of 78y, 65n.
- (11) Maloney amendment (To provide for supplying of copies of bills by lobbyists) Motion to table prevailed by vote of 85y, 57n.
- (12) Howard amendment (Substitute for present bill)
Howard: This amendment tracks almost verbatim the federal statute controlling lobbyists. The bill as it now stands is unwieldy. It is unconstitutional in comingling the three branches of state government.

Motion to table amendment prevailed by vote of 85y, 56n.

Nugent motion, correct miswording of Nugent amendment. Motion adopted. Doyle motion, reconsider vote on Committee amendment #1 in order to subsequently offer amendment to amendment. Motion to table motion failed by vote of 46y, 91n. Motion adopted. Amendment to Committee amendment #1, Delete Section 3a1, lines 9-14. Bigam motion to table amendment to amendment prevailed by vote of 87y, 52n.

- (13) Hale amendment to Committee amendment #1 (should read "persons contacting their own senators and representatives.", deleting all other members of state government.

Hale: Same as amendment brought up this morning with exception that speaker was included in morning amendment, not simply senators and representatives.

Bigam: Against. Shouldn't be limited to just senators and representatives. Any person coming to visit any member of state government should not have to register as a lobbyist.

Substitute amendment to amendment adopted by vote of 116y, 27n.

Committee amendment #1, as amended, adopted by voice vote.

Bill passed on second reading by vote of 116y, 28n. *6 Not voting*

(See Journal for vote)

Most of those voting nay pleaded they did so because the bill as amended was thought to be unconstitutional (as it later was declared), because of the restriction of grass roots lobbying.

February 8 Bill on third reading:

(1) Corrective amendment (punctuation and spelling) adopted.

Bill passed on third reading, 114y, 25n. 11 not voting

February 12 Bill received in Senate and referred to Committee on Jurisprudence.

Nays:	Agnich	Jay	Wheeler
	Atwell	Barton	Vick
	Bailey	Geiger	Wilson
	Bock	Howard	
	Calhoun	Hutchison	
	Conales	Koriot	
	Covner	Laney	
	Clayton	Lee	
	Cobb	Presnal	
	Davis	Reynolds	
	Horan	Short	

Absent Excused: Donaldson, Dramberger, Healy,
McAlister, J. Mc Donald, Montoya,
Russell, Spurlock, Tupper

Absent: Hawn, Slack

May 22 - CS HB2 Passed Senate, as amended, Yeas 30 - Nay 1
(Patman)

2/22/73

To: Litras cc: SO, Braunagel, Holmes, Palmer, (Peters)
From: Brasher

HB 2 by John Bigham - Lobbying

House Committee Report
January 26, 1973 - 9 a.m.

Subcommittee on State Affairs
Bales, Chairman

Testimony For

Rep. Bigham (Author of HB 2): Submits 2 amendments to HB 2, Sec. 3 (3) changed to: Person on own behalf spending no more than \$150 one quarter, does not have to register

Sec. 6(b)(1) concerning breakdown of expenditures by lobbyists simply this breakdown research, postage, telegraph, production travel, etc. This lets the Ethics Commission interpret more, rather than setting out these requirements very specifically

Section 6(b)(2) \$500 changed to \$250. Section 6(b)(3) \$50 maximum to each legislator each month. Must indicate any over \$50.

ACTION TAKEN

Adoption of Committee amendments one and two, replacing Sec. 3 (3) and Section 6(b)(1)(2)(3).

Motion passed to report back to committee the bill as amended with the recommendation that it do pass.

House Committee Report
January 17, 1973 - 7:30 p.m.

Committee: State Affairs
Finney, Chairman

Testimony for:

Rep. Bigham: This bill deals with lobby regulation and sets up a State Ethics Commission. It strengthens the tightening of loopholes but I feel it is too stringent and have worked up some amendments for a subcommittee.

Testimony Against

Rep. Koriath: I am against this bill because of the money it would cost and because I think it more of an over-reaction. This asks that we window-dress ethics rather than being ethical.

Action Taken

HB 2 was referred to the subcommittee composed of Bales, Bird, Doran, Kaster, Mattox & Sage.

To: Litras cc: SO, Braunagel, Holmes, Palmer, (Peters)
From: Brasher

Status Report on HB 2- Lobbying

January 12 - Bill introduced and referred to Committee on State Affairs

February 7 Bill on second reading

Bigham: This is the lobby registration bill. Is one of the speaker's reform bills. Intent is to track lobby money and to make the information known to the public. Protects the right to know. Protects the right to communicate with public officials. Definition section will take care of coverage of labor unions and others. Protects right of state agencies to petition. Those are some of the changes in definitions.

Peveto: Under penalty sections, how do you put a corporate person in jail? Do you prosecute an individual representing a corporation or association?

Bigham: We will take care of those questions in conjunction with particular sections.

Bock: Does club include PTA?

Bigham: Yes

Bock: School Boards?

Bigham: No

Doyle: Sec. 3 bothers me.

Bigham: There will be a committee amendment.

Sullivan: Would persons include a church?

Bigham: No

(1) Committee amendment No. 1 (Strike all of Section 3 and adds new Section 3, Persons requires to register.)

Doyle: The amendment doesn't change the definition of person: How about a county judge making telephone calls to his legislators if he spends more than \$150 in a calendar quarter.

Bigham: He would be excepted.

Doyle: Exception.

Bigham: Concede the point. This new Sec. 3 is intended to clear things up. We found that a \$10 expenditure would discourage citizen petition of the legislature and so we raised it to \$150. The bill is intended to cover those intending to influence legislation. We made reasonable exceptions so that members of state agencies and the legislature branch would not have to register.

(1) Doran amendment to amendment (changes in exemptions to restrict to elected legislators) withdrawn.

(2) Doran amendment to amendment (to exclude people contacting their own representative) motion to table prevails 81-62.

(3) Hale amendment to amendment (to take out of Committee amendment #1, lines 9 and 10 on page 15, sec. 2 of the Committee amendment)

Temple: Anyone who spends \$150 should have to register. This amendment would open a giant loophole.

(3a) Temple motion to table amendment fails 71-73

Bsg

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Bigham: \$150 is a reasonable amount for a citizen to use to petition legislators and state officials. (Asks that Hale amendment be defeated)

Hale: My amendment tries to carry out the language of section 1 which is the spirit of the bill.

Hale amendment fails 72-74. Hale requests verification. Martin and Weddington struck. Amendment fails 72-72.

(4) Doyle amendment to amendment (delete Sec. 1 of page 14 and renumber)

Doyle: Delete Sec. 1 of page 14 in its entirety. Omit all of subsection b on page 15 of Committee amendment #1.

Bigham: Doyle's amendment does away with Committee amendment. Does away with provision enabling person to petition legislature or state agency of official. (Requests tabling of amendment)

Doyle: Professional lobbyists are going to comply. The nonprofessional lobbyists will get caught.

Temple: If amendment to amendment goes through, then a nonprofessional would not be required to register. Refers to corporation officials.

Doyle: Agrees with Temple, but feels this is beneficial. Refers to PTA and Board of Regents.

Geiger: (to Doyle) What does amendment mean by attempt to communicate. Extend Mr. Doyle's time. Record vote 94-40

Doyle: Motion (to table amendment to amendment passes - 82-55.

Simmons: Just want to delete Subsection 5 from bill.

Harris: Explain Sub. 5 to me.

Simmons: Want Subsection 5 deleted because it would punish those who haven't really lobbied yet, but just represent themselves as lobbyists.

Bigham: Author accepts amendment. Amendment is superfluous.

Amendment to amendment passes - 136-3. Amendment is adopted as amended.

(2) Committee amendment (strike paragraphs 1, 2, and 3 of Subsection b of Sec. 6.)

Bigham: Faced with problem of reporting total expenditures. Language in ~~original~~ original was too broad.

(1) Scoggins amendment to amendment (strike salaries and fees in section 1d. Motion to table amendment prevailed by vote of 105-37.

(2) Newton amendment to amendment (strike provisions relating to reporting of expenditures) Motion to table prevailed by vote of 96-44. Amendment adopted by vote of 125-16.

(3) Sullivant amendment (to exempt announcements in church bulletins) adopted by voice vote.

(4) Simmons amendment (Add "except as provided herein" to section 5a) adopted by voice vote.

(5) Newton amendment (Amend page 6, line 8 of second printing; relating to time for reporting, eliminating duplication) Motion to table prevailed by vote of 100-14.

(6) Calhoun amendment (strike sec. 16b, page 12; relating to enforcement by injunction Motion to table prevailed by 92-51.

(7) Simmons amendment (Strike words "this act", page 13, line 16) adopted voice vote.

(8) Simmons amendment (Amend sec. 15a, line 2, page 12, by adding "with culpable intent between violates" and "a")

Simmons: Only adds requirement of culpable intent. Would protect people "back home" who innocently violate.

- (8a) Substitute amendment (Substitute "willfully" for "with culpable intent" and adds "knowingly" between "or" and "files" on line 3) adopted by voice vote.
- (9) Nugent amendment (Strike sec. 11, substitute language of HB1 relating to duties of the commission) adopted by vote of 114-1.
- (10) Short amendment (Charge \$5 for registration) Motion to table prevailed 78-65.
- (11) Maloney amendment (To provide for supplying of copies of bills by lobbyists) Motion to table prevailed 85-57.
- (12) Howard amendment (Substitute for present bill)
 - Howard: This amendment tracks almost verbatim the federal statute controlling lobbyists. The bill as it now stands is unwieldy. It is unconstitutional in co-mingling the three branches of state government.
 - Motion to table amendment prevailed 85-~~55~~ 56
 - Nugent motion, correct miswording of Nugent amendment. Motion adopted.
- (13) Hale amendment to Committee amendment #1 (should read "persons contacting their own senators and representatives.", deleting all other members of state government.
 - Hale: Same as amendment brought up this morning with exception that speaker was included in morning amendment, not simply senators and representatives.
 - Bigham: Against. Shouldn't be limited to just senators and representatives. Any person coming to visit any member of state government should not have to register as a lobbyist.
 - Substitute amendment to amendment adopted by vote of 116-27.
 - Committee amendment #1, as amended, adopted by voice vote.

Bill passed on second reading by vote of 116-27.

February 8 Bill on third reading:

- (1) Corrective amendment (punctuation and spelling) adopted.

Bill passed on third reading 114-25.

February 12 - First reading in Senate. Referred to Senate Jurisprudence Committee.

Feb. 7, 1973

Daniel Asks No Changes In Lobby Bill

AUSTIN, Tex. (AP) — Speaker Price Daniel Jr. urged House members Tuesday to pass a lobby control bill without "crippling amendments."

He called Wednesday's schedule vote on the bill a "test of the reform spirit of the House."

The bill is one of Daniel's nine "reform" measures.

"It would be tragic indeed if this House, which is publicly committed to reform, approved crippling amendments proposed and supported behind closed doors by lobbyists and special interest groups," Daniel said in a printed statement.

"The people of Texas have

heard a lot of talk about reform during the campaigns last spring and fall," Daniels said. "When the House considers and takes action on the lobby control bill ... the people will learn who is really committed to carrying out the promises of the campaign and the mandate of the people as expressed at the polls."

measure advances

By FELTON WEST, Chief
Post State Capital Bureau

AUSTIN—A revised version of House Speaker Price Daniel's proposed new lobby control law was approved 19-0 by the House State Affairs Committee late Wednesday.

The bill (HB 2) cleared the committee with two extensive amendments after the committee voted 11-7 to reject a change proposed by chairman David Finney, D-Fort Worth, that would have stricken out what Daniel and the sponsors considered one of its key provisions.

