

1-1 By: Chisum, et al. (Senate Sponsor - Jackson) H.B. No. 599
1-2 (In the Senate - Received from the House May 7, 2003;
1-3 May 9, 2003, read first time and referred to Committee on
1-4 Government Organization; May 24, 2003, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 6,
1-6 Nays 0; May 24, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 599 By: Wentworth

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the continuation and functions of the State Bar of Texas
1-11 and to conflicts of interest with respect to certain persons
1-12 engaged in the practice of law.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 81.003, Government Code, is amended to
1-15 read as follows:

1-16 Sec. 81.003. SUNSET PROVISION. The state bar is subject to
1-17 Chapter 325 (Texas Sunset Act). Unless continued in existence as
1-18 provided by that chapter, this chapter expires September 1, 2015
1-19 [~~2003~~].

1-20 SECTION 2. Section 81.019(c), Government Code, is amended
1-21 to read as follows:

1-22 (c) The election rules must permit any member's name to be
1-23 printed on the ballot as a candidate for president-elect if a
1-24 written petition requesting that action and signed by at least five
1-25 percent of the membership of the state bar is filed with the
1-26 executive director at least 30 days before the election ballots are
1-27 to be distributed [~~mailed~~] to the membership.

1-28 SECTION 3. Sections 81.020(c) and (f), Government Code, are
1-29 amended to read as follows:

1-30 (c) Elected members serve three-year terms. Nonattorney
1-31 members serve staggered terms of the same length as terms of elected
1-32 board members. The supreme court shall annually appoint two
1-33 nonattorney members, with at least one of the two from a list of at
1-34 least five names submitted by the governor. Appointments to the
1-35 board [~~In making the appointments the supreme court and the~~
1-36 ~~governor must attempt to ensure full and fair representation of the~~
1-37 ~~general public, including women, minorities, and retired persons~~
1-38 ~~who are at least 55 years of age. Each appointment] shall be made
1-39 without regard to the race, color, disability [~~creed~~], sex,
1-40 religion, age, or national origin of the appointees. A person who
1-41 has served more than half of a full term is not eligible for
1-42 reappointment to the board.~~

1-43 (f) The board of directors shall develop and implement
1-44 policies that clearly separate [~~define~~] the [~~respective~~]
1-45 responsibilities of the board and the management responsibilities
1-46 of the executive director and the staff of the state bar.

1-47 SECTION 4. Subchapter B, Chapter 81, Government Code, is
1-48 amended by adding Sections 81.0201 and 81.0215 to read as follows:

1-49 Sec. 81.0201. TRAINING PROGRAM FOR BOARD MEMBERS. (a) A
1-50 person who is elected or appointed to and qualifies for office as a
1-51 member of the board of directors may not vote, deliberate, or be
1-52 counted as a member in attendance at a meeting of the board until
1-53 the person completes a training program that complies with this
1-54 section.

1-55 (b) The training program must provide the person with
1-56 information regarding:

1-57 (1) the legislation that created the state bar and the
1-58 board;

1-59 (2) the programs operated by the state bar;

1-60 (3) the role and functions of the state bar;

1-61 (4) the rules of the state bar, with an emphasis on the
1-62 rules that relate to disciplinary and investigatory authority;

1-63 (5) the current budget for the state bar;

2-1 (6) the results of the most recent formal audit of the
 2-2 state bar;
 2-3 (7) the requirements of:
 2-4 (A) the open meetings law, Chapter 551;
 2-5 (B) the public information law, Chapter 552; and
 2-6 (C) other laws relating to public officials,
 2-7 including conflict-of-interest laws; and
 2-8 (8) any applicable ethics policies adopted by the
 2-9 state bar or the Texas Ethics Commission.

2-10 Sec. 81.0215. STRATEGIC PLAN. (a) The state bar shall
 2-11 develop a comprehensive, long-range strategic plan for its
 2-12 operations. Each even-numbered year, the state bar shall issue a
 2-13 plan covering five fiscal years beginning with the next
 2-14 odd-numbered fiscal year.

2-15 (b) The strategic plan must include measurable goals and a
 2-16 system of performance measures that:

2-17 (1) relates directly to the identified goals; and
 2-18 (2) focuses on the results and outcomes of state bar
 2-19 operations and services.

2-20 (c) Each year, the state bar shall report the performance
 2-21 measures included in the strategic plan under this section to the
 2-22 supreme court and the editor of the Texas Bar Journal for
 2-23 publication.

