

By: Wolens

H.B. No. 1606

Substitute the following for H.B. No. 1606:

By: Denny

C.S.H.B. No. 1606

A BILL TO BE ENTITLED

AN ACT

1
2 relating to ethics of public servants, including the functions and
3 duties of the Texas Ethics Commission; the regulation of political
4 contributions, political advertising, lobbying, and conduct of
5 public servants; and the reporting of political contributions and
6 personal financial information; providing civil and criminal
7 penalties.

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

9 ARTICLE 1. FUNCTIONS AND DUTIES OF TEXAS ETHICS COMMISSION

10 SECTION 1.01. Section 571.002, Government Code, is amended
11 by adding Subdivision (2-a) to read as follows:

12 (2-a) "Executive director" means the executive
13 director of the commission.

14 SECTION 1.02. Section 571.022, Government Code, is amended
15 to read as follows:

16 Sec. 571.022. SUNSET PROVISION. The commission is subject
17 to review under Chapter 325 (Texas Sunset Act), but is not abolished
18 under that chapter. The commission shall be reviewed during the
19 periods in which state agencies abolished in 2015 [~~2003~~] and every
20 12th year after that year are reviewed.

21 SECTION 1.03. Subchapter B, Chapter 571, Government Code,
22 is amended by adding Sections 571.0231 and 571.0232 to read as
23 follows:

24 Sec. 571.0231. RESTRICTION ON COMMISSION MEMBERSHIP. A

1 person may not be a member of the commission if the person is
2 required to register as a lobbyist under Chapter 305.

3 Sec. 571.0232. GROUNDS FOR REMOVAL. (a) It is a ground for
4 removal from the commission that a member:

5 (1) does not have at the time of taking office the
6 qualifications required by Section 24a, Article III, Texas
7 Constitution;

8 (2) does not maintain during service on the commission
9 the qualifications required by Section 24a, Article III, Texas
10 Constitution;

11 (3) is ineligible for membership under Section
12 571.0231;

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

16 (5) is absent from more than half of the regularly
17 scheduled commission meetings that the member is eligible to attend
18 during a calendar year without an excuse approved by a majority vote
19 of the commission.

20 (b) The validity of an action of the commission is not
21 affected by the fact that it is taken when a ground for removal of a
22 commission member exists.

23 (c) If the executive director has knowledge that a potential
24 ground for removal exists, the executive director shall notify the
25 presiding officer of the commission of the potential ground. The
26 presiding officer shall then notify the governor and the attorney
27 general that a potential ground for removal exists. If the

1 potential ground for removal involves the presiding officer, the
2 executive director shall notify the next highest ranking officer of
3 the commission, who shall then notify the governor and the attorney
4 general that a potential ground for removal exists.

5 SECTION 1.04. Section 571.026(c), Government Code, is
6 amended to read as follows:

7 (c) An [~~Except as otherwise provided by this chapter, an~~]
8 action or recommendation of the commission requiring a vote of the
9 commission is not valid unless:

10 (1) the action or recommendation is approved by a
11 record [~~the~~] vote [~~is~~] taken at a meeting of the commission with a
12 quorum present; and

13 (2) except as otherwise provided by this chapter, the
14 action or recommendation receives an affirmative vote of a majority
15 of the membership of the commission.

16 SECTION 1.05. Section 571.027(a), Government Code, is
17 amended to read as follows:

18 (a) A member of the commission may not participate in a
19 commission proceeding relating to any of the following actions if
20 the member is the subject of the action:

21 (1) a formal investigation by the commission;

22 (2) a sworn complaint filed with the commission; or

23 (3) a motion adopted by [~~an affirmative record~~] vote
24 of [~~at least six members of~~] the commission.

25 SECTION 1.06. Subchapter B, Chapter 571, Government Code,
26 is amended by adding Sections 571.0271 and 571.030-571.0303 to read
27 as follows:

1 Sec. 571.0271. COMMISSION MEMBER TRAINING. (a) A person
2 who is appointed to and qualifies for office as a member of the
3 commission may not vote, deliberate, or be counted as a member in
4 attendance at a meeting of the commission until the person
5 completes a training program that complies with this section.