Finney proposed unsuccessfully to eliminate from the bill a requirement that would force lobbying groups or other persons who hired lobbyists, as well as the lobbyists directly contacting state lawmakers or executive branch officials to influence decisions, to register and file spending reports.

The lobby control bill, one of nine legislative and governmental reform bills Daniel is pushing in the wake of scandals of the past two years, may be debated on the House floor next week.

The bill would replace the loophole-ridden, often evaded 1957 Lobby Registration Act with tougher registration provisions and would require itemized reports of lobbyists' spending to influence state decisions.

Lobbyists would have to report the names of legislators or other state officials on whom they spent more than \$50 a month or more than \$150 a quarter.

Organizations or persons who hired the lobbyists would have to report the sources of their funds and how much they paid the lobbyists and spent on lobbying.

The bill would for the first time regulate so-called "Grassroots" lobbying in which money is spent on advertising campaigns to bring public pressure on state officials.

It would require year-round reporting by lobbyists quarterly, rather than just during legislative sessions, as under the 1957 law. It would require monthly spending reports while the Legislature was in session.

It seeks to tighten up the definitions of those who are lobbyists. One definition would require registration as a lobbyist of any person who spent more than \$150 a quarter (not including his own travel expenses or membership dues) for communicating in person, by mail or by telephone, telegraph or letter.

It would extend lobby control to cover lobbying of the state executive branch for the first time in Texas.

The bill would create a nine-member, independent state ethics commission to receive all the registration and spending reports, cross-check them and otherwise police enforcement of the law.

It would provide stiffer penalties for violations than the 1957 law. Violations of the requirements or filing false reports would be punishable by a fine of not more than \$1,000 for an individual or not more than \$10,000 for a corporation or association. The individual violator would also be subject to up to five years' confinement in a county jail.

A lobbyist failing to register or report his spending would also be subject to paying the state three times as much as his compensation. His employer would be liable for the same for failing to register or

Rec'd from
Daniel's Office

Hearing Jan. 24 - 8:30 a.m.
(Subcommittee on State Affairs) - vi

By

John Bigham

HB. No. 2

A BILL TO BE ENTITLED

AN ACT

1 relating to the activities, registration, and reporting
2 requirements of persons engaging in activities designed to
3 influence legislation or administrative action; creating a state
4 ethics commission; providing penalties; prohibiting certain acts;
5 repealing Chapter 9, Acts of the 55th Legislature, 1st Called
6 Session, 1957 (Article 183-1, Vernon's Texas Penal Code); repealing
7 Chapter 12, Acts of the 55th Legislature, 1st Called Session,
8 1957 (Article 183-2, Vernon's Texas Penal Code); and declaring
9 an emergency.
10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

12 Section 1. POLICY. The legislature declares that the
13 operation of responsible democratic government requires that the
14 fullest opportunity be afforded to the people to petition their
15 government for the redress of grievances and to express freely
16 to individual members of the legislature, to committees of the
17 legislature, and to members of the executive branch, their opinions
18 on legislation, on pending executive actions, and on current
19 issues. To preserve and maintain the integrity of the legislative
20 and administrative processes, it is necessary that the identity,
21 expenditures, and activities of certain persons who engage in
22 efforts to persuade members of the legislative branch or executive
23 branch to take specific actions, either by direct communication
24 to such officers or by solicitation of others to engage in such

1 efforts, be publicly and regularly disclosed.

2 Sec. 2. DEFINITIONS. As used in this Act:

3 (1) "Person" means an individual, corporation, association,
4 firm, partnership, committee, club, or other organization, or
5 group of persons.

6 (2) "Legislation" means any matter which must be acted
7 upon by one or both Houses of the Legislature to become effective.

8 (3) "Legislative branch" means a member, member-elect,
9 candidate for, or officer of the legislature or a legislative
10 committee, or an employee of the legislature or a member of the
11 legislature.

12 (4) "Executive branch" means an officer, officer-elect,
13 candidate for, or employee of any state agency, department, or
14 office in the executive branch of government.

15 (5) "Administrative action" means the making of any
16 recommendation, report, or decision, or the taking of any official
17 action by one or more members of the executive branch, including
18 a decision to postpone a decision or action.

19 (6) "Communicates directly with" means contact in person
20 or by telephone, telegraph, or letter.

21 (7) "Compensation" means money, service, facility, or thing
22 of value or financial benefit which is received or to be received
23 in return for or in connection with services rendered or to be
24 rendered.

25 (8) "Expenditure" means a payment, distribution, loan,
26 advance, reimbursement, deposit, or gift of money or any thing
27 of value, and includes a contract, promise, or agreement, whether

1 or not legally enforceable, to make an expenditure.

2 (9) "Commission" means the State Ethics Commission.

3 Sec. 3. PERSONS REQUIRED TO REGISTER. The following persons
4 shall register with the commission, as provided in Section 5 of
5 this Act:

6 (1) a person who communicates directly with a member of
7 the legislative or executive branch to influence legislation or
8 administrative action on behalf of another person, except members
9 of the executive or legislative branch who communicate directly
10 with another member of the executive or legislative branch to
11 influence legislation or administrative action as a part of the
12 duties of their position or employment;

13 (2) a person who pays or receives compensation from another
14 to communicate directly with a member of the legislative or
15 executive branch to influence legislation or administrative action;

16 (3) a person who makes an expenditure, not including payment
17 of membership dues, to solicit others, either directly or
18 indirectly or by an advertising campaign, to communicate directly
19 with a member of the legislative or executive branch to influence
20 legislation or administrative action, but does not include an
21 individual acting solely on his own behalf who does not spend in
22 excess of \$10 for personal postage and telephone for the
23 solicitation;

24 (4) a person who represents himself as engaging in a
25 business of communicating directly with a member of the legislative
26 or executive branch to influence legislation or administrative
27 action.

1 Sec. 4. EXCEPTIONS. The following persons are not required
2 to register under the provisions of this Act:

3 (1) persons who own, publish, or are employed by a newspaper
4 or other regularly published periodical, or a radio station,
5 television station, wire service, or other bona fide news medium
6 which in the ordinary course of business disseminates news, letters
7 to the editor, editorial or other comment, or paid advertisements
8 which directly or indirectly oppose or promote legislation or
9 administrative action, if such persons engage in no further or
10 other activities and represent no other persons in connection
11 with influencing legislation or administrative action;

12 (2) persons appearing before a legislative committee at
13 the invitation of the committee and who receive no compensation
14 for their appearance other than reimbursement from the state for
15 expenses and engage in no further or other activities to influence
16 legislation;

17 (3) persons contacting their own senators, representatives,
18 the lieutenant governor, or the governor on their own behalf; and

19 (4) attorneys representing a client with whom they have
20 an attorney-client relationship before a member of the executive
21 branch for compensation in a legal matter.

22 Sec. 5. REGISTRATION. (a) Every person required to
23 register under Section 3 of this Act shall file a registration
24 form with the commission within two days of the first undertaking
25 requiring registration.

26 (b) The registration shall be written, verified, and shall
27 contain the following information:

1 (1) the registrant's full name and address;
2 (2) the registrant's normal business and business address;
3 (3) the full name and address of each person, whether or
4 not an employee:

5 (A) who will directly communicate with a member of the
6 legislative or executive branch to influence legislation or
7 administrative action for the registrant;

8 (B) by whom the registrant is retained or employed to
9 directly communicate with a member of the legislative or executive
10 branch to influence legislation or administrative action; and

11 (C) on whose behalf the registrant is to communicate
12 directly with a member of the legislative or executive branch to
13 influence legislation or administrative action; and

14 (4) a specific description of the matters on which the
15 registrant expects to communicate directly with a member of the
16 legislative or executive branch to influence legislation or
17 administrative action, including, if known, the bill numbers and
18 whether the registrant supports or opposes each bill listed.

19 (c) If a registrant's activities are done on behalf of the
20 members of a group other than a corporation, the registration
21 form shall include a statement of the number of members of the
22 group and a full description of the methods by which the registrant
23 develops and make decisions about positions on policy.

24 (d) A registrant shall file a supplemental registration
25 indicating any change in the information contained in the
26 registration within five days after the date of the change.

27 Sec. 6. ACTIVITIES REPORT. (a) Every person registered

1 under Section 5 of this Act shall file with the commission a
2 report concerning the activities set out in Subsection (b) of
3 this section. The report must be filed:

4 (1) between the 1st and 10th day of each month subsequent
5 to a month in which the legislature is in session covering the
6 activities during the previous month; and

7 (2) between the 1st and 10th day of each month immediately
8 subsequent to the last month in a calendar quarter covering the
9 activities during the previous quarter.

10 (b) The report shall be written, verified, and contain the
11 following information:

12 (1) the registrant's total expenditures for directly
13 communicating with a member of the legislative or executive branch
14 to influence legislation or administrative action, and a breakdown
15 of such expenditures into the following categories: original and
16 derivative research done to support an argument or presentation;
17 the cost of publication and distribution of each publication used;
18 other printing, media, advertising, including production costs;
19 postage, travel, salaries, and fees, including allowances, and
20 rewards; entertainment; telephone and telegraph;

21 (2) a list of each contribution and membership fee of \$500
22 or more paid to the registrant regardless of whether it was paid
23 solely to influence legislation or administrative action with the
24 full name and address of each payer and the issue area, if any,
25 for which the contribution was earmarked;

26 (3) a list including the name of each recipient of each
27 honorarium, gift, loan, or political contribution, including a

1 service or anything of value, paid to a member of the legislative
2 or executive branch by the registrant, any employee of the
3 registrant, any other registrant who received compensation or
4 reimbursement for expenses from the registrant, or if the
5 registrant is a person other than an individual, any officer or
6 official of the registrant; and

7 (4) a list of legislation or administrative action supported
8 or opposed by the registrant, by an employee of the registrant,
9 or by any person retained or employed by the registrant or
10 appearing on his behalf, together with a statement of the
11 registrant's position for or against such legislation or
12 administrative action.

13 (c) Each person who made expenditures on behalf of a
14 registrant that are required to be reported by Subsection (b) of
15 this section shall provide a full account of his expenditures to
16 the registrant at least seven days before the registrant's report
17 is due to be filed.

18 Sec. 7. TERMINATION NOTICE. (a) A person who ceases to
19 engage in activities requiring him to register under Section 3
20 shall file a written, verified statement with the commission
21 acknowledging the termination of activities. The notice is
22 effective immediately.

23 (b) A person who files a notice of termination under this
24 section must file the reports required under Section 6 of this
25 Act for any reporting period during which he was registered under
26 this Act.

27 Sec. 8. DUTY TO FILE. If a person other than an individual

1 is required to file any registration or report under this Act,
2 the officers, or persons performing the duties of the officers,
3 have the duty to cause the person to file the required reports.

4 Sec. 9. MAINTENANCE OF REPORTS. (a) All reports filed
5 under this Act are public records and shall be made available for
6 public inspection during regular business hours.

7 (b) The commission shall provide appropriate forms to be
8 used for the registration and reporting of information required
9 by this Act, maintain registrations and reports in a separate,
10 alphabetical file, purge the files of registrations and reports
11 after five years from the date of filing, and maintain a deputy
12 available to receive registrations and reports and make such
13 registrations and reports available to the public for inspection.

14 Sec. 10. STATE ETHICS COMMISSION. (a) The State Ethics
15 Commission is created, consisting of 12 members appointed as
16 follows:

17 (1) two individuals appointed by the chief justice of the
18 supreme court;

19 (2) two individuals appointed by the presiding judge of
20 the court of criminal appeals;

21 (3) two individuals appointed by the attorney general;

22 (4) two individuals appointed by the governor;

23 (5) two individuals appointed by the speaker of the house
24 of representatives; and

25 (6) two individuals appointed by the lieutenant governor.