2-24 SECTION 5. Section 81.022, Government Code, is amended by
 2-25 adding Subsections (a-1) and (e) to read as follows:

2-26 (a-1) In developing and approving the annual budget, the
 2-27 state bar and supreme court shall:

2-28 (1) consider the goals and performance measures
 2-29 identified in the strategic plan developed under Section 81.0215;
 2-30 and

2-31 (2) identify additional goals and performance
 2-32 measures as necessary.

2-33 (e) After implementing a budget approved by the supreme
 2-34 court, the state bar shall report to the court regarding the state
 2-35 bar's performance on the goals and performance measures identified
 2-36 in the strategic plan developed under Section 81.0215. The state
 2-37 bar shall:

2-38 (1) revise the goals and performance measures as
 2-39 necessary; and

2-40 (2) notify the supreme court of the revisions.

2-41 SECTION 6. Sections 81.024(c) and (d), Government Code, are
 2-42 amended to read as follows:

2-43 (c) When the supreme court has prepared and proposed rules
 2-44 or amendments to rules under this section, the court shall
 2-45 distribute ~~mail~~ a copy of each proposed rule or amendment in
 2-46 ballot form to each registered member of the state bar for a vote.

2-47 (d) At the end of the 30-day period following the date the
 2-48 ballots are distributed ~~mailed~~, the court shall count the
 2-49 returned ballots. ~~[An election is valid only if at least 51 percent~~
 2-50 ~~of the registered members of the state bar vote in the election.]~~

2-51 SECTION 7. Subchapter B, Chapter 81, Government Code, is
 2-52 amended by adding Sections 81.0241 and 81.0242 to read as follows:

2-53 Sec. 81.0241. ELECTRONIC TRANSMISSION OF ELECTION
 2-54 MATERIALS. (a) The state bar may, with the approval of the supreme
 2-55 court, distribute by electronic transmission ballots and related
 2-56 materials and receive by electronic transmission completed ballots
 2-57 in an election under this chapter.

2-58 (b) Before approving the distribution or receipt of ballots
 2-59 and related materials by electronic transmission under this
 2-60 section, the supreme court must be satisfied that the state bar has
 2-61 implemented procedures that ensure each member of the state bar
 2-62 will have secure access to election ballots and information.

2-63 Sec. 81.0242. PARTICIPATION IN ELECTIONS. The state bar,
 2-64 in the manner provided by the supreme court, shall:

2-65 (1) promote and monitor participation of members of
 2-66 the state bar in elections under this chapter; and

2-67 (2) report statistics regarding that participation to
 2-68 the supreme court and the editor of the Texas Bar Journal for
 2-69 publication.

SECTION 8. Section 81.026(a), Government Code, is amended to read as follows:

(a) The board may create committees, subject to the executive committee's approval under Subchapter I, and sections as it considers advisable and necessary to carry out the purposes of this chapter.

SECTION 9. Section 81.027(a), Government Code, is amended to read as follows:

(a) The board of directors may remove a director from the board at any regular meeting by resolution declaring the director's position vacant. It is a ground for removal from the board that a director [if]:

(1) does not have at the time of taking office the applicable qualifications for office, if any;

(2) does not maintain during service on the board the applicable qualifications for office, if any;

(3) is ineligible for membership under Section 81.028 or 81.031;

(4) cannot, because of illness or disability, discharge the director's duties for a substantial part of the director's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the director is eligible to attend during a calendar year without an excuse approved by a majority vote of the board [the director, in the board's determination, has become incapacitated and cannot perform his duties as a director;

~~[(2) the director has been absent, without cause considered adequate by the board, from any two consecutive regular meetings of the board or from a total of four meetings;~~

~~[(3) the director violates a prohibition established by Section 81.028; or~~

~~[(4) the director has violated the terms or provisions of Section 81.031].~~

SECTION 10. Section 81.028, Government Code, is amended to read as follows:

Sec. 81.028. RELATIONSHIP WITH TRADE ASSOCIATION [EMPLOYEE OR CONSULTANT]. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board of directors and may not be a state bar employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of board interest; or

(2) the person's spouse is an officer, manager, [A member of the board of directors or an employee of the board may not be an employee] or paid consultant of a Texas trade association in the field of board interest.