6 (b) The training program must provide the person with
7 information regarding:

8 (1) the legislation that created the commission;

9 (2) the programs operated by the commission;

10 (3) the role and functions of the commission;

11 (4) the rules of the commission, with an emphasis on
12 the rules that relate to disciplinary and investigatory authority;

13 (5) the current budget for the commission;

14 (6) the results of the most recent formal audit of the
15 commission;

16 (7) the requirements of:

17 (A) the open meetings law, Chapter 551;

18 (B) the public information law, Chapter 552;

19 (C) the administrative procedure law, Chapter
20 2001; and

21 (D) other laws relating to public officials,
22 including conflict-of-interest laws; and

23 (8) any applicable ethics policies adopted by the
24 commission.

25 (c) A person appointed to the commission is entitled to
26 reimbursement, as provided by the General Appropriations Act, for
27 the travel expenses incurred in attending the training program

1 regardless of whether the attendance at the program occurs before
2 or after the person qualifies for office.

3 Sec. 571.030. SEPARATION OF RESPONSIBILITIES. The
4 commission shall develop and implement policies that clearly
5 separate the policy-making responsibilities of the commission and
6 the management responsibilities of the executive director and the
7 staff of the commission.

8 Sec. 571.0301. INFORMATION TO MEMBERS AND EMPLOYEES. The
9 executive director or the executive director's designee shall
10 provide to members and employees of the commission, as often as
11 necessary, information regarding the requirements for office or
12 employment under this chapter, including information regarding a
13 person's responsibilities under applicable laws relating to
14 standards of conduct for state officers or employees.

15 Sec. 571.0302. EQUAL EMPLOYMENT POLICY. (a) The executive
16 director or the executive director's designee shall prepare and
17 maintain a written policy statement that implements a program of
18 equal employment opportunity to ensure that all personnel decisions
19 are made without regard to race, color, disability, sex, religion,
20 age, or national origin.

21 (b) The policy statement must include:

22 (1) personnel policies, including policies relating
23 to recruitment, evaluation, selection, training, and promotion of
24 personnel, that show the intent of the commission to avoid the
25 unlawful employment practices described by Chapter 21, Labor Code;
26 and

27 (2) an analysis of the extent to which the composition

1 of the commission's personnel is in accordance with state and
2 federal law and a description of reasonable methods to achieve
3 compliance with state and federal law.

4 (c) The policy statement must:

5 (1) be updated annually;

6 (2) be reviewed by the state Commission on Human
7 Rights for compliance with Subsection (b)(1); and

8 (3) be filed with the governor's office.

9 Sec. 571.0303. TRAINING ON STATE EMPLOYEE INCENTIVE
10 PROGRAM. The executive director or the executive director's
11 designee shall provide to commission employees information and
12 training on the benefits and methods of participation in the state
13 employee incentive program.

14 SECTION 1.07. Section 571.033, Government Code, is
15 renumbered as Section 571.0221, Government Code, and amended to
16 read as follows:

17 Sec. 571.0221 [~~571.033~~]. DISCRIMINATION PROHIBITED.
18 Appointments to the commission shall be made without regard to the
19 [This chapter may not be applied to discriminate on the basis of]
20 race, color, disability, sex, age, national origin, or religion of
21 the appointees.

22 SECTION 1.08. Section 254.0361, Election Code, is
23 transferred to Subchapter C, Chapter 571, Government Code, is
24 redesignated as Section 571.0671, Government Code, and is amended
25 to read as follows:

26 Sec. 571.0671 [~~254.0361~~]. REQUIREMENTS FOR ELECTRONIC
27 FILING SOFTWARE. (a) Computer software provided or approved by the

1 commission for use under Section 254.036(b), Election Code, or
2 Section 302.013 or 305.0064 must:

3 (1) use a standardized format for the entry of names,
4 addresses, and zip codes;