26 (b) No member of the commission may be a state officer,
27 a state employee, or a person required to be registered under

1 this Act.

2 (c) Except for the initial appointee, members serve
3 staggered terms of six years each. Terms expire on January 31
4 of odd-numbered years. In making the initial appointment, the
5 term of one member appointed by the chief justice of the supreme
6 court, by the presiding judge of the court of criminal appeals,
7 by the attorney general, and by the governor expires on January
8 31, 1975; the term of one member appointed by the chief justice
9 of the supreme court, by the presiding judge of the court of
10 criminal appeals, by the speaker of the house of representatives,
11 and by the lieutenant governor expires on January 31, 1977; and
12 the term of one member appointed by the attorney general, by the
13 governor, by the speaker of the house of representatives, and by
14 the lieutenant governor expires on January 31, 1979. The person
15 making the initial appointments shall designate the expiration
16 date of the terms of each member in accordance with this
17 subsection.

18 (d) Each appointee to the commission shall qualify by
19 taking the constitutional oath of office within 15 days from the
20 date of his appointment. On presentation of the oath, the
21 secretary of state shall issue commissions to appointees as
22 evidence of their authority to act as members of the commission.

23 (e) The state officers authorized to appoint members to
24 the commission may reappoint one member whom they previously
25 appointed to the commission. However, they may not reappoint a
26 person who is completing a term as a member of the commission and
27 who was originally appointed by another state officer. No person

1 may serve more than two terms as a member of the commission.

2 (f) The commission shall elect from its members a chairman
3 to serve a term of two years.

4 (g) Members of the commission shall be reimbursed for
5 actual expenses incurred in the performance of their duties and
6 shall receive \$50 per diem for each day spent in the performance
7 of their duties.

8 Sec. 11. DUTY OF COMMISSION. (a) The commission shall:

9 (1) accept and file any information voluntarily supplied
10 that exceeds the requirements of this Act;

11 (2) develop a filing, coding, and cross-indexing system
12 for maintaining the information received under this Act;

13 (3) make copying facilities available free of charge or
14 at a charge not to exceed actual cost;

15 (4) prepare and publish annual summaries of the statements
16 and reports received, separately listing individual registrants;

17 (5) prepare and publish other reports deemed appropriate
18 and provide for wide public dissemination of its summaries and
19 reports;

20 (6) make investigations of statements and reports filed
21 under this Act concerning alleged failures to file a statement
22 or report, alleged misinformation or false information filed on
23 a statement or report, or other alleged violations of this Act;

24 (7) report suspected violations of this Act to the
25 appropriate law enforcement authorities;

26 (8) issue on request and publish advisory opinions on the
27 requirements of this Act, based on real or hypothetical

1 circumstances; and

2 (9) adopt any additional rules or regulations necessary
3 for the administration of this Act.

4 (b) Acts of the commission require a concurrence of a
5 majority of the members.

6 (c) The commission may appoint an executive secretary and
7 other personnel necessary to carry out the provisions of this
8 Act.

9 (d) Compensation for employees of the commission and the
10 funds for the costs of administering this Act shall be as provided
11 by legislative appropriation.

12 Sec. 12. FALSE COMMUNICATIONS. No person may knowingly
13 or wilfully make any false statement or misrepresentation of the
14 facts to a member of the legislative or executive branch or knowing
15 a document to contain a false statement, cause a copy of the
16 document to be received by a member of the legislative or executive
17 branch without notifying such member in writing of the truth.

18 Sec. 13. CONTINGENT FEES. No person may retain or employ
19 another person to influence legislation for compensation contingent
20 in whole or in part on the passage or defeat of any legislation,
21 or the approval or veto of any legislation by the governor, and
22 no person may accept any employment or render any service for
23 compensation contingent on the passage or defeat of any legislation
24 or the approval or veto of any legislation by the governor.

25 Sec. 14. ADMISSION TO FLOORS. No person who is registered
26 or required to be registered under the provisions of this Act may
27 go on the floor of either house of the legislature while that

1 house is in session except on invitation of that house.

2 Sec. 15. PENALTY. (a) A person who violates a provision
3 of this Act or files false information on any report or
4 registration filed under this Act is guilty of a misdemeanor and
5 on conviction is punishable by a fine of not more than \$1,000 if
6 an individual or of not more than \$10,000 if a person other than
7 an individual, or confinement in the county jail for not more
8 than five years, or both.

9 (b) A person who pays compensation to, reimburses expenses
10 of, or makes an expenditure to solicit others to engage in direct
11 communication and who fails to file the registration form or
12 activities report required by Section 3 or 6 of this Act, in
13 addition to any other penalty, shall pay to the state an amount
14 equal to three times the compensation, reimbursement, or
15 expenditure.

16 (c) A person who receives compensation or reimbursement
17 for engaging in direct communication to influence legislation or
18 administrative action and who fails to file the registration form
19 or activities report required by Section 3 or 6 of this Act, in
20 addition to any other penalty, shall pay to the state an amount
21 equal to three times the compensation or reimbursement.

22 Sec. 16. ENFORCEMENT. (a) The provisions of this Act may
23 be enforced by the attorney general or any county or district
24 attorney.

25 (b) A district court in Travis County may issue an
26 injunction to enforce the provisions of this Act on application
27 by any citizen of this state.

1 Sec. 17. VENUE. The venue for a proceeding under this Act
2 is a district court of Travis County and of the county of the
3 defendant's residence.

4 Sec. 18. REPEALER. Chapter 9, Acts of the 55th Legislature,
5 1st Called Session, 1957 (Article 183-1, Vernon's Texas Penal
6 Code), and Chapter 12, Acts of the 55th Legislature, 1st Called
7 Session, 1957 (Article 183-2, Vernon's Texas Penal Code), are
8 repealed.

9 Sec. 19. PROVISIONS CUMULATIVE. This Act is cumulative
10 of Title 5, Chapter One, Articles 158, 159, 160, 161, 162, 177,
11 and 178, of the Penal Code of Texas, and shall not be construed
12 as repealing any provision thereof.

13 Sec. 20. INITIAL REGISTRATION. On the effective date of
14 this Act, any person required to register under Section 3 of this
15 Act shall file his registration with the State Ethics Commission
16 within 15 days of the effective date of this Act.

17 Sec. 21. SEVERABILITY. If any provision of this Act or
18 the application thereof to any person or circumstance is held
19 invalid, such invalidity shall not affect other provisions or
20 applications of the Act which can be given effect without the
21 invalid provision or application, and to this end the provisions
22 of this Act are declared to be severable.

23 Sec. 22. EMERGENCY. The importance of this legislation
24 and the crowded condition of the calendars in both houses create
25 an emergency and an imperative public necessity that the
26 constitutional rule requiring bills to be read on three several
27 days in each house be suspended, and this rule is hereby suspended,

1 and that this Act take effect and be in force from and after its
2 passage, and it is so enacted.

Bill No.: SB 16
Author: Kothmann

Companion Bill: HB 2

SUBJECT: regulation of Lobbyists

PURPOSE: To establish registration and reporting requirements for lobbyists and establish standards of conduct for their behavior. Repeal TPCA, art. 183-1.

BACKGROUND AND LEGISLATIVE HISTORY:

This Bill would repeal and replace part of the Representation before the Legislature Act, ie. TPCA., art. 183-1. In general the Bill would strengthen registration and reporting requirements of lobbyists and would broaden the scope of those subject to such requirements. Filing is centralized in the Secretary of State's Office rather than in that of the Chief Clerk of the House. Specifically more disclosure is required in the registration and reporting statements than in under TPCA, art. 183-1 and investigation and comparison is facilitated by use of a prescribed standardized form. Lobbyists must now disclose their compensation; must clearly identify themselves by wearing a badge; must designate the destination of lobbying expenditures; must disclose any financial transactions they have had with state officials and they must report sums received in the form of dues or contributions which are intended to be used to influence legislation. Not only is more disclosure required, but more people are now subject to the reporting requirements than under TPCA, art. 183-1. The only general exemptions provided by the Bill are for the news media, a person acting on his own behalf to contact his own Representative, Senator, etc., and a person acting on his own behalf, spending less than \$10 to influence legislation. The Bill provides a Code of Conduct for lobbyists which is not in the present Act and provides for discipline in case of violation.

Existing Texas Statutes:

TPCA, Articles 158-162, 177, 178.

ANALYSIS BY SECTION

- 1 "Person", "Compensation", "Expenditure", "Legislative Branch", "Governor's Office", "Lieutenant Governor's Office", "Legislation", "Direct Communication", "Influence Legislation", "Legislative Agent", and "Lobbying Organization" are defined.
- 2 Legislative Agent Registration
 - a A legislative agent must file with the Secretary of State a subsection (b) type statement before engaging in direct communication to influence legislation.
 - b Provides that the legislative agent shall use a prescribed form for registration which requires among other things, the disclosure of his employer, compensation received and the matters in which the lobbyist will be conducting direct communication.

ANALYSIS BY SECTION

- 3 Supplemental Statements. Any charge in the information contained in the registration statement will be corrected via supplemental filings by the lobbyist within five days of such a charge.
- 4 Identification of Legislative Agent
 - a When the provisions of section 2 have been complied with, the Secretary of State will issue a certificate of registration to the lobbyist.
 - b The certificate will be like a badge and will disclose the name and address of the lobbyist and his employer.
 - c When attempting to directly influence legislation, the lobbyist must wear the certificate.
 - d Regardless of number of employers, a lobbyist will have only one certificate bearing all their names and addresses.
- 5 Termination of States
 - a On termination, a lobbyist will file a statement with the Secretary of State verifying such termination. Termination effective on date filed.
 - b Termination does not relieve an agent and his employer from filing statements required by section 6, 7 and 9 for any partial period during which he was a registered agent.
- 6 Expenditure Statement
 - a Each lobbyist and his employer must file a statement, conforming to (c) below, with the Secretary of State showing in detail their expenditures made to a specified group of people or made for direct communication to influence legislation.
 - b Time requirements for filing statement specified.
 - c Provides a prescribed form to be used in filing an expenditure statement which contains, among other things, the name and address of the lobbyist and his employer; and the date, amount, purpose and name and address of person receiving any pertinent expenditure.

ANALYSIS BY SECTION

- d If no expenditures were made, a statement must still be filed showing same.

7 Membership Statement

- a A lobbyist or his employer who solicits, collects, or receives any valuable contributions or membership dues the purpose of which is to aid in direct communication to influence legislation, will file a statement pursuant to (b) below.
- b Prescribes a form which requires, among other things, disclosure of the sum of contributions or dues received.

8 Individual Expenditures

- a Any person who spends over \$10 during any calendar quarter must file a statement within 10 days of the close of that quarter with the Secretary of State pursuant to (c) below.
- b This section does not apply to lobbyist or their employers unless the expenditure runs for something separate from their normal words.
- c Prescribes a form to be used requiring disclosure of amount, date, purpose and name and address of person receiving pertinent expenditures.

9 Financial Transactions

- a A lobbyist who has financial dealings with any member of a specified group must file a statement giving details, purpose and nature of the transaction with the Secretary of State
- b Prescribes the form to be used. Requires among other things, disclosure of other parties to the transaction.
- c The Secretary of State will furnish a copy of the disclosure statement to any pertinent public official mentioned therein.

10 Witness Registration

- a A person appearing before a legislative committee to give any type of testimony must fill out a statement pursuant to (b) below.