SECTION 11. Sections 81.029(j) and (k), Government Code, are amended to read as follows:

(j) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements [to assure implementation of] a program of equal employment opportunity to ensure that [under which] all personnel decisions [transactions] are made without regard to race, color, disability [handicap], sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, [appointment,] training, and promotion of personnel, that show the intent of the state bar to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

4-1 (2) an [a comprehensive] analysis of the extent to
 4-2 which the composition of the state bar's personnel is in accordance
 4-3 with state and federal law and a description of reasonable methods
 4-4 to achieve compliance with state and federal law [state bar work
 4-5 force that meets federal and state guidelines,

4-6 ~~[(3) procedures by which a determination can be made~~
 4-7 ~~of significant underuse in the state bar work force of all persons~~
 4-8 ~~for whom federal or state guidelines encourage a more equitable~~
 4-9 ~~balance, and~~

4-10 ~~[(4) reasonable methods to appropriately address~~
 4-11 ~~those areas of significant underuse].~~

4-12 (k) The [A] policy statement [prepared under Subsection
 4-13 ~~(j)] must:~~

4-14 (1) [cover an annual period,] be updated [at least]
 4-15 annually;

4-16 (2) be reviewed by the state Commission on Human
 4-17 Rights for compliance with Subsection (j)(1); [7] and

4-18 (3) be filed with the supreme court and the governor's
 4-19 office.

4-20 SECTION 12. Subchapter B, Chapter 81, Government Code, is
 4-21 amended by adding Sections 81.035, 81.036, 81.037, and 81.038 to
 4-22 read as follows:

4-23 Sec. 81.035. INFORMATION REGARDING REQUIREMENTS FOR OFFICE
 4-24 OR EMPLOYMENT. The executive director or the executive director's
 4-25 designee shall provide to members of the board of directors and to
 4-26 agency employees, as often as necessary, information regarding the
 4-27 requirements for office or employment under this chapter, including
 4-28 information regarding a person's responsibilities under applicable
 4-29 laws relating to standards of conduct for state officers or
 4-30 employees.

4-31 Sec. 81.036. INFORMATION ON CERTAIN COMPLAINTS. (a) The
 4-32 state bar shall maintain a file on each written complaint, other
 4-33 than a grievance against an attorney, filed with the state bar. The
 4-34 file must include:

4-35 (1) the name of the person who filed the complaint;
 4-36 (2) the date the complaint is received by the state

4-37 bar;

4-38 (3) the subject matter of the complaint;
 4-39 (4) the name of each person contacted in relation to

4-40 the complaint;

4-41 (5) a summary of the results of the review or
 4-42 investigation of the complaint; and

4-43 (6) an explanation of the reason the file was closed,
 4-44 if the state bar closed the file without taking action other than to
 4-45 investigate the complaint.

4-46 (b) The state bar shall provide to the person filing the
 4-47 complaint and to each person who is a subject of the complaint a
 4-48 copy of the state bar's policies and procedures relating to
 4-49 complaint investigation and resolution.

4-50 (c) The state bar, at least quarterly until final
 4-51 disposition of the complaint, shall notify the person filing the
 4-52 complaint and each person who is a subject of the complaint of the
 4-53 status of the investigation unless the notice would jeopardize an
 4-54 undercover investigation.

4-55 Sec. 81.037. STATE EMPLOYEE INCENTIVE PROGRAM. The
 4-56 executive director or the executive director's designee shall
 4-57 provide to state bar employees information and training on the
 4-58 benefits and methods of participation in the state employee
 4-59 incentive program under Subchapter B, Chapter 2108.

4-60 Sec. 81.038. USE OF TECHNOLOGY. The board of directors
 4-61 shall develop and implement a policy requiring the executive
 4-62 director and state bar employees to research and propose
 4-63 appropriate technological solutions to improve the state bar's
 4-64 ability to perform its functions. The technological solutions
 4-65 must:

4-66 (1) ensure that the public is able to easily find
 4-67 information about the state bar on the Internet;

4-68 (2) ensure that persons who want to use the state bar's
 4-69 services are able to:

5-1 (A) interact with the state bar through the
 5-2 Internet; and

5-3 (B) access any service that can be provided
 5-4 effectively through the Internet; and

5-5 (3) be cost-effective and developed through the state
 5-6 bar's planning processes.

5-7 SECTION 13. The heading to Section 81.054, Government Code,
 5-8 is amended to read as follows:

5-9 Sec. 81.054. MEMBERSHIP FEES AND ADDITIONAL FEES.

5-10 SECTION 14. Section 81.054, Government Code, is amended by
 5-11 amending Subsections (a), (c), and (d) and adding Subsections
 5-12 (f)-(l) to read as follows:

5-13 (a) The supreme court shall set membership fees and other
 5-14 fees for members of the state bar. The fees, except as provided by
 5-15 Subsection (j) and ~~other than~~ those set for associate members,
 5-16 must be set in accordance with this section and Section 81.024.