5 (2) provide for secure and encoded transmission of
6 data from the computer of a person filing a report to the computers
7 used by the commission;

8 (3) be capable of being used by a person with basic
9 computing skills [~~who uses a computer that uses a Windows operating~~
10 ~~system, Macintosh operating system, or another operating system~~
11 ~~that the commission determines is as popular as those systems for~~
12 ~~use with personal computers~~]; [and]

13 (4) provide confirmation to a person filing a report
14 that the report was properly received; and

15 (5) permit a person using a computer to prepare a
16 report or to retrieve information from a report to import
17 information to the report from a variety of computer software
18 applications that meet commission specifications for a standard
19 file format or export information from the report to a variety of
20 computer software applications that meet commission specifications
21 for a standard file format without the need to reenter information.

22 (b) Before determining the specifications for computer
23 software developed, purchased, or licensed for use under Section
24 254.036, Election Code, or Section 302.013 or 305.0064, the
25 commission shall conduct at least one public hearing to discuss the
26 specifications. For at least 10 days following the hearing, the
27 commission shall accept public comments concerning the software

1 specifications.

2 (c) The commission may provide software for use under
3 Section 254.036(b), Election Code, or Section 302.013 or 305.0064
4 by making the software available on the Internet. If the commission
5 makes the software available on the Internet, the commission is not
6 required to provide the software on computer diskettes, CD-ROMs, or
7 other storage media without charge to persons required to file
8 reports under that section, but may charge a fee for providing the
9 software on storage media. A fee under this subsection may not
10 exceed the cost to the commission of providing the software.

11 SECTION 1.09. Subchapter C, Chapter 571, Government Code,
12 is amended by adding Section 571.0672 to read as follows:

13 Sec. 571.0672. PROPOSITION OF TECHNOLOGICAL SOLUTIONS. The
14 commission shall develop and implement a policy requiring the
15 executive director and commission employees to research and propose
16 appropriate technological solutions to improve the commission's
17 ability to perform its functions. The technological solutions
18 must:

19 (1) ensure that the public is able to easily find
20 information about the commission on the Internet;

21 (2) ensure that persons who want to use the
22 commission's services are able to:

23 (A) interact with the commission through the
24 Internet; and

25 (B) access any service that can be provided
26 effectively through the Internet; and

27 (3) be cost-effective and developed through the

1 commission's planning processes.

2 SECTION 1.10. Section 571.069, Government Code, is amended
3 by amending Subsections (a) and (b) and adding Subsection (f) to
4 read as follows:

5 (a) The commission shall [~~may~~] review for facial compliance
6 randomly selected statements and reports [~~a statement or report~~]
7 filed with the commission and may review any available documents.
8 The commission shall [~~may~~] return for resubmission with corrections
9 or additional documentation a statement or report that does not, in
10 the opinion of the commission, comply with the law requiring the
11 statement or report. A statement or report returned for
12 resubmission is considered to have been filed on the date the
13 statement or report was originally filed if:

14 (1) the statement or report is resubmitted to the
15 commission not later than the seventh business day after the date
16 the person filing the statement or report receives the returned
17 statement or report; and

18 (2) the resubmitted statement or report complies with
19 law.

20 (b) The commission may by adopted motion initiate a
21 preliminary review as provided by Section 571.124 or [~~an~~
22 ~~affirmative record vote of at least six commission members~~] perform
23 a complete audit of a statement or report:

24 (1) if, before the 31st day after the date the
25 statement or report was originally due, the executive director does
26 not obtain from the person information that permits the executive
27 director to determine that the statement or report complies with

1 law;

2 (2) if a statement or report returned for resubmission
3 is not resubmitted within the time prescribed by Subsection (a); or

4 (3) on an affirmative vote of at least six commission
5 members that a statement or report resubmitted under Subsection
6 (a), together with any corrections or additional documentation,
7 does not, in the opinion of the commission, comply with the law
8 requiring the statement or report [~~only at an informal or formal~~
9 ~~hearing~~].