ANALYSIS BY SECTION

- 10 b Prescribes the form to be used. Requires, among other things, disclosure of whether the witness is a lobbyist or employer of one, person on whose behalf he is testifying, and amount of compensation, if any, for the appearance.
- c The committee clerk will file the statements with the Secretary of State.
- 11 Maintenance of Statements
- a Statements required by this Act are public records and shall be maintained and made available by the Secretary of State.
- b The Secretary of State may use microfilm etc., for maintaining statements - such reproductions are admissible in court as original documents.
- c The Secretary of State shall compile, summarize and publish the information made available by this Act.
- 12 Timely Filing. A required statement is timely filed when registered, deposited and sent to the Secretary of State within the prescribed time.
- 13 Duty to File. Where a person required to file is other than an individual, any officer performing filing functions, has the duty to cause such filing.
- 14 Records and Accounts. Any person required to file a registration or statement must preserve all pertinent records for five years from date of filing.
- 15 Receipts. A person who receives an expenditure covered by the disclosure provisions of this act, must furnish a receipt to the person making the expenditure.
- 16 Contingent Fees. (a) No person may hire another and make his compensation contingent on the passage or defeat of legislation. (b) No person may accept employment in which his compensation is contingent on the passage or defeat of legislation.
- 17 Admission to Floors. Only people authorized by law or invited by the House will go on the floor of either House of the Legislature.
- 18 Appeal to Reason. A person shall not seek to influence the role of

ANALYSIS BY SECTION

specified people on legislation other than by an appeal to reason.

- 19 No person may knowingly transmit, utter, or publish any false information relating to any legislation to a member of the legislative branch, Governor's or Lieutenant Governor's office.
- 20 Standards of Conduct for Legislative Agents. A lobbyist will not engage in any activity as a lobbyist unless registered; will not place certain officials under personal obligation to him; will not deceive officials as to any material fact relating to legislation; will not cause bills to be introduced in which he is peculiarly interested; will solicit employment as a lobbyist only in his recognized field of expertise; will abstain from creating fictitious public response; will not represent conflicting interests; will not represent that he can control the role of a state official.
- 21 Revocation of Registration. If 20 is violated, the Secretary of State, often a hearing, may revoke a lobbyist registration.
- 22 Procedures for Suspension or Revocation.
- (a) Commence proceedings by filing charges with the Secretary of State
 - (b) Secretary of State will designate a time and place for a hearing and will notify the accused lobbyist.
 - (c) The accused lobbyist, at the hearing, may have subpoenas issued, cross-examine, etc.
 - (d) Secretary of State is not bound by strict rules of procedure or evidence.
 - (e) Secretary of State will determine the case on its merits and will record his findings of fact and law.
 - (f) If registration is revoked, the Secretary of State may prohibit re-registration for a certain period of time.
- 23 Procedures for Appeal.
- (a) A lobbyist, within 20 days after the order is entered may appeal it to his home district court as that of Travis County.
 - (b) Proceedings in the district court shall be by trial and error.

Bill No.: SB 16
Author: Kothmann

Office Copy
Companion Bill: HB 2

Introduced Jan. 17 (Jurisprudence)

SUBJECT: regulation of Lobbyists

PURPOSE: To establish registration and reporting requirements for Lobbyists and establish standards of conduct for their behavior. Repeal TPCA, art. 183-1.

BACKGROUND AND LEGISLATIVE HISTORY:

This Bill would repeal and replace part of the Representation before the Legislature Act, ie. TPCA., art. 183-1. In general the Bill would strengthen registration and reporting requirements of lobbyists and would broaden the scope of those subject to such requirements. Filing is centralized in the Secretary of State's Office rather than in that of the Chief Clerk of the House. Specifically more disclosure is required in the registration and reporting statements than in under TPCA, art. 183-1 and investigation and comparison is facilitated by use of a prescribed standardized form. Lobbyists must now disclose their compensation; must clearly identify themselves by wearing a badge; must designate the destination of lobbying expenditures; must disclose any financial transactions they have had with state officials and they must report sums received in the form of dues or contributions which are intended to be used to influence legislation. Not only is more disclosure required, but more people are now subject to the reporting requirements than under TPCA, art. 183-1. The only general exemptions provided by the Bill are for the news media, a person acting on his own behalf to contact his own Representative, Senator, etc., and a person acting on his own behalf, spending less than \$10 to influence legislation. The Bill provides a Code of Conduct for lobbyists which is not in the present Act and provides for discipline in case of violation.

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ANALYSIS BY SECTION

- 1 "Person", "Compensation", "Expenditure", "Legislative Branch", "Governor's Office", "Lieutenant Governor's Office", "Legislation", "Direct Communication", "Influence Legislation", "Legislative Agent", and "Lobbying Organization" are defined.
- 2 Legislative Agent Registration
 - a A legislative agent must file with the Secretary of State a subsection (b) type statement before engaging in direct communication to influence legislation.
 - b Provides that the legislative agent shall use a prescribed form for registration which requires among other things, the disclosure of his employer, compensation received and the matters in which the lobbyist will be conducting direct communication.

ANALYSIS BY SECTION

- 3 Supplemental Statements. Any change in the information contained in the registration statement will be corrected via supplemental filings by the lobbyist within five days of such a change.
- 4 Identification of Legislative Agent
 - a When the provisions of section 2 have been complied with, the Secretary of State will issue a certificate of registration to the lobbyist.
 - b The certificate will be like a badge and will disclose the name and address of the lobbyist and his employer.
 - c When attempting to directly influence legislation, the lobbyist must wear the certificate.
 - d Regardless of number of employers, a lobbyist will have only one certificate bearing all their names and addresses.
- 5 Termination of States
 - a On termination, a lobbyist will file a statement with the Secretary of State verifying such termination. Termination effective on date filed.
 - b Termination does not relieve an agent and his employer from filing statements required by section 6, 7 and 9 for any partial period during which he was a registered agent.
- 6 Expenditure Statement
 - a Each lobbyist and his employer must file a statement, conforming to (c) below, with the Secretary of State showing in detail their expenditures made to a specified group of people or made for direct communication to influence legislation.
 - b Time requirements for filing statement specified.
 - c Provides a prescribed form to be used in filing an expenditure statement which contains, among other things, the name and address of the lobbyist and his employer; and the date, amount, purpose and name and address of person receiving any pertinent expenditure.

ANALYSIS BY SECTION

- d If no expenditures were made, a statement must still be filed showing same.

7 Membership Statement

- a A lobbyist or his employer who solicits, collects, or receives any valuable contributions or membership dues the purpose of which is to aid in direct communication to influence legislation, will file a statement pursuant to (b) below.
- b Prescribes a form which requires, among other things, disclosure of the sum of contributions or dues received.

8 Individual Expenditures

- a Any person who spends over \$10 during any calendar quarter must file a statement within 10 days of the close of that quarter with the Secretary of State pursuant to (c) below.
- b This section does not apply to lobbyist or their employers unless the expenditure runs for something separate from their normal words.
- c Prescribes a form to be used requiring disclosure of amount, date, purpose and name and address of person receiving pertinent expenditures.

9 Financial Transactions

- a A lobbyist who has financial dealings with any member of a specified group must file a statement giving details, purpose and nature of the transaction with the Secretary of State
- b Prescribes the form to be used. Requires among other things, disclosure of other parties to the transaction.
- c The Secretary of State will furnish a copy of the disclosure statement to any pertinent public official mentioned therein.

10 Witness Registration

- a A person appearing before a legislative committee to give any type of testimony must fill out a statement pursuant to (b) below.

ANALYSIS BY SECTION

- 10 b Prescribes the form to be used. Requires, among other things, disclosure of whether the witness is a lobbyist or employer of one, person on whose behalf he is testifying, and amount of compensation, if any, for the appearance.
- c The committee clerk will file the statements with the Secretary of State.
- 11 Maintenance of Statements
- a Statements required by this Act are public records and shall be maintained and made available by the Secretary of State.
- b The Secretary of State may use microfilm etc., for maintaining statements - such reproductions are admissible in court as original documents.
- c The Secretary of State shall compile, summarize and publish the information made available by this Act.
- 12 Timely Filing. A required statement is timely filed when registered, deposited and sent to the Secretary of State within the prescribed time.
- 13 Duty to File. Where a person required to file is other than an individual, any officer performing filing functions, has the duty to cause such filing.
- 14 Records and Accounts. Any person required to file a registration or statement must preserve all pertinent records for five years from date of filing.
- 15 Receipts. A person who receives an expenditure covered by the disclosure provisions of this act, must furnish a receipt to the person making the expenditure.
- 16 Contingent Fees. (a) No person may hire another and make his compensation contingent on the passage or defeat of legislation. (b) No person may accept employment in which his compensation is contingent on the passage or defeat of legislation.
- 17 Admission to Floors. Only people authorized by law or invited by the House will go on the floor of either House of the Legislature.
- 18 Appeal to Reason. A person shall not seek to influence the role of

ANALYSIS BY SECTION

specified people on legislation other than by an appeal to reason.

- 19 No person may knowingly transmit, utter, or publish any false information relating to any legislation to a member of the legislative branch, Governor's or Lieutenant Governor's office.
- 20 Standards of Conduct for Legislative Agents. A lobbyist will not engage in any activity as a lobbyist unless registered; will not place certain officials under personal obligation to him; will not deceive officials as to any material fact relating to legislation; will not cause bills to be introduced in which he is peculiarly interested; will solicit employment as a lobbyist only in his recognized field of expertise; will abstain from creating fictitious public response; will not represent conflicting interests; will not represent that he can control the role of a state official.
- 21 Revocation of Registration. If 20 is violated, the Secretary of State, often a hearing, may revoke a lobbyist registration.
- 22 Procedures for Suspension or Revocation.
- (a) Commence proceedings by filing charges with the Secretary of State
 - (b) Secretary of State will designate a time and place for a hearing and will notify the accused lobbyist.
 - (c) The accused lobbyist, at the hearing, may have subpoenas issued, cross-examine, etc.
 - (d) Secretary of State is not bound by strict rules of procedure or evidence.
 - (e) Secretary of State will determine the case on its merits and will record his findings of fact and law.
 - (f) If registration is revoked, the Secretary of State may prohibit re-registration for a certain period of time.
- 23 Procedures for Appeal.
- (a) A lobbyist, within 20 days after the order is entered may appeal it to his home district court as that of Travis County.
 - (b) Proceedings in the district court shall be by trial and error.

ANALYSIS BY SECTION

- 20 Standards of Conduct for Legislative Agents. A lobbyist will not engage in any activity as a lobbyist unless registered; will not place certain officials under personal obligation to him; will not deceive officials as to any material fact relating to legislation; will not cause bills to be introduced in which he is peculiarly interested; will solicit employment as a lobbyist only in his recognized field of expertise; will abstain from creating fictitious public response; will not represent conflicting interests; will not represent that he can control the vote of a state official.
- 21 Revocation of Registration. If §20 is violated, the Sec. of State, after a hearing, may revoke a lobbyist registration.
- 22 Procedures for Suspension or Revocation.
- (a) Commence proceedings by filing charges with the Sec. of State.
 - (b) Sec. of State will designate a time and place for a hearing and will notify the accused lobbyist.
 - (c) The accused lobbyist, at the hearing, may have subpoenas issued, cross-examine, etc.
 - (d) Sec. of State is not bound by strict rules of procedure or evidence.
 - (e) Sec. of State will determine the case on its merits and will record his findings of fact and law.
 - (f) If registration is revoked, the Sec. of State may prohibit re-registration for a certain period of time.
- 23 Procedures for Appeal
- (a) A lobbyist, within 20 days after the order is entered may appeal it to his home district court or that of Travis County.
 - (b) Proceedings in the district court shall be by trial de novo.
- 24 Duth of the Attorney General
- (a) The Attorney General will examine filings required by the Act at least twice during every legislative session.
 - (b) The Atty. Gen. will investigate any possible violation of this Act and will prosecute any violations he discovers.