5-17 (c) Fees shall be paid to the clerk of the supreme court.
 5-18 The clerk shall retain the fees, other than fees collected under
 5-19 Subsection (j), until distributed to the state bar for expenditure
 5-20 under the direction of the supreme court to administer this
 5-21 chapter. The clerk shall retain the fees collected under
 5-22 Subsection (j) until distribution is approved by an order of the
 5-23 supreme court. In ordering that distribution, the supreme court
 5-24 shall order that the fees collected under Subsection (j) be
 5-25 remitted to the comptroller at least as frequently as quarterly.
 5-26 The comptroller shall credit 50 percent of the remitted fees to the
 5-27 credit of the judicial fund for programs approved by the supreme
 5-28 court that provide basic civil legal services to the indigent and
 5-29 shall credit the remaining 50 percent of the remitted fees to the
 5-30 fair defense account in the general revenue fund which is
 5-31 established under Section 71.058, to be used, subject to all
 5-32 requirements of Section 71.062, for demonstration or pilot projects
 5-33 that develop and promote best practices for the efficient delivery
 5-34 of quality representation to indigent defendants in criminal cases
 5-35 at trial, on appeal, and in postconviction proceedings.

5-36 (d) Fees collected under Subsection (j) may be used only to
 5-37 provide basic civil legal services to the indigent and legal
 5-38 representation and other defense services to indigent defendants in
 5-39 criminal cases as provided by Subsection (c). Other fees collected
 5-40 under this chapter may be used only for administering the public
 5-41 purposes provided by this chapter.

5-42 (f) A person who is otherwise eligible to renew the person's
 5-43 membership may renew the membership by paying the required
 5-44 membership fees to the state bar on or before the due date.

5-45 (g) A person whose membership has been expired for 90 days
 5-46 or less may renew the membership by paying to the state bar
 5-47 membership fees equal to 1-1/2 times the normally required
 5-48 membership fees.

5-49 (h) A person whose membership has been expired for more than
 5-50 90 days but less than one year may renew the membership by paying to
 5-51 the state bar membership fees equal to two times the normally
 5-52 required membership fees.

5-53 (i) Not later than the 30th day before the date a person's
 5-54 membership is scheduled to expire, the state bar shall send written
 5-55 notice of the impending expiration to the person at the person's
 5-56 last known address according to the records of the state bar.

5-57 (j) The supreme court shall set an additional legal services
 5-58 fee in an amount that is not less than \$65 to be paid annually by
 5-59 each active member of the state bar except as provided by Subsection
 5-60 (k). The supreme court shall review the amount of the fee at least
 5-61 biennially and may, subject to the requirements of this subsection,
 5-62 modify the amount. The supreme court may not increase the amount of
 5-63 the fee to an amount that exceeds 120 percent of the lowest fee
 5-64 imposed under this subsection during the preceding year. Section
 5-65 81.024 does not apply to a fee set under this subsection.

5-66 (k) The legal services fee shall not be assessed on any
 5-67 Texas attorney who:

5-68 (1) is 70 years of age or older;

5-69 (2) has assumed inactive status under the rules

6-1 governing the State Bar of Texas;

6-2 (3) is a sitting judge;

6-3 (4) is an employee of the state or federal government;

6-4 (5) is employed by a city, county, or district

6-5 attorney's office and who does not have a private practice that

6-6 accounts for more than 50 percent of the attorney's time;

6-7 (6) is employed by a 501(c)(3) nonprofit corporation

6-8 and is prohibited from the outside practice of law;

6-9 (7) is exempt from MCLE requirements because of

6-10 nonpracticing status; or

6-11 (8) resides out of state and does not practice law in

6-12 Texas.

6-13 (1) In this section, "indigent" has the meaning assigned by

6-14 Section 51.941.

6-15 SECTION 15. The heading to Section 81.072, Government Code,
6-16 is amended to read as follows:

6-17 Sec. 81.072. GENERAL DISCIPLINARY AND DISABILITY
6-18 PROCEDURES.

6-19 SECTION 16. Section 81.072, Government Code, is amended by
6-20 amending Subsections (a), (b), (e), (f), (h), and (o) and adding
6-21 Subsection (e-1) to read as follows:

6-22 (a) In furtherance of the supreme court's powers to
6-23 supervise the conduct of attorneys, the court shall establish
6-24 disciplinary and disability procedures in addition to the
6-25 procedures provided by this subchapter.

