

>On 1/10/15 1:36 PM, "Frank Battle" <Frank.Battle@speaker.state.tx.us>

>wrote:

>

>>Below is an email I received from Paul Hobby that appears to be a copy of
>>a message to Evan Smith.

>>

>>Texas Ethics Commission's agenda for the Feb 13 meeting includes setting
>>legislative per diem for the 84th Legislature. Paul points out that the
>>per diem amount affects more than just the amount paid to legislators per
>>day. A legislator or staff member's name and other details must appear
>>on a lobbyist's activities report if the lobbyist makes an expenditures
>>for food, lodging, transportation, or entertainment in a day that
>>exceed 60% of the per diem amount.

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>>The current per diem is \$150 per day, so the detailed reporting threshold
>>is currently \$90. The Commission originally proposed setting legislative
>>per diem at \$210 (the federal per diem amount for Austin), but reduced it
>>to \$190 based on a request from legislative leadership. Sixty percent of
>>\$190 is \$114. When the higher per diem is adopted, the detailed
>>reporting threshold will increase from \$90 to \$114. Paul also points out
>>that lobbyists can combine such expenditures (³cost sharing²) to keep the
>>"per lobbyist" expenditure below the threshold. He describes this as
>>"dark gifting" because the expenditures are not reported in detail.

>>

>>Frank

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>>From: Hobby, Paul [phobby@genesis-park.com]

>>Sent: Saturday, January 10, 2015 11:41 AM

>>To: Frank Battle; jesse ancira

>>Cc: Hobby, Paul

>>Subject: legislative per diem and its collateral effect --- I HAVE

>>DISCUSSED WITH JOE -- need to send to Evan by Monday please

>>

>>Evan, you and I have discussed allowing Texas Tribune readers to weigh in
>>on an issue that will be on the Texas Ethics Commission's agenda for our
>>February 13 meeting. The issue itself is the prospective increase in
>>legislative per diem, but the more nuanced question is the hidden
>>consequence of that change.

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>>Setting per diem is one of the Commission's Constitutional duties and was
>>soundly envisioned as a process separate from the politics of members
>>voting on their own pay. The federal government has set the Austin per

>>diem for 2015 as \$210 per day, but the Legislative leadership has
>>requested the lower amount of \$190 per day. In response to that request
>>the Commission proposed the \$190 amount to be finalized at its February
>>meeting. There hasn't been an increase in a long while even as Austin
>>has become a more expensive place due to its hyper-growth, so while
>>certainly there can be different opinions about per diem amounts, there
>>is no obvious effect on disclosure and transparency. In fact , after the
>>2013 session, the Commission passed new rules requiring office holders
>>to specifically designate Austin living expenses paid from their campaign
>>accounts. So the public will have at its disposal, better information
>>regarding accurate cost of living in Austin and amounts actually spent on
>>living expenses. But there actually there is a negative aspect to the
>>change that the Commission didn't create, but feels obliged to
>>highlight .let me explain.

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>>Legislative per diem is statutorily linked to the disclosure threshold
>>for lobby gifts of transportation, lodging, food, beverage and
>>entertainment to staff and legislators. So lobbyists who register with
>>state will be able to do more "dark gifting" to staff and legislators
>>than before the change. The hidden effect is compounded when multiple
>>lobbyists³ cost share² such gifts to multiple legislators, so the
>>unreported total gift amount is below the higher reporting threshold per
>>individual. Obviously the number can quickly get above any³ de minimis²
>>notional amount.

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>>Maybe this is a moment to zoom out and ask the broader question of why
>>lobby gifts of any size are allowed? What might be the possible
>>justification?

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>>My conversations indicate that many members don't accept such gifts, but
>>are hesitant to call out other members who do. However, lobbyists also
>>claim to resent the pressure to buy meals and other forms of gifts
>>beneath the threshold for members that the current system encourages.
>>It's not clear who exactly supports the practice of lobby gifts
>>undisclosed or otherwise.

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>>I would be sincerely interested in reading any feedback your readers
>>might have so that the issue can be fully understood at our February 13
>>meeting.

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