10 (f) This section may not be construed as limiting or
11 affecting the commission's authority to, on the filing of a motion
12 or receipt of a sworn complaint, review or investigate the
13 sufficiency of a statement or report.

14 SECTION 1.11. Section 571.073, Government Code, is amended
15 to read as follows:

16 Sec. 571.073. REPORT. On or before December 31 of each
17 even-numbered year, the commission shall report to the governor and
18 legislature. The report must include:

19 (1) each advisory opinion issued by the commission
20 under Subchapter D in the preceding two years;

21 (2) a summary of commission activities in the
22 preceding two years, including:

23 (A) the number of sworn complaints filed with the
24 commission;

25 (B) the number of sworn complaints dismissed for
26 noncompliance with statutory form requirements;

27 (C) the number of sworn complaints dismissed for

1 lack of jurisdiction;

2 (D) the number of sworn complaints dismissed
3 after a finding of no credible evidence of a violation;

4 (E) the number of sworn complaints dismissed
5 after a finding of a lack of sufficient evidence to determine
6 whether a violation within the jurisdiction of the commission has
7 occurred;

8 (F) the number of sworn complaints resolved by
9 the commission through an agreed order; and

10 (G) the number of sworn complaints in which the
11 commission issued an order finding a violation and the resulting
12 penalties, if any; and

13 (3) recommendations for any necessary statutory
14 changes.

15 SECTION 1.12. Subchapter C, Chapter 571, Government Code,
16 is amended by adding Section 571.078 to read as follows:

17 Sec. 571.078. NEGOTIATED RULEMAKING AND ALTERNATIVE
18 DISPUTE RESOLUTION. (a) The commission shall develop and
19 implement a policy to encourage the use of:

20 (1) negotiated rulemaking procedures under Chapter
21 2008 for the adoption of commission rules; and

22 (2) appropriate alternative dispute resolution
23 procedures under Chapter 2009 to assist in the resolution of
24 internal and external disputes under the commission's
25 jurisdiction.

26 (b) Subsection (a)(2) does not apply to a preliminary review
27 or preliminary review hearing under Sections 571.124 through

1 571.126.

2 (c) The commission's procedures relating to alternative
3 dispute resolution must conform, to the extent possible, to any
4 model guidelines issued by the State Office of Administrative
5 Hearings for the use of alternative dispute resolution by state
6 agencies.

7 (d) The commission shall designate a trained person to:

8 (1) coordinate the implementation of the policy
9 adopted under Subsection (a);

10 (2) serve as a resource for any training needed to
11 implement the procedures for negotiated rulemaking or alternative
12 dispute resolution; and

13 (3) collect data concerning the effectiveness of those
14 procedures, as implemented by the commission.

15 SECTION 1.13. Section 571.121(a), Government Code, is
16 amended to read as follows:

17 (a) The commission may:

18 (1) hold hearings, on its own motion adopted by a [an
19 affirmative record] vote of the [at least six] commission [members]
20 or on a sworn complaint, and render decisions on complaints or
21 reports of violations as provided by this chapter; and

22 (2) agree to the settlement of issues.

23 SECTION 1.14. Subchapter E, Chapter 571, Government Code,
24 is amended by adding Sections 571.1211 and 571.1212 to read as
25 follows:

26 Sec. 571.1211. DEFINITIONS. In this subchapter:

27 (1) "Campaign communication" and "political

1 advertising" have the meanings assigned by Section 251.001,
2 Election Code.

3 (2) "Category One violation" means a violation of a
4 law within jurisdiction of the commission as to which it is
5 generally not difficult to ascertain whether the violation occurred
6 or did not occur, including:

7 (A) the failure by a person required to file a
8 statement or report to:

9 (i) file the required statement or report
10 in a manner that complies with applicable requirements; or

11 (ii) timely file the required statement or
12 report;

13 (B) the failure by a person to timely pay the
14 filing fee or file an affidavit of inability to pay the filing fee
15 as required by Section 254.002, Election Code;

16 (C) a violation of Section 255.001, Election
17 Code;

18 (D) a misrepresentation in political advertising
19 or a campaign communication relating to the office held by a person
20 in violation of Section 255.006, Election Code;

21 (E) a failure to include in any written political
22 advertising intended to be seen from a road the right-of-way notice
23 in violation of Section 255.007, Election Code; or

24 (F) a failure to timely respond to a written
25 notice under Section 571.123(b).