6-26 (b) The supreme court shall establish minimum standards and
6-27 procedures for the attorney disciplinary and disability system.
6-28 The standards and procedures for processing grievances
6-29 [complaints] against attorneys must provide for:

6-30 (1) classification of all grievances and
6-31 investigation of all [~~inquiries and~~] complaints;

6-32 (2) a full explanation to each complainant on
6-33 dismissal of an inquiry or a complaint;

6-34 (3) periodic preparation of abstracts of inquiries and
6-35 complaints filed that, even if true, do or do not constitute
6-36 misconduct;

6-37 (4) an information file for each grievance [~~complaint~~]
6-38 filed;

6-39 (5) a grievance [~~complaint~~] tracking system to monitor
6-40 processing of grievances [~~complaints~~] by category, method of
6-41 resolution, and length of time required for resolution;

6-42 (6) notice by the state bar to the parties of a written
6-43 grievance [~~complaint~~] filed with the state bar that the state bar
6-44 has the authority to resolve of the status of the grievance
6-45 [~~complaint~~], at least quarterly and until final disposition, unless
6-46 the notice would jeopardize an undercover investigation;

6-47 (7) an administrative system for attorney
6-48 disciplinary and disability findings in lieu of [~~decisions as an~~
6-49 option to] trials in district court, including an appeal procedure
6-50 to the Board of Disciplinary Appeals and the supreme court under the
6-51 substantial evidence rule;

6-52 (8) an administrative system for reciprocal and
6-53 compulsory discipline;

6-54 (9) interim suspension of an attorney posing a threat
6-55 of immediate irreparable harm to a client;

6-56 (10) authorizing all parties to an attorney
6-57 disciplinary hearing, including the complainant, to be present at
6-58 all hearings at which testimony is taken and requiring notice of
6-59 those hearings to be given to the complainant not later than the
6-60 seventh day before the date of the hearing;

6-61 (11) the commission adopting rules that govern the use
6-62 of private reprimands by grievance committees and that prohibit a
6-63 committee:

6-64 (A) giving an attorney more than one private
6-65 reprimand within a five-year period for a violation of the same
6-66 disciplinary rule; or

6-67 (B) giving a private reprimand for a violation
6-68 that involves a failure to return an unearned fee, a theft, or a
6-69 misapplication of fiduciary property; and

7-1 (12) distribution of a voluntary survey to all
7-2 complainants urging views on grievance system experiences.

7-3 (e) The state bar shall establish a voluntary mediation and
7-4 dispute resolution procedure to:

7-5 (1) attempt to resolve each allegation [that may be
7-6 used as a model for resolving allegations] of attorney misconduct
7-7 that is:

7-8 (A) classified as an inquiry under Section
7-9 81.073(a)(2)(A) because it does [do] not constitute an offense
7-10 cognizable under the Texas Disciplinary Rules of Professional
7-11 Conduct; or

7-12 (B) classified as a complaint and subsequently
7-13 dismissed; and

7-14 (2) facilitate coordination with other programs
7-15 administered by the state bar to address and attempt to resolve
7-16 inquiries and complaints referred to the voluntary mediation and
7-17 dispute resolution procedure.

7-18 (e-1) All types of information, proceedings, hearing
7-19 transcripts, and statements presented during the voluntary
7-20 mediation and dispute resolution procedure established under
7-21 Subsection (e) are confidential to the same extent the information,
7-22 proceedings, transcripts, or statements would be confidential if
7-23 presented to a panel of a district grievance committee.

7-24 (f) Responses to the survey provided for in Subsection
7-25 (b)(12) may not identify either the complainant or attorney and
7-26 shall be open to the public. The topics must include:

7-27 (1) treatment by the grievance system staff and
7-28 volunteers;

7-29 (2) the fairness of grievance procedures;

7-30 (3) the length of time for grievance [complaint]
7-31 processing;

7-32 (4) disposition of the grievance [complaint]; and

7-33 (5) suggestions for improvement of the grievance
7-34 system.

7-35 (h) The state bar or a court may not require an attorney
7-36 against whom a disciplinary action has been brought to disclose
7-37 information protected by the attorney-client privilege if the
7-38 client did not initiate the grievance [complaint] that is the
7-39 subject of the action.