ANALYSIS BY SECTION

25 Penalty

(a) Any person who intentionally or knowingly violates any provision of this Act except §20 , is guilty of a misdemeanor punishable by up to a \$5,000 fine and/or two years.

(b) A corp. that violates any provision of this Act is punishable by a fine of up to \$50,000 and its charter will be revoked.

26 Venue. Violation prosecuted either where the offense occurred or Travis County.

27 Exemptions. This Act does not apply to owners, publishers or employees of news media who, in the ordinary course of business, disseminate news, etc. which directly or indirectly urge the passage or defeat of legislation.

28 Personal Contact. A person is not prohibited from contacting his own Rep., Sen., Gov., or Lt. Gov on his own behalf.

29 Repealer. TPCA, art. 183-1 is repealed.

30 Provisions Cumulative. This Act is cumulative to and does not repeal TPCA., arts. 158-162, 177 and 178.

31 Severability

32 Emergency Clause

SENATE COMMITTEE SCHEDULE FOR MONDAY, FEBRUARY 12

9:00AM--Economic Development--Creighton, Chairman
Meeting In Lt. Governor's Committee Room
To consider SB 133, 85, 86, 87, 88, 95, 57
and Nominations to Insurance Bd. and Offshore Terminal

2:00PM--Finance--Aikin, Chairman
Meeting in Room 301
To consider Budget Requests

2:00PM--State Affairs--Moore, Chairman
Meeting in Senate Chamber
To consider SB 94, 129, 33

3:00PM--Intergovernmental Relations--Wallace, Chairman
Meeting in Senate Reception Room
To consider SB 69, 84

3:00PM--Human Resources--Brooks, Chairman
Meeting in Sergeant's Committee Room
To consider SB 82, 156, 164, 168

leg?
*SB 69 - by Manzy - Introduced Jan. 25
and referred to Cmte. on Intergovt.
Relations.*

A bill to be entitled An Act relating to the registration and filing of statements of certain expenditures and activities by certain persons involved in influencing legislation; establishing standards of conduct, procedures for filing statements, registration, and revoking registrations; prohibiting certain acts; providing penalties; repealing Chap. 9, Acts of 55th Leg. 1st called Session, 1957 (Article 183-1) VTPC; providing for severability; and declaring an emergency.

*Vi - Is this Senate version of HB 2?
Thought SB 16 by Kothmann was.
Get Copies (was this ordered?)*

Senate Bill 69
Author: Mauzy

Companion Bill: House Bill 2

SUBJECT: Regulation of lobbyists

PURPOSE: To establish registration and reporting requirements for lobbyists and establish standards of conduct for their behavior. Repeals TPCA, art. 183-1.

BACKGROUND AND LEGISLATIVE HISTORY

This Bill would repeal and replace part of the Representation before the Legislature Act; i.e. TPCA, art. 183-1.

In general, the Bill would strengthen registration and reporting requirements of lobbyists and would broaden the scope of those subject to such requirements. Filing is centralized in the Secretary of State's office rather than in that of the Chief Clerk of the House.

Specifically: More disclosure is required in the registration and reporting statements than under TPCA, art. 183-1 and investigation and comparison is facilitated by use of a prescribed standardized form. Lobbyists must now disclose their compensation; they must clearly identify themselves by wearing a badge; they must designate the destination of lobbying expenditures; they must disclose any financial transaction they have had with state officials and they must report sums received in the form of dues or contributions which are intended to be used to influence legislation.

Not only is more disclosure required, but more people are now subject to the reporting requirements than under TPCA, art. 183-1. The only general exemptions provided by the Bill are for the news media, a person acting on his own behalf to contact his own Rep., Senator etc., and a person acting on his own behalf spending less than \$10 to influence legislation.

The Bill provides a Code of Conduct for lobbyists which is not in the present Act and provides for discipline in case of violation.

Existing Texas Statutes:
TPCA, arts. 158-162, 177, 178

ANALYSIS BY SECTION

- 1 Definitions: person, compensation, expenditure, legislative branch, Governor's office, Lt. Gov. office, legislation, direct communication, influence legislation, legislative agent, employer of a legislative agent, lobbying organization.
- 2 Legislative Agent Registration.
 - (a) A legislative agent must file with the Secretary of State a subsection
 - (b) type statement before engaging in direct communication to influence legislation.

ANALYSIS BY SECTION

- (b) Provides that the legislative agent shall use a prescribed form for registration which requires, among other things, the disclosure of his employer, compensation received and the matters on which the lobbyists will be conducting direct communication.
- 3 Supplemental Statements. Any change in the information contained in the registration statement will be corrected in supplemental filings by the lobbyist within five days of such a change.
- 4 Identification of Legislative Agent.
 - (a) When the provisions of §2 have been complied with, the Secretary of State will issue a certificate of registration to the lobbyist.
 - (b) The certificate will be like a badge and will disclose the name and address of the lobbyist and his employer.
 - (c) When attempting to directly influence legislation, the lobbyist must wear the certificate.
 - (c) Regardless of number of employers, a lobbyist will have only one certificate bearing all their names and addresses.
- 5 Termination of Status
 - (a) In termination, a lobbyist will file a statement with the Secretary of State verifying such termination. Termination effective in date filed.
 - (b) Termination does not relieve an agent and his employer from filing statements required by §6, 7, and 9 for any partial period during which he was a registered agent.
- 6 Expenditure Statement
 - (a) Each lobbyist and his employer must file a statement, conforming to (c) below, with the Secretary of State showing in detail their expenditures made to a specified group of people or made for direct communication to influence legislation.
 - (b) Time requirements for filing statement specified.
 - (c) Provides a prescribed form to be used in filing an expenditure statement which contains, among other things, the name and address of the lobbyist and his employer; and the date, amount purpose and name and address of person receiving any pertinent expenditures.

ANALYSIS BY SECTION

- (d) If no expenditures were made, a statement must still be filed showing same.

7 Membership Statement.

- (a) A lobbyist or his employer who solicits, collects, or receives any valuable contributions or membership dues, the purpose of which is to aid in direct communication to influence legislation, will file a statement pursuant to (b) below.
- (b) Prescribes a form which requires, among other things, disclosure of the sum of contributions on dues received.

8 Individual Expenditures.

- (a) Any person who spends over \$10 during any calendar quarter must file a statement within 10 days of the close of that quarter with the Secretary of State pursuant to (c) below.
- (b) This section does not apply to lobbyists or their employers unless the expenditure runs for something separate from their normal work.
- (c) Prescribes a form to be used requiring disclosure of amount, date, purpose and name and address of person receiving pertinent expenditures.

9 Financial Transactions

- (a) A lobbyist who has financial dealings with any member of a specified group must file a statement giving details, purpose and nature of the transaction with the Secretary of State.
- (b) Prescribes the form to be used. Requires, among other things, disclosure of their parties to the transaction.
- (c) The Secretary of State will furnish a copy of the disclosure statement to any pertinent public official mentioned therein.

10 Witness Registration.

- (a) A person appearing before a legislative committee to give any type of testimony must fill out a statement pursuant to (b) below.
- (b) Prescribes the form to be used. Requires, among other things, disclosure of whether the witness is a lobbyist or employer of one person on whose behalf he is testifying, and amount of compensation, if any, for the appearance.

ANALYSIS BY SECTION

- (c) The committee clerk will file the statements with the Sec. of State.

11 Maintenance of Statements

- (a) Statements required by this Act are public records and shall be maintained and made available by the Sec. of State.
- (b) The Sec. of State may use microfilm, etc., for maintaining statements; such reproductions are admissible in court as original documents.
- (c) The Sec. of State shall compile, summarize and publish the information made available by this Act.

12 Timely Filing. A required statement is timely filed when registered, deposited and sent to the Sec. of State within the prescribed time.

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14 Records and Accounts. Any person required to file a registration as statement must preserve all pertinent records for five years from date of filing.

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16 Contingent Fees.

- (a) No person may hire another and make his compensation contingent on the passage or defeat of legislation.
- (b) No person may accept employment in which his compensation is contingent on the passage or defeat of legislation.

17 Admission to Floors. Only people authorized by law or invited by the House will go on the floor of either House of the Legislature.

18 Appeal to Reason. A person shall not seek to influence the role of specified people on legislation other than by an appeal to reason.

19 Spurious Communications. No person may knowingly transmit, utter or publish any false information relating to any legislation to a member of the legislative branch, Governor's or Lt. Gov. office.

ANALYSIS BY SECTION

- 20 Standards of Conduct for Legislative Agents. A lobbyist will not engage in any activity as a lobbyist unless registered; will not place certain officials under personal obligation to him; will not deceive officials as to any material fact relating to legislation; will not cause bills to be introduced in which he is peculiarly interested; will solicit employment as a lobbyist only in his recognized field of expertise; will abstain from creating fictitious public response; will not represent conflicting interests; will not represent that he can control the vote of a state official.
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- (a) Commence proceedings by filing charges with the Sec. of State.
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- (a) The Attorney General will examine filings required by the Act at least twice during every legislative session.
 - (b) The Atty. Gen. will investigate any possible violation of this Act and will prosecute any violations he discovers.

ANALYSIS BY SECTION

25 Penalty

- (a) Any person who intentionally or knowingly violates any provision of this Act except §20 , is guilty of a misdemeanor punishable by up to a \$5,000 fine and/or two years.
- (b) A corp. that violates any provision of this Act is punishable by a fine of up to \$50,000 and its charter will be revoked.

26 Venue. Violation prosecuted either where the offense occurred or Travis County.

27 Exemptions. This Act does not apply to owners, publishers or employees of news media who, in the ordinary course of business, disseminate news, etc. which directly or indirectly urge the passage or defeat of legislation.

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29 Repealer. TPCA, art. 183-1 is repealed.

30 Provisions Cumulative. This Act is cumulative to and does not repeal TPCA., arts. 158-162, 177 and 178.

31 Severability

32 Emergency Clause

By Moore

S.B. No. 350

A BILL TO BE ENTITLED

AN ACT

relating to disclosures designed to inform the legislature and the public of the identity of persons who for pay or with funds contributed to them seek to influence the legislative process, the sources of their funds, and their areas of legislative activity; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. SHORT TITLE. This Act may be cited as the Texas Lobbying Information Act of 1973.

Sec. 2. FINDINGS AND PURPOSE. (a) The legislature finds:

(1) that the preservation of responsible representative government requires that the fullest opportunity be afforded to the people of the State of Texas to petition their government for a redress of grievances and to express freely to individual members of the legislature and to committees of the legislature their opinion on legislation and on current issues;

(2) that, to achieve legislative results which will be in the public interest, the facts and opinions expressed to the legislature by the advocates of one result should be balanced against the facts and opinions of those having opposing views or interests, and all such facts and opinions should be available to the legislature; and

(3) that the identity and activities of persons who, for consideration or with funds contributed to them, engage in efforts

1 to persuade the legislature to arrive at specific legislative
2 results, by direct communication to the legislature, should be
3 publicly disclosed at reasonable times.

4 (b) It is, therefore, the purpose of this Act to provide
5 for the disclosure of the activities, and the origin and
6 utilization of funds and other resources, of and by persons who
7 for consideration or with funds contributed to them, seek to
8 influence the legislative process.

9 Sec. 3. DEFINITIONS. (a) For purposes of this Act, the
10 term "covered communication to lobby" means any direct
11 communication (other than an exempt communication) by any person
12 for or on behalf of another person to lobby.