26 (3) "Category Two violation" means a violation of a
27 law within the jurisdiction of the commission that is not a Category

1 One violation.

2 Sec. 571.1212. CATEGORIZATION OF VIOLATIONS. An allegation
3 of a violation listed as a Category One violation shall be treated
4 as a Category Two violation if the executive director at any time
5 determines that:

6 (1) the allegation arises out of the same set of facts
7 as those that give rise to an allegation of a Category Two
8 violation, and the interests of justice or efficiency require
9 resolution of the allegations together; or

10 (2) the facts and law related to a particular
11 allegation or a defense to the allegation present a level of
12 complexity that prevents resolution through the preliminary review
13 procedures for Category One violations prescribed by Section
14 571.1242(a).

15 SECTION 1.15. Section 571.122(a), Government Code, is
16 amended to read as follows:

17 (a) An individual may file with the commission a sworn
18 complaint, on a form prescribed by the commission, alleging that a
19 person subject to a law administered and enforced by the commission
20 has violated a rule adopted by or a law administered and enforced by
21 the commission. The commission shall make the complaint form
22 available on the Internet.

23 SECTION 1.16. Section 571.123(b), Government Code, is
24 amended to read as follows:

25 (b) Not later than the fifth [~~14th~~] business day after the
26 date a complaint is filed, the commission shall send written notice
27 to the complainant and the respondent. The notice must state

1 whether the complaint complies with the form requirements of
2 Section 571.122.

3 SECTION 1.17. Sections 571.124(a)-(c), (e), and (f),
4 Government Code, are amended to read as follows:

5 (a) The commission staff [~~promptly~~] shall promptly conduct
6 a preliminary review on receipt of a written complaint that is in
7 compliance with the form requirements of Section 571.122.

8 (b) On a motion adopted by an affirmative record vote of the
9 [~~at least six~~] commission [~~members~~], the commission, without a
10 sworn complaint, may initiate a preliminary review of the matter
11 that is the subject of the motion.

12 (c) The executive director [~~commission by record vote~~]
13 shall determine in writing whether the commission has jurisdiction
14 over the violation of law alleged in a sworn complaint processed
15 under Section 571.123.

16 (e) If the executive director [~~commission~~] determines that
17 the commission has jurisdiction, the notice under Section
18 571.123(b) must include:

19 (1) a statement that the commission has jurisdiction
20 over the violation of law alleged in the complaint;

21 (2) a statement of whether the complaint will be
22 processed as a Category One violation or a Category Two violation,
23 subject to reconsideration as provided for by Section 571.1212;

24 (3) the date by which the respondent is required to
25 respond to the notice;

26 (4) a copy of the complaint and the rules of procedure
27 of the commission;

- 1 (5) [~~(2)~~] a statement of the rights of the respondent;
- 2 (6) [~~(3)~~] a statement inviting the respondent to
- 3 provide to the commission any information relevant to the
- 4 complaint; and
- 5 (7) a statement that a failure to timely respond to the
- 6 notice will be treated as a separate violation [~~(4) the date the~~
- 7 ~~commission will begin a preliminary review of the complaint~~].

8 (f) If the executive director [~~commission~~] determines that

9 the commission does not have jurisdiction over the violation

10 alleged in the complaint, the executive director [~~commission~~]

11 shall:

- 12 (1) dismiss the complaint; and
- 13 (2) not later than the fifth business day after the
- 14 date of the dismissal, send to the complainant and the respondent
- 15 written notice of the dismissal and the grounds for the dismissal.