7-40 (o) Whenever a grievance is either dismissed as an inquiry
7-41 or dismissed as a complaint [~~after an investigatory hearing~~] in
7-42 accordance with the Texas Rules of Disciplinary Procedure and that
7-43 dismissal has become final, the respondent attorney may thereafter
7-44 deny that a grievance was pursued and [~~. In any disciplinary action~~
7-45 ~~which is tried to verdict before an evidentiary panel or a district~~
7-46 ~~court and there is a take-nothing judgment entered which becomes~~
7-47 ~~final, the respondent attorney]~~ may file a motion with the tribunal
7-48 seeking expunction of all records [the tribunal's file] on the
7-49 matter, [~~. In the event an expunction is granted, the evidentiary~~
7-50 ~~panel or district court shall order that all records be destroyed]~~
7-51 other than statistical or identifying information maintained by the
7-52 chief disciplinary counsel pertaining to the [~~any~~] grievance [~~which~~
7-53 ~~formed the basis of the disciplinary action and the respondent~~
7-54 ~~attorney may thereafter deny any grievance which formed the basis~~
7-55 ~~of the disciplinary action was filed].~~

7-56 SECTION 17. Subchapter E, Chapter 81, Government Code, is
7-57 amended by adding Sections 81.073, 81.074, 81.075, 81.0751,
7-58 81.0752, and 81.0753 to read as follows:

7-59 Sec. 81.073. CLASSIFICATION OF GRIEVANCES. (a) The chief
7-60 disciplinary counsel's office shall classify each grievance on
7-61 receipt as:

7-62 (1) a complaint, if the grievance alleges conduct
7-63 that, if true, constitutes professional misconduct or disability
7-64 cognizable under the Texas Disciplinary Rules of Professional
7-65 Conduct; or

7-66 (2) an inquiry, if:

7-67 (A) the grievance alleges conduct that, even if
7-68 true, does not constitute professional misconduct or disability
7-69 cognizable under the Texas Disciplinary Rules of Professional

8-1 Conduct; or

8-2 (B) the respondent attorney is deceased, has
8-3 relinquished the attorney's license to practice law in this state
8-4 to avoid disciplinary action, or is not licensed to practice law in
8-5 this state.

8-6 (b) A complainant may appeal the classification of a
8-7 grievance as an inquiry to the Board of Disciplinary Appeals, or the
8-8 complainant may amend and resubmit the grievance. An attorney
8-9 against whom a grievance is filed may not appeal the classification
8-10 of the grievance.

8-11 Sec. 81.074. DISPOSITION OF INQUIRIES. The chief
8-12 disciplinary counsel shall:

8-13 (1) dismiss a grievance classified as an inquiry; and
8-14 (2) refer each inquiry classified under Section
8-15 81.073(a)(2)(A) and dismissed under this section to the voluntary
8-16 mediation and dispute resolution procedure established under
8-17 Section 81.072(e).

8-18 Sec. 81.075. DISPOSITION OF COMPLAINTS. (a) The chief
8-19 disciplinary counsel shall review and investigate each grievance
8-20 classified as a complaint to determine whether there is just cause,
8-21 as defined by the Texas Rules of Disciplinary Procedure.

8-22 (b) After reviewing and investigating a complaint, the
8-23 chief disciplinary counsel shall place the complaint on:

8-24 (1) a hearing docket, if the counsel finds just cause;
8-25 or

8-26 (2) a dismissal docket, if the counsel finds there is
8-27 no just cause.

8-28 (c) A panel of a district grievance committee shall consider
8-29 each complaint placed on the dismissal docket at a closed hearing
8-30 without the complainant or the respondent attorney present. The
8-31 panel may:

8-32 (1) approve the dismissal of the complaint and refer
8-33 the complaint to the voluntary mediation and dispute resolution
8-34 procedure established under Section 81.072(e); or

8-35 (2) deny the dismissal of the complaint and place the
8-36 complaint on a hearing docket.

8-37 (d) A panel of a district grievance committee shall conduct
8-38 a hearing on each complaint placed on the hearing docket. The
8-39 commission and the respondent attorney are parties to the hearing,
8-40 and the chief disciplinary counsel presents the complainant's case
8-41 at the hearing. Each party may seek and the panel may issue a
8-42 subpoena to compel attendance and production of records before the
8-43 panel. Each party may conduct limited discovery in general
8-44 accordance with the Texas Rules of Civil Procedure as prescribed by
8-45 rules of the supreme court.

8-46 (e) After conducting a hearing under Subsection (d), the
8-47 panel of the district grievance committee may:

8-48 (1) dismiss the complaint and refer it to the
8-49 voluntary mediation and dispute resolution procedure established
8-50 under Section 81.072(e);

8-51 (2) find that the respondent attorney suffers from a
8-52 disability and forward that finding to the Board of Disciplinary
8-53 Appeals for referral to a district disability committee; or

8-54 (3) find that professional misconduct occurred and
8-55 impose sanctions.