13 (b) For purposes of this Act, the term "exempt
14 communication" means--

15 (1) any communication by any individual, acting solely on
16 his own behalf, for redress of his grievances or to express his
17 own opinion;

18 (2) any communication by any person (other than an
19 individual), acting solely on his own behalf, for redress of his
20 grievances or to express his own opinion, to the members of the
21 legislature who represent the geographic area in which his
22 principal place of business is located;

23 (3) any communication by any person which relates only to)
24 the existence, status, purpose, or effect of legislation;

25 (4) any communication by any person to the legislature,
26 or to any member, committee, or officer or employee of the
27 legislature, at the specific request of the legislature or of

1 such member, committee, or officer or employee;

2 (5) any communication by any governmental official or
3 employee, acting in his official capacity;

4 (6) any practices or activities in the form of or relating
5 to contributions and expenditures in connection with campaigns
6 for state or federal elective office, or any communication in
7 support of or opposition to the candidacy for nomination or
8 election to public office;

9 (7) any appearance by any person before a committee of the
10 legislature in public or executive session or any written statement
11 submitted by any person to the committee for inclusion in its
12 public records;

13 (8) any communication to the legislature, or to any member,
14 committee, or officer or employee of the legislature, by any
15 interested party, for the purpose of commenting on any regulation,
16 or change therein, or revision or modification thereof, proposed
17 by the clerk and secretary under Section 10(b); and

18 (9) any communication by or authorized by any national
19 political party of the United States or any national, state, or
20 local committee or other organizational unit of such national
21 political party regarding its activities, policies, statements,
22 programs, or platforms.

23 (c) For purposes of this Act:

24 (1) "Person" means an individual or a corporation,
25 partnership, trust, committee, society, foundation, association,
26 labor organization, or any other organization.

27 (2) "Committee of the legislature" means any committee of

1 the senate or house of representatives or any subcommittee of any
2 such committee or any joint committee of the legislature or any
3 subcommittee of any such joint committee.

4 (3) "Clerk" means the Chief Clerk of the House of
5 Representatives.

6 (4) "Secretary" means the Secretary of the Senate.

7 (5) "Lobby" means to promote, effectuate, delay, or prevent
8 the introduction, consideration, amendment, passage, approval,
9 adoption, enactment, or defeat of any legislation by the
10 legislature or any member or any committee of the legislature.

11 (6) "Legislation" means any bill, resolution, amendment,
12 report, nomination, or other matter in or before the legislature
13 or proposed to be presented to, or introduced in, the legislature.

14 (7) "Direct communication" means all methods of direct
15 address to the legislature, to any member or committee of the
16 legislature, or to any officer or employee of the legislature,
17 or any member, or of any committee of the legislature.

18 (8) "Filing period" means, as applicable:

19 (A) the period beginning on January 1 and ending at the
20 close of June 30 in any calendar year; or

21 (B) the period beginning on July 1 and ending at the close
22 of December 31 in any calendar year.

23 (9) "Income" means--

24 (A) any contribution, donation, payment, loan, or other
25 thing of value received; and

26 (B) any contract, promise, or agreement, whether or not
27 legally enforceable, to receive any item referred to in Paragraph

1 (A).

2 (10) "Exempt travel expenses" means any payment or
3 reimbursement of expenses for the actual cost of transportation
4 from one point in the United States to another point in the United
5 States.

6 (11) "United States," when used in a geographical sense,
7 means the several states, the District of Columbia, the
8 Commonwealth of Puerto Rico, and the possessions of the United
9 States.

10 Sec. 4. REGISTRATION. (a) Each person who is employed
11 or retained specifically for the purpose of making covered
12 communications to lobby and who receives any income (other than
13 exempt travel expenses) from any other person and who makes at
14 least one covered communication to lobby for or on behalf of such
15 other person shall register with the clerk or secretary as a
16 lobbyist within 10 days after his initial such communication.

17 (b) Each person within the purview of Subsection (a) shall
18 submit a registration statement to the clerk or secretary informing
19 the clerk or secretary of his name and address, the name and
20 address of each person by whom he is employed or retained
21 specifically for the purpose of making covered communications to
22 lobby, and each area of legislative activity for which he is
23 registering. Nothing in this section shall be construed to require
24 the disclosure of the membership rolls or the organizational dues
25 structure of any voluntary membership association.

26 (c) If, at any time, the information contained in a
27 registration statement submitted by a person who fails within the

1 purview of Subsection (a) is not completely accurate and up to
2 date because of any change in circumstances or conditions with
3 respect to such person (including termination of his status as
4 a lobbyist), then such person shall transmit to the clerk or
5 secretary, within 10 days after such change has occurred, such
6 information as may be necessary to make the information contained
7 in such registration statement accurate and up to date.

8 Sec. 5. FILING OF REPORTS. (a) Each of the following
9 persons shall file reports when required to do so by Subsection
10 (b):

11 (1) any person retained for any consideration (other than
12 exempt travel expenses) to make covered communications to lobby,
13 if such person, acting either by himself or through any other
14 person acting for him, makes a covered communication to lobby for
15 or on behalf of any person retaining him on six or more calendar
16 days in any filing period;

17 (2) any officer or employee of any person, if such officer
18 or employee receives pay for his services as such an officer or
19 employee and if he makes a covered communication to lobby with
20 respect to the same item of legislation for or on behalf of such
21 person on six or more calendar days in any filing period; and

22 (3) any person who, through the use of funds contributed
23 to him by other persons, makes a covered communication to lobby
24 on six or more calendar days in any filing period.

25 (b) Each person who falls within the purview of Subsection
26 (a) with respect to any filing period shall file with the clerk
27 or secretary a report covering such filing period. Each such

1 report shall be filed not later than the close of the 45th day
2 following the filing period covered by the report.

3 (c) Each report shall be in such form and detail as the
4 clerk and secretary shall jointly prescribe and shall include the
5 following information:

6 (1) an identification of the person filing such report;

7 (2) an identification of each person by whom the person
8 filing such report is employed or retained to make covered
9 communications to lobby, and an identification of any other person
10 from whom the person filing the report received income of at least
11 \$250 in value in such filing period to make covered communications
12 to lobby;

13 (3) an identification of each area of legislative activity
14 of the person filing such report;

15 (4) the financial terms and conditions of any contingent
16 fee arrangement on which any person filing such report is retained;
17 and

18 (5) income received in such filing period to make covered
19 communications to lobby.

20 Nothing in this section shall be construed to require the
21 disclosure of the membership rolls or the organizational dues
22 structure of any voluntary membership association.

23 (d) For the purposes of Subdivision (5) of Subsection (c),
24 if income is attributable in part to covered communications to
25 lobby and in part to other purposes, such income may be reported,
26 at the option of the person filing the report and in conformity
27 with regulations prescribed jointly by the clerk and secretary:

1 (1) by a reasonably accurate allocation which sets forth
2 that portion of the income which is received to make covered
3 communications to lobby and the basis on which the allocation is
4 made; or

5 (2) by showing the amount of income together with a good
6 faith estimate by such person of that part of the income reasonably
7 allocable to the classification of income received to make covered
8 communications to lobby.

9 Sec. 6. RECORDS. (a) Each person who is required by
10 Section 5 to file any report with the clerk or secretary shall
11 maintain records, covering each filing period covered by each
12 such report, in accordance with generally accepted accounting
13 principles, upon which the items of information reported to the
14 clerk or secretary pursuant to the provisions of Paragraphs (4)
15 and (5) of Subsection (c) of Section 5 are based. For the purposes
16 of this section, records kept in compliance with the requirements
17 of the Internal Revenue Code of 1954 shall be deemed to be in
18 accord with generally accepted accounting principles.

19 (b) Any person within the purview of Subsection (a) shall
20 preserve any records maintained under such subsection for a period
21 of two years after the close of the filing period covered by the
22 report based on such records.

23 (c) Upon the request of the clerk or secretary, any person
24 within the purview of Subsection (a) shall make any records
25 required to be maintained and preserved by this section available
26 for inspection by him.

27 Sec. 7. OBLIGATIONS TO FURNISH INFORMATION TO OFFICER OR

1 EMPLOYEE; DELIVERY OF REGISTRATIONS AND REPORTS. (a) Any employer
2 shall furnish any officer or employee of his within the purview
3 of Section 5(a)(2), upon his request, such information as may be
4 necessary to enable such officer or employee to comply with Section
5 5(a)(2).

6 (b) Each registration and report which is filed under this
7 Act with the clerk or secretary shall be transmitted to him in
8 accordance with regulations prescribed jointly by the clerk and
9 secretary.

10 Sec. 8. SOLICITATIONS CONTAINED IN CERTAIN PUBLISHED OR
11 BROADCAST MATTER. Any matter which expressly solicits persons
12 to lobby by direct communication and:

13 (1) appears in any magazine or newspaper or is broadcast
14 by any radio or television station; and

15 (2) for which any consideration is paid or promised to be
16 paid by any person to such magazine or newspaper in which it
17 appears or to such station by which it is broadcast;
18 shall clearly disclose either on its face or by appropriate
19 identification at the time of such broadcast the person who has
20 paid for or promised to pay for the appearance or broadcast of
21 such matter.

22 Sec. 9. ADMINISTRATION; DUTIES OF CLERK AND SECRETARY.

23 (a) The clerk and secretary shall administer the provisions of
24 this Act.

25 (b) In carrying out their duties under this Act, the clerk
26 and secretary may jointly:

27 (1) appoint an executive staff member to serve at their

1 will;

2 (2) prescribe the duties of such staff member; and

3 (3) fix his annual rate of pay within the limits provided
4 by legislative appropriation.

5 (c) In carrying out their duties under this Act, the clerk
6 and secretary shall jointly:

7 (1) develop and prescribe forms for registration statements
8 for the persons required by Section 4 to register and for the
9 reports filed by persons required by Section 5 to file reports;

10 (2) compile and summarize information contained in
11 registration statements submitted and reports filed, with respect
12 to each filing period, by persons, and report such information,
13 as so compiled and summarized, to the legislature within 75 days
14 after the end of each such filing period, or if the legislature
15 is not in session, then as soon as possible after the legislature
16 reconvenes;

17 (3) make available for public inspection at reasonable
18 times in the city of Austin, for a period of two years following
19 the date of filing, all registration statements submitted by
20 persons required by Section 4 to register and all reports filed
21 by persons required by Section 5 to file reports (or reproductions
22 thereof by any process referred to in Section 11 and all
23 information as compiled and summarized to Paragraph (2); and

24 (4) ascertain whether any person required by Section 4 to
25 register or by Section 5 to file any report has failed to do so,
26 or has filed an incomplete or inaccurate registration statement
27 or report, and promptly notify such person to file or amend such

1 registration or report within five days of receipt of such
2 notification in order to satisfy the requirements of this Act or
3 regulations prescribed jointly by the clerk and secretary under
4 this Act.

5 Sec. 10. REGULATIONS. (a) The clerk and secretary shall
6 jointly prescribe such regulations as they consider necessary or
7 appropriate to effectuate the provisions, and accomplish the
8 purpose, of this Act.

9 (b) The following procedures shall govern the formulation
10 and issuance of all such regulations of the clerk and secretary,
11 and all changes therein, and the effective dates thereof:

12 (1) the clerk and secretary shall formulate their proposed
13 regulations, or changes therein, and transmit the same to the
14 secretary of state, together with a statement, which shall be
15 printed in boldface type at the beginning of such proposed
16 regulations or changes therein, to the effect that such proposed
17 regulations or changes are being so filed in order that they may
18 be available to provide opportunity, until the close of the 30th
19 day following the date of filing, to interested parties to submit
20 to the clerk or secretary their comments, suggestions, and views
21 with respect to such proposed regulations or changes therein.