16 SECTION 1.18. Subchapter E, Chapter 571, Government Code,

17 is amended by adding Sections 571.1241-571.1244 to read as follows:

18 Sec. 571.1241. REVIEW OF EXECUTIVE DIRECTOR'S

19 DETERMINATION OF NO JURISDICTION. (a) If the executive director

20 determines that the commission does not have jurisdiction over the

21 violation alleged in the complaint, the complainant may request

22 that the commission review the determination. A request for review

23 under this section must be filed not later than the 30th day after

24 the date the complainant receives the executive director's

25 determination.

26 (b) The commission may reverse the executive director's

27 determination only on the affirmative vote of at least six members.

1 (c) Not later than the fifth business day after the date of
2 the commission's determination under this section, the commission
3 shall send written notice to the complainant and the respondent
4 stating whether the commission has jurisdiction over the violation
5 alleged in the complaint. If the commission determines that the
6 commission has jurisdiction, the notice must include the items
7 listed in Section 571.124(e).

8 Sec. 571.1242. PRELIMINARY REVIEW: RESPONSE BY RESPONDENT.

9 (a) If the alleged violation is a Category One violation:

10 (1) the respondent must respond to the notice required
11 by Section 571.123(b) not later than the seventh business day after
12 the date the respondent receives the notice; and

13 (2) if the matter is not resolved by agreement between
14 the commission and the respondent before the 21st business day
15 after the date the respondent receives the notice under Section
16 571.123(b), the commission shall set the matter for a preliminary
17 review hearing to be held at the next commission meeting for which
18 notice has not yet been posted.

19 (b) If the alleged violation is a Category Two violation:

20 (1) the respondent must respond to the notice required
21 by Section 571.123(b) not later than the 20th business day after the
22 date the respondent receives the notice under Section 571.123(b);
23 and

24 (2) if the matter is not resolved by agreement between
25 the commission and the respondent before the 61st business day
26 after the date the respondent receives the notice under Section
27 571.123(b), the commission shall set the matter for a preliminary

1 review hearing to be held at the next commission meeting for which
2 notice has not yet been posted.

3 (c) A respondent's failure to timely respond as required by
4 Subsection (a)(1) or (b)(1) is a Category One violation.

5 (d) The response required by Subsection (a) or (b) must
6 include any challenge the respondent seeks to raise to the
7 commission's exercise of jurisdiction. In addition, the respondent
8 may:

9 (1) acknowledge the occurrence or commission of a
10 violation;

11 (2) deny the allegations contained in the complaint
12 and provide evidence supporting the denial; or

13 (3) agree to enter into an assurance of voluntary
14 compliance or other agreed order, which may include an agreement to
15 immediately cease and desist.

16 (e) If the commission sets the matter for a preliminary
17 review hearing, the commission shall promptly send to the
18 complainant and the respondent written notice of the date, time,
19 and place of the preliminary review hearing.

20 Sec. 571.1243. PRELIMINARY REVIEW: WRITTEN QUESTIONS.
21 During a preliminary review, the commission staff may submit to the
22 complainant or respondent written questions reasonably intended to
23 lead to the discovery of matters relevant to the investigation.

24 Sec. 571.1244. PRELIMINARY REVIEW AND PRELIMINARY REVIEW
25 PROCEDURES. The commission shall adopt procedures for the conduct
26 of preliminary reviews and preliminary review hearings. The
27 procedures must include:

1 (1) a reasonable time for responding to questions
2 submitted by the commission and commission staff and subpoenas
3 issued by the commission; and

4 (2) the tolling or extension of otherwise applicable
5 deadlines where:

6 (A) the commission issues a subpoena and the
7 commission's meeting schedule makes it impossible to both provide a
8 reasonable time for response and to comply with the otherwise
9 applicable deadlines; or

10 (B) the commission determines that, despite
11 commission staff's diligence and the reasonable cooperation of the
12 respondent, a matter is too complex to resolve within the otherwise
13 applicable deadlines without compromising either the commission
14 staff's investigation or the rights of the respondent.