8-56 Sec. 81.0751. APPEALS. (a) The commission or a respondent
8-57 attorney may appeal:

8-58 (1) a finding of a panel of a district grievance
8-59 committee under Section 81.075(e) only to the Board of Disciplinary
8-60 Appeals; and

8-61 (2) a finding of the Board of Disciplinary Appeals to
8-62 the supreme court.

8-63 (b) In an appeal of a finding of a panel of a district
8-64 grievance committee made to the Board of Disciplinary Appeals, the
8-65 board may:

8-66 (1) affirm in whole or part the panel's finding;

8-67 (2) modify the panel's finding and affirm the finding
8-68 as modified;

8-69 (3) reverse in whole or part the panel's finding and

9-1 enter a finding the board determines the panel should have entered;
9-2 or

9-3 (4) reverse the panel's finding and remand the
9-4 complaint for a rehearing to be conducted by:

9-5 (A) the panel that entered the finding; or
9-6 (B) a statewide grievance committee panel
9-7 composed of members selected from the state bar districts other
9-8 than the district from which the appeal was taken.

9-9 Sec. 81.0752. CONFIDENTIALITY. (a) All types of
9-10 information, proceedings, hearing transcripts, and statements
9-11 presented to a panel of a district grievance committee are
9-12 confidential and may not be disclosed to any person other than the
9-13 chief disciplinary counsel unless:

9-14 (1) disclosure is ordered by a court; or
9-15 (2) the panel finds that professional misconduct
9-16 occurred and a sanction other than a private reprimand is imposed
9-17 against the respondent attorney.

9-18 (b) If the requirements of Subsection (a)(2) are met, the
9-19 panel of the district grievance committee shall, on request, make
9-20 the information, proceedings, hearing transcripts, or statements
9-21 available to the public.

9-22 Sec. 81.0753. RULES REGARDING GRIEVANCES. The supreme
9-23 court shall promulgate rules regarding the classification and
9-24 disposition of grievances, including rules specifying time limits
9-25 for each stage of the grievance resolution process.

9-26 SECTION 18. Section 81.079, Government Code, is amended to
9-27 read as follows:

9-28 Sec. 81.079. PUBLIC NOTIFICATION AND INFORMATION. (a) To
9-29 provide information to the public relating to the attorney
9-30 grievance process, the state bar shall:

9-31 (1) develop a brochure written in Spanish and English
9-32 describing the bar's grievance process;

9-33 (2) establish a toll-free "800" telephone number for
9-34 public access to the chief disciplinary counsel's office in Austin
9-35 and list the number in telephone directories statewide;

9-36 (3) describe the bar's grievance process in the bar's
9-37 telephone directory listings statewide; and

9-38 (4) make grievance [~~complaint~~] forms written in
9-39 Spanish and English available in each county courthouse.

9-40 (b) Each attorney practicing law in this state shall provide
9-41 notice to each of the attorney's clients of the existence of a
9-42 grievance process by:

9-43 (1) making grievance [~~complaint~~] brochures prepared
9-44 by the state bar available at the attorney's place of business;

9-45 (2) posting a sign prominently displayed in the
9-46 attorney's place of business describing the process;

9-47 (3) including the information on a written contract
9-48 for services with the client; or

9-49 (4) providing the information in a bill for services
9-50 to the client.

9-51 SECTION 19. Section 81.113, Government Code, is amended by
9-52 adding Subsection (c) to read as follows:

9-53 (c) The state bar shall recognize, prepare, or administer
9-54 continuing education programs for members of the state bar. A
9-55 member of the state bar must participate in the programs to the
9-56 extent required by the supreme court to maintain the person's state
9-57 bar membership.

9-58 SECTION 20. Chapter 81, Government Code, is amended by
9-59 adding Subchapter I to read as follows:

9-60 SUBCHAPTER I. EXECUTIVE COMMITTEE

9-61 Sec. 81.121. EXECUTIVE COMMITTEE. (a) The executive
9-62 committee consists of:

9-63 (1) the president, the president-elect, and the
9-64 immediate past president of the state bar;

9-65 (2) the chair of the board of directors;

9-66 (3) the president of the Texas Young Lawyers
9-67 Association; and

9-68 (4) additional members appointed by the president of
9-69 the state bar.

10-1 (b) The general counsel and executive director serve as ex
 10-2 officio members of the committee.

10-3 (c) The president of the state bar serves as chair of the
 10-4 committee. The chair of the board of directors serves as vice chair
 10-5 of the committee and presides over committee meetings in the
 10-6 committee chair's absence.