22 (2) the clerk and secretary shall give full opportunity,
23 until the close of the 30th day following the date of filing of
24 their proposed regulations or changes as provided in Paragraph
25 (1) to interested parties to submit to either of them their
26 comments, suggestions, and views, including reasonable opportunity
27 for the holding of conferences attended by interested parties and

1 representatives of the clerk and secretary for such purpose.

2 (3) after consideration of the comments, suggestions, and
3 views submitted by interested parties pursuant to Paragraph (2)
4 of this subsection, the clerk and secretary, as they consider
5 advisable, may transmit, prior to the close of the 15th day after
6 the 30-day period referred to in Paragraphs (1) and (2) any
7 revisions or modifications of the proposed regulations or changes
8 therein to the secretary of state, together with a statement
9 printed as provided in Paragraph (1) to the effect that the clerk
10 and secretary will receive written comments, suggestions, and
11 views regarding their proposed revisions or modifications until
12 the close of the 10th day following the date of filing, but will
13 not make further revisions or modifications of their proposed
14 regulations or changes therein after the close of the 15th day
15 following the date of filing. Before the close of the 10th day
16 after such 10-day period, the clerk and secretary shall transmit,
17 on the same day, to the House Administration Committee and the
18 Senate Administration Committee the text of their proposed
19 regulations, or changes therein, together with the text of their
20 revisions or modifications thereof made pursuant to this paragraph
21 (but without any further revisions or modifications), and all
22 comments, suggestions, and views which have been submitted to
23 them under this subsection.

24 (4) if, after consideration of the comments, suggestions,
25 and views submitted by interested parties pursuant to Paragraph
26 (2), the clerk and secretary consider that any revisions or
27 modifications of their proposed regulations or changes therein

1 should not be made, they shall transmit, on the same day and prior
2 to the close of the 15th day after the 30-day period referred to
3 in Paragraphs (1) and (2) of this subsection, to the House
4 Administration Committee and the Senate Administration Committee
5 the text of their proposed regulations, or changes therein,
6 together with all comments, suggestions, and views which have
7 been submitted to them under Paragraph (2).

8 (5) the regulations, or changes therein, submitted to the
9 House Administration Committee and the Senate Administration
10 Committee pursuant to Paragraph (3) or Paragraph (4) (including
11 any revisions or modifications made therein pursuant to paragraph
12 (3)) shall become effective at the beginning of the first filing
13 period which commences after the close of the period of 30 calendar
14 days after the date on which the same are transmitted to such
15 committees, unless, before the close of such 30-day period, either
16 of such committees, by majority vote of its full membership, has
17 adopted a resolution disapproving such regulations, or changes
18 therein, submitted to it. All such regulations, or changes
19 therein, as finally effective under this section, shall be filed
20 promptly with the secretary of state, together with a statement
21 designating the first filing period with respect to which such
22 regulations, or changes therein, will be effective.

23 Sec. 11. RETENTION OF COPIES IN LIEU OF ORIGINALS. The
24 clerk and secretary may retain, in lieu of registrations submitted
25 and reports filed under this Act, reproductions thereof made by
26 any photographic, photostatic, microfilm, microcard, miniature
27 photographic, or other process which accurately reproduces or

1 forms a durable medium for so reproducing the original.

2 Sec. 12. SANCTIONS. (a) If any person fails to comply
3 with any provision of this Act or any regulation prescribed jointly
4 by the clerk and secretary under this Act, the attorney general
5 may, on the request of the clerk or secretary, initiate and
6 maintain a civil action in an appropriate district court for an
7 order of the court requiring such person to comply with any such
8 provision or regulation with respect to which compliance is sought.

9 (b) Any person who knowingly and willfully falsifies all
10 or part of any registration statement which he submits or any
11 report which he files with the clerk or secretary under this Act
12 shall be fined not more than \$5,000 or imprisoned in the
13 penitentiary for not more than two years, or both.

14 (c) Any person who knowingly and willfully falsifies or
15 forges all or part of any covered communication to lobby shall
16 be fined not more than \$5,000 or imprisoned in the penitentiary
17 for not more than two years, or both.

18 Sec. 13. REPEAL. Chapter 9, Acts of the 55th Legislature,
19 1st Called Session, 1957 (Article 183-1, Vernon's Texas Penal
20 Code), is repealed, effective on the date on which the regulations
21 to carry out this Act first become effective.

22 Sec. 14. EMERGENCY. The importance of this legislation
23 and the crowded condition of the calendars in both houses create
24 an emergency and an imperative public necessity that the
25 constitutional rule requiring bills to be read on three several
26 days in each house be suspended, and this rule is hereby suspended.



common cause

2100 M STREET, N.W., WASHINGTON, D.C. 20037

MODEL LOBBYING DISCLOSURE ACT

Section 1. The legislature hereby declares that the operation of responsible democratic government requires that the fullest opportunity be afforded to the people to petition their government for the redress of grievances and to express freely to individual members of the legislature, to committees of the legislature, and to officials of the Executive branch, their opinions on legislation, on pending executive actions, and on current issues; and that, to preserve and maintain the integrity of the legislative and administrative processes, it is necessary that the identity, expenditures and activities of certain persons who engage in efforts to persuade members of the legislature or the executive branch to take specific actions, either by direct communication to such officials, or by solicitation of others to engage in such efforts, be publicly and regularly disclosed.

Section 2. As used in this Act, unless the context requires otherwise:

(a) "Administrative action" means the making of any recommendation, report or decision or taking of any official action by one or more officials in the Executive branch, a state regulatory commission, agency or other body in the Executive branch, and includes a decision to postpone a decision or action;

(b) "Legislative action" means introduction, sponsorship, debate, voting and any other official action on any bill, resolution, amendment, nomination, appointment, report and any other matter pending or proposed in a legislative committee or in either House of the legislature, or any matter which may be the subject of action by the legislature;

(c) "Official in the Executive branch" means any member or employee of a state regulatory commission, agency or other body in the Executive branch, and any official or employee of the state who takes any administrative action;

(d) "Official in the Legislative branch" means any candidate for the legislature in a primary, special or general election, any member or member-elect of the legislature, any member of a commission established by and responsible to the legislature or either House thereof, and any staff person, assistant or employee of same, whether or not they receive compensation from the state;

(e) "Person" means an individual, corporation, association, firm, partnership, committee, club, or other organization or group of persons;

(f) "Lobbyist" means any person, whether or not compensated or reimbursed for expenses, who:

- (1) communicates directly with any official in the Legislative branch or in the

Executive branch with the purpose of influencing any legislative action or administrative action

- (A) on behalf of another person; or
- (B) if a person other than an individual, on behalf of or for the specific benefit of its members; or
- (2) makes or receives a payment for the conduct of such communication; or
- (3) makes an expenditure (not including payment of membership dues) to solicit others, either directly or by an advertising campaign, to communicate directly with any official in the Legislative branch or in the Executive branch with the purpose of influencing any legislative action or administrative action, provided that an individual acting solely on his own behalf who does not spend an amount in excess of \$10 for personal postage and telephone for such solicitation shall not be deemed to have made an expenditure under this subsection; or
- (4) represents himself as engaging in such communication or such solicitation as a business.

Section 3.(a) Each lobbyist who engages in activity described in subsection 2(f) shall, not later than 2 days after the beginning of such activity, file a registration form with the state ethics commission. Registration or reports by a lobbyist in no way exempts that lobbyist's employer and/or the person whom the lobbyist represents from registering or filing reports.

(b) Such registration form shall be prescribed by the state ethics commission, and shall include the registrant's full name and complete address, place of business, the full name and complete address of each person, whether or not an employee, who will lobby on behalf of the registrant; the full name and complete address of each person, if any, by whom the registrant is retained or employed or on whose behalf the registrant appeals; the date on which the registrant expects his lobbying to end; a description of any contingency fee arrangements; and a description of the matters on which the registrant expects to lobby (including, if known and relevant, bill numbers and whether the registrant supports or opposes each bill listed). If the registrant lobbies or purports to lobby on behalf of members, such registration form shall include a statement of the number of members, and a full description of the methods by which the registrant develops and makes decisions about positions on policy.

(c) Each registrant under this section shall file with the state ethics commission a report concerning his activities during the preceding calendar quarter by January 10, March 10, June 10, and September 10 of each year as long as such registrant continues to engage in any activity listed in subsection 2(f) of this section. Such report shall be on a form prescribed by the state ethics commission, and shall include a complete and up-to-date statement of the information required to be supplied under subsection (b) of this section, plus the following information for the preceding calendar quarter:

- (1) The registrant's total expenditures on lobbying and a breakdown of such expenditures into the following categories: original and derivative research done to support an argument or presentation; the cost for publication and distribution of each publication used in lobbying; other printing; media; advertising, including production costs; postage; travel; salaries and fees, including allowances, rewards and contingency fees; entertainment; telephone and telegraph;
- (2) A list of each contribution and membership fee of \$500 or more paid to the registrant regardless of whether it was paid solely for the purpose of lobbying, with the full name and complete address of each payer and the issue area, if any, for which such contribution was earmarked;
- (3) A list of each honorarium, gift, loan, or political contribution, including a service or anything of value, paid to an official in the legislative or Executive branch, or to support or oppose a candidate for elective public office, by the registrant, any employee of the registrant, any lobbyist who received compensation or reimbursement for expenses from the registrant, or, if the registrant is a person other than an individual, any officer or official of the registrant;

- (4) A list of each legislative action and each administration action supported or opposed by the registrant, by any employee of the registrant, or by any person retained or employed by the registrant or appearing on his behalf, together with a statement of the registrant's position for or against such action.

(d) Each person about whose activities a registrant is required to report by subsection (c) of this section shall provide a full account of such activities to the registrant at least 5 days before such registrant's report is due to be filed.

(e) Each person shall file a supplementary registration form with the state ethics commission no later than 5 days after any change in the information supplied in his last registration form under any subsection (b) of this section. Such supplementary registration form shall include a complete description of the information that has changed.

Section 4. Each registration form and report required to be filed under this Act shall be signed and certified as true and correct by the registrant, or, if the registrant is a person other than an individual, by an appropriate officer of such registrant.

Section 5. Each person required to file a registration form or report under this Act shall file a registration form or report that conforms to law and to the truth.

Section 6. No person shall knowingly or willfully make any false statement or misrepresentation of the facts to any official in the Legislative branch or in the Executive branch, or knowing

a document to contain a false statement, cause a copy of such document to be received by an official in the Legislative branch or in the Executive branch without notifying such official in writing of the truth.

Section 7. For the purposes of computing state or local income tax, lobbying expenditures shall not be claimed as a business expense or otherwise deducted from taxable income.

Section 8. (a) There is hereby created a state ethics commission which shall be composed of five members, not more than three of whom shall be members of the same political party and who shall be appointed by the Governor with the consent of the State Senate. No official meeting the definition either of Sec. 2(c) or Sec. 2(d) shall be appointed to membership on the commission. One of the original members shall be appointed for a term of one year, one for a term of three years, one for a term of five years, one for a term of seven years, and one for a term of nine years, beginning from the date of enactment of this Act, but their successors shall be appointed for terms of nine years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The commission shall elect one member to serve as Chairman of the commission and one member to serve as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

(b) A vacancy in the commission shall not impair the right of the remaining members to exercise all the powers of the commission and three members thereof shall constitute a quorum.

(c) The commission shall at the close of each fiscal year report to the legislature and the Governor concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the money it has disbursed; and shall make such further reports on the matters within its jurisdiction and such recommendations for further legislation as may appear desirable.

