

# 2019-20

# LEGISLATOR'S GUIDE to the Issues

## Taxpayer-Funded Lobbying

### The Issue

According to reports filed with the Texas Ethics Commission by lobbyists required to register in the state of Texas, as much as \$376.6 million was spent to influence state policymakers in 2017. Given the state of Texas spent about \$116 billion in 2017, spending \$376.6 million to have a say in how those billions are spent can be seen as a wise investment, the equivalent of spending \$3 to try to shape \$1,000 of spending.

So long as government is large and powerful—taxing, spending, and regulating in ways that can significantly affect the profitability of businesses and the well-being of people—individuals will be driven to influence government. Much of this effort is defensive and some is opportunistic, leading to crony corporatism with the government actively encouraged to pick winners and losers. In either case, lobbying is a form of free speech and is considered a basic right of the people as enshrined in the First Amendment in our Bill of Rights as, “the right of the people ... to petition the Government for a redress of grievances.”

Lobbyists, powerful members of the so-called third house, write bills, assemble coalitions, and pass or stop legislation. When they work for trade groups, unions, businesses, or other special interests, they are participating in free speech. But, does government itself have that same right? It is properly said that only people have rights, whereas governments have powers.

In 2017, lobbying disclosure forms also reveal an interesting data point: 11% of lobbying dollars spent that year, as much as \$41 million, was spent by government to hire outside lobbyists to lobby government. This figure excludes government employees who may spend some of their time lobbying other parts of government for their agency. This taxpayer-funded lobbying is problematic. How can one part of a representative government petition itself for a “redress of grievances” to another part of government?

Elected members of the Texas Legislature as well as the governor and political appointees are all highly motivated to listen to the elected members of local government bodies. When any elected member or key staff member from a local elected entity is concerned enough about an issue to contact a lawmaker or executive branch official, they are likely to pay attention.

Unfortunately, many local jurisdictions, from counties, to cities, to school districts, and even municipal utility districts (MUDs), have outsourced a very basic part of their job as elected officials by hiring professional lobbyists to lobby state government. Even worse, the up to \$41 million in taxpayer money spent on hired lobbyists to influence the state government in 2017 was often spent on behalf of measures that are contrary to the interests of their own constituents. For instance, funds were spent to lobby against annexation reform, which allows individual Texans the right to decide for themselves if they want to join a neighboring

city, and were also spent against efforts to limit the high yearly increase of property taxes.

There are two other less well-known ways that local governments lobby in the state Capitol.

The first is through public agency associations. These associations are not accountable to voters. Their very nature allows them to insulate the elected officials in their membership from the consequences of promoting higher taxes and bigger government. These associations often charge membership dues to raise a small portion of their budget. Few members spend their own personal money on these dues—for instance, many members of a professional prosecutors association use civil asset forfeiture funds taken from citizens without benefit of a trial and guilty verdict to pay their dues. The majority of funds raised by these associations typically come from the ad space they sell in their trade association-like magazines to private sector companies seeking government contracts. The ad space is bought, typically at a premium high above what the subscription base would justify, for the purpose of funding the associations’ operations and lobbying efforts. Thus, this money does not directly flow from taxpayers, but rather is provided by firms that supply goods and services to government and, as a result, benefit from greater government spending.

The other form of off-the-record lobbying is to assign government employees the task of lobbying state government. This is a common practice in Austin during session when dozens of local government employees can be found on any given day lobbying lawmakers for more power and more taxpayer money. In 1997 a two-sentence bill was introduced in Texas (HB 2501) that would have prohibited any political subdivision of the state from using public funds to hire someone whose main job was to lobby any governmental entity. It failed.

The city that hosts the Texas state Capitol, Austin, spends about \$1 million per year to lobby, employing 14 lobbyists, both contract lobbyists as well as city employees.

In addition to the up to \$41 million spent in 2017 on hiring outside lobbyists by government entities in Texas, there is another factor to consider: many of the lobbyists hired by local government have other clients in the commercial arena. This amplifies their ability to direct donations and gifts to lawmakers, making their entreaties on behalf of local governmental entities all that much more difficult for lawmakers to resist.

Local governments’ use of taxpayer dollars to lobby for higher taxes, greater spending, and more regulatory power is nothing more than taking taxpayer dollars to take more taxpayer dollars. Individual Texas taxpayers are largely outgunned by this lobbying firepower.

*continued*

## The Facts

- Up to \$41 million was spent by local government in 2017 to hire outside lobbyists to lobby state government.
- In addition, hundreds of local government employees descend on the state Capitol every session to lobby for more power and money for local government—these people do not register as lobbyists.
- Lastly, public agency associations such as the Texas Municipal League sell advertising to government contractors with the income from this advertising going to pay for lobbyists.

## Recommendations

- Ban the ability of local government to hire outside lobbyists.
- Prohibit any political subdivision of the state from using public funds to hire someone whose main job was to lobby any governmental entity.
- Prohibit any public funds from going to public agency associations.

## Resources

- [HB 2501](#). 1997. Introduced. 75th Texas Legislature (R).
- [Texas Ethics Commission](#) (2017).