10-7 Sec. 81.122. DUTIES OF EXECUTIVE COMMITTEE. The executive
 10-8 committee shall:

10-9 (1) on the recommendation of the president of the
 10-10 state bar, approve the creation of additional standing and special
 10-11 committees of the state bar in accordance with Section 81.123;

10-12 (2) conduct a comprehensive review of standing and
 10-13 special committees of the state bar at least biennially and more
 10-14 frequently as the executive committee determines necessary to
 10-15 assess whether there is:

10-16 (A) a continued need for each committee; and

10-17 (B) unnecessary overlap of the committees'
 10-18 activities; and

10-19 (3) perform other duties as delegated by the board of
 10-20 directors.

10-21 Sec. 81.123. APPROVAL OF COMMITTEES. Before the executive
 10-22 committee may approve the creation of an additional standing or
 10-23 special committee of the state bar, the committee must:

10-24 (1) study and determine the fiscal impact creating the
 10-25 committee would have on the state bar budget; and

10-26 (2) poll the chair of each existing committee and
 10-27 conduct a review to determine whether the matter to be addressed by
 10-28 the proposed committee could be addressed by an existing committee.

10-29 SECTION 21. Chapter 171, Local Government Code, is amended
 10-30 by adding Section 171.010 to read as follows:

10-31 Sec. 171.010. PRACTICE OF LAW. (a) For purposes of this
 10-32 chapter, a county judge or county commissioner engaged in the
 10-33 private practice of law has a substantial interest in a business
 10-34 entity if the official has entered a court appearance or signed
 10-35 court pleadings in a matter relating to that business entity.

10-36 (b) A county judge or county commissioner who has a
 10-37 substantial interest in a business entity as described by
 10-38 Subsection (a) must comply with this chapter.

10-39 (c) A judge of a constitutional county court may not enter a
 10-40 court appearance or sign court pleadings as an attorney in any
 10-41 matter before:

10-42 (1) the court over which the judge presides; or

10-43 (2) any court in this state over which the judge's
 10-44 court exercises appellate jurisdiction.

10-45 (d) Upon compliance with this chapter, a county judge or
 10-46 commissioner may practice law in the courts located in the county
 10-47 where the county judge or commissioner serves.

10-48 SECTION 22. Sections 81.020(e) and 81.029(1), Government
 10-49 Code, are repealed.

10-50 SECTION 23. Not later than January 1, 2004, the executive
 10-51 director of the State Bar of Texas or the executive director's
 10-52 designee shall prepare the written policy statement required by
 10-53 Section 81.029, Government Code, as amended by this Act.

10-54 SECTION 24. Not later than January 1, 2004, the supreme
 10-55 court shall adopt the rules and procedures required by Section
 10-56 81.072, Government Code, as amended by this Act, and Section
 10-57 81.0753, Government Code, as added by this Act.

10-58 SECTION 25. (a) The changes in law made by this Act in the
 10-59 prohibitions or qualifications applying to members of the board of
 10-60 directors of the State Bar of Texas do not affect the entitlement of
 10-61 a member serving on the board immediately before September 1, 2003,
 10-62 to continue to serve and function as a member of the board for the
 10-63 remainder of the member's term. Those changes in law apply only to
 10-64 a member elected or appointed on or after September 1, 2003.

10-65 (b) Section 81.036, Government Code, as added by this Act,
 10-66 applies only to a complaint filed with the State Bar of Texas on or
 10-67 after the effective date of this Act, regardless of whether the
 10-68 conduct or act that is the subject of the complaint occurred or was
 10-69 committed before, on, or after the effective date of this Act.

11-1 (c) Section 81.054, Government Code, as amended by this Act,
11-2 applies to membership fees for renewal of a membership in the State
11-3 Bar of Texas that become due on or after the effective date of this
11-4 Act. Membership fees for renewal of a membership that became due
11-5 before the effective date of this Act are governed by the law in
11-6 effect on the date the membership fees became due, and the former
11-7 law is continued in effect for that purpose.

11-8 (d) Section 81.072, Government Code, as amended by this Act,
11-9 and Sections 81.073, 81.074, 81.075, 81.0751, 81.0752, and 81.0753,
11-10 Government Code, as added by this Act, apply to a grievance filed on
11-11 or after January 1, 2004, regardless of whether the conduct or act
11-12 that is the subject of the grievance occurred before, on, or after
11-13 that date. A grievance filed before January 1, 2004, is governed by
11-14 the law in effect immediately before the effective date of this Act,
11-15 and the former law is continued in effect for that purpose.

11-16 SECTION 26. This Act takes effect September 1, 2003.

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