(d) Members of the commission shall while serving on the business of the commission be entitled to receive compensation at a rate of \$50 per day.

(e) The office of the commission shall be in or near the state capital, but it may meet or exercise any or all of its powers at any other place in the state.

(f) All members, officers, agents, attorneys, and employees of the commission shall be subject to the provisions of law prohibiting political activity of state employees.

(g) The commission shall appoint an Executive Director to serve at the pleasure of the commission. The Executive Director shall be responsible for the administrative operations of the commission and shall perform such other duties as may be delegated or assigned to him from time to time by regulations or orders of the commission. However, the commission shall not

delegate the making of regulations to the Executive Director.

Section 9. In addition to other duties prescribed by law, it shall be the duty of the state ethics commission:

- (a) To prescribe forms for statements and reports required to be filed by this Act, and to furnish such forms to persons required to file such statements and reports;
- (b) To prepare and publish a manual setting forth recommended uniform methods of accounting and reporting for use by persons required to file statements and reports by this Act;
- (c) To accept and file any information voluntarily supplied that exceeds the requirements of this Act;
- (d) To develop a filing, coding, and cross-indexing system consonant with the purposes of this Act;
- (e) To make statements and reports filed with it available for public inspection and copying during regular office hours, and to make copying facilities available free of charge or at a charge not to exceed actual cost;
- (f) To preserve such statements and reports for a period of five years from date of receipt.
- (g) To prepare and publish monthly, quarterly and annual summaries of the statements and reports received; these summaries shall list separately individual lobbyists and other persons;

- (h) To prepare and publish such other reports as it may deem appropriate;
- (i) To provide for wide public dissemination of its summaries and reports;
- (j) To make investigations with respect to statements and reports filed under the provisions of this Act, and with respect to alleged failures to file any statement or reports required under the provisions of this Act, and, upon complaint by any individual, with respect to alleged violation of any part of this Act;
- (k) To report suspected violations of law to the appropriate law enforcement authorities;
- (l) To issue, upon request, and publish advisory opinions on the requirements of this Act, based on a real or hypothetical set of circumstances;
- (m) To prescribe and publish rules and regulations to carry out the provisions of this Act.

Section 10. The Executive Director of the commission shall inspect each statement filed with the commission under this Act within 10 days after the date it is filed. He shall notify a person required to file a statement under this act immediately if:

- (a) It appears that the person has failed to file a statement as required by law or that a statement filed by the person does not conform to law; or

- (b) A written complaint is filed with the commission by any registered voter alleging that a statement filed with the commission does not conform to law or to the truth or that a person has failed to file a statement by law.

Section 11. Any person who violates the provisions of section 3, 4, 5, 6, or 7 of this Act is guilty of a misdemeanor and shall be fined not more than \$1,000 if an individual, and not more than \$10,000 if a person other than an individual, or imprisoned for not more than one year, or be both fined and imprisoned.

Section 12. Any person who pays compensation to a lobbyist, reimburses a lobbyist for all or part of his expenses or makes an expenditure to solicit others to lobby, and who fails to file a registration form or to report payment of such compensation or reimbursement or expenditure as required by Section 3 of this Act shall, in addition to any other penalty provided by law, pay to the state an amount equal to three times such compensation, reimbursement or expenditure.

Section 13. Any person who receives any compensation or reimbursement for activity as a lobbyist and who fails to file a registration form as required by this Act shall, in addition to any other penalty provided by law, pay to the state an amount equal to three times such compensation or reimbursement.

Section 14. The appropriate lower courts of this state shall have original jurisdiction to issue injunctions to enforce the provisions of this Act upon application by any citizen of this state.

Section 15. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of this Act and the application of such provisions to other persons and circumstances shall not be affected thereby.

Section 16. Any person who is a lobbyist as defined in Section 2(c) of this Act on the day this Act becomes effective shall be considered to have become a lobbyist, for the purposes of Sections 3 and 4 of this Act, on the day this Act becomes effective.

Section 17. This Act shall take effect 30 days after passage into law.



ANNOTATIONS TO MODEL LOBBYING DISCLOSURE ACT

Section 2(a) and (b). The inclusion of administrative actions and executive decisions under the Lobbying Disclosure Bill represents an expansion of current legislation on the books. Previously lobbying was only considered by law to be an attempt to influence legislative decision, executive decisions being exempt. We consider the inclusion of administrative action as crucial. You should certainly include, therefore, Sections 2(a), (b), (c) and (f)(1) as written.

Section 2(e). Note the expansive definition of "person". If, for some reason, this bill is used in part only and the part used includes a reference to the term "person" be sure to include this comprehensive definition of "person" in the definitions at the beginning of the bill to which the relevant section is appended. The intent of this extensive definition is to include all possible groups and individuals who may have an interest in influencing legislation or executive decisions. The definition is considered to include, among others, consortiums composed of various corporations, one of which may hire a lobbyist to act on behalf of the group.

Section 2(f). All parts of the definition of lobbyists should remain intact. Deletion of any section will provide a massive loophole through which virtually all special interest lobbyists will crawl.

Section 2(f)(3). Note that this section includes grass roots lobbying. Whereas most previous lobbying regulations covered only those who lobbied the legislature or the executive branch in person, we feel it is critical, because of the increased use of the media, to include provision covering those who spend money for the purpose of influencing executive or legislative decisions from outside the capitol building.

Section 3(a). It is imperative that lobbyists' employers and/or the person whom the lobbyist represents be required to file reports and under no circumstances be exempt from that requirement simply because their lobbyist files a report. Under the current federal law it is not explicitly required that such employers or groups represented file reports if their lobbyists do so and as a result many organizations file no reports at all. This makes it exceedingly difficult to trace down the connection between a given industry or firm and its political activities.

Section 3(c)(1-4). If reports are to be meaningful, all four sections must be included. The deletion of any one would strip the bill. If you must make a stand, make it on these four points.

Section 3(d). While quarterly reports are sufficient under normal circumstances, it is important that a supplementary registration form be filed with the State Ethics Commission virtually immediately after the change of information on the previous quarterly report. In this way, you require a person to indicate by submitting a new form any intention to lobby on a new issue. This, coupled with the requirement that new lobbyists register within two days after beginning their lobbying activity, will guard against any mid-quarter commencement of major lobbying activities without the knowledge of the Ethics Commission and, therefore, the public.

Section 8. The inclusion of a State Ethics Commission is central to this model bill. It seems the only reasonable way to insure any non-partisan, non-political scrutiny of lobbyists' activities. If, however, the inclusion of the State Ethics Commission becomes politically impossible, it is preferable to fall back on supervision by the State Secretary of State or the equivalent of the federal Comptroller General to the use of the Secretary of the Senate and Clerk of the House. These latter two tend to be more politically connected with their respective legislative bodies than would be a more detached state official.

Section 9. The Commission must retain the power to insist on and make interim reports so that mid-quarter increases in activities by one lobbying group or another may be known to the public as soon as they commence.

Section 9(g). When publishing monthly, quarterly or annual summaries the Commission must be instructed to separate reports filed by individual lobbyists from those filed by other "persons". Otherwise, it is virtually impossible or at least tremendously time-consuming to try to separate out which organizations are represented from those individuals who are representing them.

Section 10(b). This provision grants the citizen access to the State Ethics Commission and by implication requires the Commission to act upon that request within a reasonable period of time. Because of the risk of a politicized commission, it is important that individual citizens have the right to file such complaints. Since the Commission is required to make open and public reports, it should be possible to apply pressure to a Commission if it attempts to bury a written complaint.

Section 14. If an individual who has filed a complaint under Section 11(b) fails to receive satisfaction, he must have recourse to the courts and this bill must grant him standing in those courts.

Section 15. This is without doubt one of the most critical sections in this bill and its exclusion would very substantially limit the bill's total effectiveness.

Common Cause Endorses Lobbyists Regulation Bill

By RICK FISH
Capitol Staff

It's a strange position for a lobbyist to be in — lobbying for a bill to regulate lobbyists.

But the lobby control bills, and four other pieces of "reform" legislation, are the responsibility of Randall "Buck" Wood, the 28-year-old "legislative representative" of Common Cause.

Founded by John Garner, former secretary of Health, Education and Welfare, Common Cause nationally is a self-styled "citizen's lobby" dedicated to eliminating corruption in government and making legislators more responsible to the will of the people.

Common Cause of Texas appeared as the stock fraud scandal focused attention on the collapse of one legislative house of cards.

Wood, an attorney who has been rattling around the state bureaucracy for six or seven years since he got involved through a Ford Foundation grant, said Texas was chosen as Common Cause's first state target because "we rank pretty low among the states in attitude and in the atmosphere in which legislation is made."

"Gus Mutscher, to this day, doesn't believe he did anything wrong," said Wood. "Not because he is unwilling to accept reality, but because in his reality, such things were standard practice."

For that reason, a new ethics bill is the number one priority for Common Cause this session.

With lobby control, there are three other bills in the package Common Cause endorses, including:

—Open meetings. Their proposal would cut down drastically on the number of justifications a governmental body may claim for meeting in secret. The law would include the legislature and its committees, on down to local governmental units, and cover

"any deliberation between members of a governmental body at which any public business or public policy is discussed or considered, or at which any formal action is taken."

The bill has drawn considerable heat for being too restrictive, and will likely be watered down in the amending process.

—Campaign finance. All candidates, and interest groups backing bond elections, referenda and constitutional amendments would have to disclose records of their contributions and expenditures in advance of elections.

—Access to information. Creates policy and procedures for release of

"non-confidential" information held by public agencies. For all five bills, numbered HBs 1, 2, 3, 4, and 6; Wood and Common Cause were full partners in the drafting process. All five are part of House Speaker Price Daniel Jr.'s "reform package."

Partly because they are pushing a bill to regulate lobbyists, and partly because it's the policy of the organization, Wood says his lobbying efforts are restricted in some ways.

"We have no budget for entertainment, so I don't buy anybody's lunch," he says. "Common Cause doesn't contribute to campaigns, we do not endorse or dis-endorse anybody... We might criticize or sue them, but we don't endorse them."

"What I try to do is to provide a member with the reasons he needs to do what is right, or what we think is right."

"Ninety per cent of the traditional lobbying efforts depends on legislative ignorance. Our number one function is to inform the legislator what is going on, from our point of view," Wood says.

Information and direct pressure from Texas Common

Cause members (there are about 6,000 now) are Wood's big weapons. To focus legislators' attention on an issue, Common Cause has developed a "telephone chain," for passing messages on to its members, so they in turn can write, telegraph or phone their representatives.

With 26 telephone calls from the Austin office, the organization can mobilize the interest of all its members who can be reached by phone.

"We can make contact with all our 800 Austin members in two or three hours," he claims, and adds "We can generate a lot of heat in urban areas."

Texas Common Cause has been active since summer, about the time Wood was hired.

He had been chief of the elections division of the Secretary of State's office, and took the \$17,000 a year lobbying job with Common Cause because "I like to lobby, decided I'd like to get paid for it, and I wanted to do it for somebody I could feel decent about."

He is responsible to a board of directors, drawn from the membership of the organization. The direct Common Cause in taking on the five reform issues is based on a poll of the membership last April.

For this session, the five measures will be just about all Common Cause is concerned with, although they may lobby to "kill" other legislation they think is not in the public interest.

"Five bills are about all we can handle... Most lobbyists only worry about one or two in a session," said Wood.

But even as they work on their reform bills, Wood and Common Cause are anticipating 1974, when the legislature will sit as a constitutional convention to rewrite Texas' governing document.

"Everything we do this session, if we're successful, we could lose it all, (in a rewrite of the constitution)," said Wood.