15 SECTION 1.19. Section 571.125, Government Code, is amended
16 to read as follows:

17 Sec. 571.125. PRELIMINARY REVIEW HEARING: PROCEDURE. (a)
18 The commission shall conduct a preliminary review hearing if:

19 (1) following the preliminary review, the commission
20 and the respondent cannot agree to the disposition of the complaint
21 or motion; or

22 (2) the respondent in writing requests a hearing.

23 (b) The commission shall provide written notice to the
24 complainant, if any, and the respondent of the date, time, and place
25 the commission will conduct the preliminary review hearing.

26 (c) At or after the time the commission provides notice of a
27 preliminary review hearing, the commission may submit to the

1 complainant and the respondent written questions and require those
2 questions to be answered under oath within a reasonable time.

3 (d) During a preliminary review hearing, the commission:

4 (1) may consider all submitted evidence related to the
5 complaint or to the subject matter of a motion under Section
6 571.124(b);

7 (2) may review any documents or material related to
8 the complaint or to the motion; and

9 (3) shall determine whether there is credible evidence
10 that provides cause for the commission to conclude that a violation
11 within the jurisdiction of the commission has occurred.

12 (e) [~~(b)~~] During a preliminary review hearing, the
13 respondent may appear before the commission with the assistance of
14 counsel, if desired by the respondent, and present any relevant
15 evidence, including a written statement.

16 SECTION 1.20. The heading to Section 571.126, Government
17 Code, is amended to read as follows:

18 Sec. 571.126. PRELIMINARY REVIEW HEARING: RESOLUTION.

19 SECTION 1.21. Sections 571.126(a), (b), and (d), Government
20 Code, are amended to read as follows:

21 (a) As soon as practicable after the completion of a
22 preliminary review hearing, the commission by [~~record~~] vote shall
23 issue a decision stating:

24 (1) whether there is credible evidence for the
25 commission to determine that a violation within the jurisdiction of
26 the commission has occurred and whether the violation is technical
27 or de minimis; or

1 (2) that there is insufficient evidence for the
2 commission to determine whether a violation within the jurisdiction
3 of the commission has occurred.

4 (b) If the commission determines that there is credible
5 evidence for the commission to determine that a violation has
6 occurred, the commission shall resolve and settle the complaint or
7 motion to the extent possible. If the commission successfully
8 resolves and settles the complaint or motion, not later than the
9 fifth business day after the date of the final resolution of the
10 complaint or motion, the commission shall send to the complainant,
11 if any, and the respondent a copy of the decision stating the
12 commission's determination and written notice of the resolution and
13 the terms of the resolution. If the commission is unsuccessful in
14 resolving and settling the complaint or motion, the commission [~~in~~
15 ~~its discretion~~] shall:

16 (1) order a formal [~~an informal~~] hearing to be held in
17 accordance with Sections 571.129 through 571.132 [~~Section~~
18 ~~571.127~~]; and

19 (2) not later than the fifth business day after the
20 date of the decision, send to the complainant, if any, and the
21 respondent:

22 (A) a copy of the decision;

23 (B) [and] written notice of the date, time, and
24 place of the formal [~~informal~~] hearing;

25 (C) a statement of the nature of the alleged
26 violation;

27 (D) a description of the evidence of the alleged

1 violation;

2 (E) a copy of the complaint or motion;

3 (F) a copy of the commission's rules of
4 procedure; and

5 (G) a statement of the rights of the respondent.

6 (d) If the commission determines that there is insufficient
7 credible evidence for the commission to determine that a violation
8 within the jurisdiction of the commission has occurred, the
9 commission may dismiss the complaint or motion or promptly conduct
10 a formal [~~an informal~~] hearing under Sections 571.129 through
11 571.132 [~~Section 571.127~~]. Not later than the fifth business day
12 after the date of the commission's determination under this
13 subsection, the commission shall send to the complainant, if any,
14 and the respondent a copy of the decision stating the commission's
15 determination and written notice of the grounds for the
16 determination.

17 SECTION 1.22. Section 571.129, Government Code, is amended
18 to read as follows:

19 Sec. 571.129. FORMAL HEARING: STANDARD OF EVIDENCE.
20 During a formal hearing, the commission shall determine by a
21 preponderance of the [~~clear and convincing~~] evidence whether a
22 violation within the jurisdiction of the commission has occurred.

