

CHAPTER 6

# Reforming the System

Candidates, as well as the public, have a right to know the source of the money used to operate campaigns for elective office. This report uncovered loopholes in current state campaign finance laws that are being purposely and aggressively exploited. Consequently, voters are denied the full and transparent disclosure the system was created to provide them.

The difficulty in today’s campaign finance system is that the public is unable to follow the convoluted paths trial lawyer have created for their funding as it flows through the system to its final destination. As with any contributor, trial lawyers must be required to have accurate, identifiable disclosure of their campaign contributions.

To date, trial lawyer contributions have been intentionally hidden from the public eye. The funds contributed to candidates have complied with the letter of Texas law, but not with the spirit of that law. Millions of dollars have been showered onto Texas’ political landscape cleverly disguised.

As officeholders, Texas lawmakers recognize that candidates require financial contributions in order to campaign effectively in today’s political system and they have set up a system to accommodate that reality. But just as importantly, the reporting requirements recognize that it is not the money itself that stands to skew the system, but the intentional concealment of the source of those funds from voters that will corrupt the system.

To ensure that the campaign finance system safeguards the public interest, the Texas Legislature should address the problems exposed in this report with the goal of making full disclosure the hallmark of Texas politics.

The findings in this report demonstrate clearly how easy it is to deceive the public. That should not be the case. The House and Senate committees with oversight of election issues should appoint task forces during the 2003 leg-

islative session to examine ways to halt deceptive campaign finance practices by:

1. **Adopting a regulatory framework to prohibit PAC-to-PAC contributions**
2. **Strengthening existing laws on electronic filing and the immediate reporting of significant contributions**
3. **Requiring honesty in PAC names / titles**
4. **Considering legislation to treat law firm contributions in the same fashion as corporate contributions**

### Prohibition on PACs giving to PACs

Political action committees (PACs) are intended to unite groups of like-minded people that share similar ideology. In its purest form, PACs allow people to pool their resources and give to candidates of their choice.

Although their purpose is noble, PACs can become conduits for hiding the true source of campaign contributions. PAC-to-PAC contributions can shield the original backers’ identity behind an ambiguous sounding name.

Like scores of existing political committees, Texans for Lawsuit Reform’s PAC has made contributions to other PACs, which is a legitimate function. But when PACs are set up exclusively to contribute money to other PACs – and abandon all pretense of distributing money directly to candidates—the law needs to be changed.

Trial lawyers have capitalized on this loophole and are dumping millions into Texas politics without the public’s knowledge. By using various PAC names and methods of

moving money from one source to another, trial lawyers have been able to finance their favorite candidates, essentially in secret.

Texas 2000 is the poster child for this issue. During the past 18 months, trial lawyers accounted for 97 percent of this PACs income, giving it \$2,172,417 of the \$2.2 million it received in contributions. Texas 2000 then turned around and gave \$2 million – or 91 percent of its total contributions – to the Texas State Democratic Party. The remainder went to PAC operating expenses.

Texas 2000 didn't directly contribute a single cent to any candidate. Why didn't the trial lawyers donate directly to their favorite candidates?

Shuffling money from one PAC to another does nothing more than hide the identity of the contributor. Campaign finance law is written with the public in mind. Its intent is to keep voters informed and reveal a candidate's true funding sources. PAC-to-PAC contributions create a barrier between the public and the truth and should be stopped.

A constitutionally compliant mechanism should be developed that prohibits contributions by PACs that are created solely to give to other PACs. If these PACs are not contributing to candidates, why do they exist, other than to conceal the true source of money? It is common knowledge among the politically savvy that they serve no purpose in Texas politics, except to add another step in an already complex process of identifying who is really funding Texas political races.

**Strengthening electronic filing, immediate reporting requirements**

One objective of requiring the reporting of campaign finances is to provide the public a quick and easy system for determining which individuals and organizations are giving money to which candidate. Three changes will improve the current system. They are:

- **Require all PACs to electronically file their reports with the ethics commission.** In the computer age, there is no legitimate excuse for PACs that are handling hundreds of thousands of dollars to dodge this requirement.

The Lone Star Fund-Texas is a prime example. Chaired by a Texas Congressman, this PAC is a branch operation of a national PAC. It is inconceivable that the Lone Star Fund, like the majority of businesses today, doesn't use computers for its everyday office tasks. But it refuses to file its campaign finance reports in Texas electronically, making it more difficult for the public to analyze these "public" records.

- **Require PACs to immediately report to the Texas Ethics Commission any contributions of \$5,000 or more that occur during the 30 days prior to an election.** A similar requirement is currently in place for candidates and the public has a right to know which PACs are writing significant checks to candidates in a campaign's final days.

The 1998 general election in Texas illustrates the need for this reform. In that cycle the trial lawyers identified in this report infused hundreds of thousands of dollars into select political races in the last month, and even

the final days of the campaigns. These contributions, which can be telling for both their size and their source—and are sometimes the bulk of a candidate's war chest—are often lost to public attention in the frenzy leading up to election day.

- **Require PACs and candidates to list the occupation of contributors.** This information is already required in some races and it should be expanded to all candidates and PACs. Accurate identification of contributors is the bedrock of a full and open disclosure system and it can help make it clear to the public who is supporting which candidate.

**Honesty in PAC names / titles**

Participation in politics comes with a heavy responsibility. Contributors to the political system carry an even bigger weight, because the money they add to the system can also bring doubts about influence. PACs that are formed with a common goal in mind have a responsibility to demonstrate what their contributions represent.

Single-issue PACs, such as those funded dominantly or entirely by trial lawyers, are huge depositors into Texas politics. Trial lawyer PACs in particular are contributing over \$7.3 million into the system.

In the spirit of campaign finance law, the public and the candidates have the right to know where these large sums of money are coming from, especially if it is from such an isolated group, such as plaintiffs' lawyers.

If the Legislature cannot find a practical and constitutional method of regulating PAC names, then the other reforms listed in this report would take the first step towards maintaining transparency in the political contribution system.

**Law firms should be treated as Texas corporations**

According to Texas law, a corporation organized under the Texas Business Corporation Act, the Texas Non-Profit Corporation Act, the federal law, or law of another state must comply with certain contribution restrictions. This also includes the following, whether incorporated or not: banks, trust companies, savings and loan associations, insurance companies, railroad companies, cemetery companies, stock companies, government-regulated cooperatives and abstract and title insurance companies.

These corporations are restricted from contributing directly to candidates. Law firms, however, do not have the same impediments to contributions, leaving trial lawyer firms free to contribute as much as possible to their favorite candidates.

The Legislature should examine regulating the political contributions of law firms in the same way as Texas corporations.