23 SECTION 1.23. Sections 571.132(a) and (b), Government Code,
24 are amended to read as follows:

25 (a) Not later than the 30th business day after the date the
26 State Office of Administrative Hearings issues a proposal for
27 decision [~~formal hearing is completed~~], the commission shall

1 convene a meeting and by motion shall issue:

2 (1) a final decision stating the resolution of the
3 formal hearing; and

4 (2) a written report stating in detail the
5 commission's findings of fact, conclusions of law, and
6 recommendation of criminal referral or imposition of a civil
7 penalty, if any.

8 (b) The motion must be adopted by [~~record~~] vote of the
9 commission [~~at least six members if the final decision is that a~~
10 ~~violation has occurred or by five members if the final decision is~~
11 ~~that a violation has not occurred~~].

12 SECTION 1.24. Subchapter E, Chapter 571, Government Code,
13 is amended by amending Sections 571.135 and 571.136 and adding
14 Section 571.1351 to read as follows:

15 Sec. 571.135. PUBLIC INTEREST INFORMATION[~~, STATUS OF~~
16 ~~COMPLAINT~~]. (a) The commission shall develop plain-language
17 materials as described by this section [~~prepare information of~~
18 ~~public interest describing the functions of the commission and the~~
19 ~~procedures by which sworn or other complaints are filed with and~~
20 ~~resolved by the commission~~]. The commission shall distribute the
21 materials [~~make the information available~~] to the public and
22 appropriate state agencies.

23 (b) The materials must include:

24 (1) a description of:

25 (A) the commission's responsibilities;

26 (B) the types of conduct that constitute a

27 violation of a law within the jurisdiction of the commission;

1 (C) the types of sanctions the commission may
2 impose;

3 (D) the commission's policies and procedures
4 relating to complaint investigation and resolution; and

5 (E) the duties of a person filing a complaint
6 with the commission; and

7 (2) a diagram showing the basic steps in the
8 commission's procedures relating to complaint investigation and
9 resolution.

10 (c) The commission shall provide the materials described by
11 this section to each complainant and respondent.

12 (d) The commission shall adopt a policy to effectively
13 distribute materials as required by this section.

14 Sec. 571.1351. STATUS OF COMPLAINT. (a) [~~(b)~~] The
15 commission shall keep an information file about each sworn or other
16 complaint filed with the commission. The file must include:

17 (1) the name of the person who filed the complaint;

18 (2) the date the complaint is received by the
19 commission;

20 (3) the subject matter of the complaint;

21 (4) the name of each person contacted in relation to
22 the complaint;

23 (5) a summary of the results of the review or
24 investigation of the complaint; and

25 (6) an explanation of the reason the file was closed,
26 if the commission closed the file without taking action other than
27 to investigate the complaint.

1 (b) The commission shall provide to the person filing the
2 complaint and to each person who is a subject of the complaint a
3 copy of the commission's policies and procedures relating to
4 complaint investigation and resolution.

5 (c) In addition to the notice required by Sections 571.123
6 [~~571.124~~] through 571.132, the commission, at least quarterly [~~and~~]
7 until final disposition of a complaint, shall notify the person who
8 filed the complaint [~~complainant~~] and each person who is a subject
9 of the complaint [~~the respondent~~], if any, of the status of the
10 sworn or other complaint.

11 Sec. 571.136. EXTENSION OF DEADLINE. The commission may,
12 on its own motion or on the reasonable request of a respondent,
13 extend any deadline for action relating to a sworn complaint,
14 motion, preliminary review[~~, informal~~] hearing, or formal hearing.

15 SECTION 1.25. Section 571.137, Government Code, is amended
16 by amending Subsections (a) and (e) and adding Subsections
17 (a-1)-(a-3) to read as follows:

18 (a) In connection with [~~an informal or~~] a formal hearing,
19 the commission, as authorized by this chapter, may subpoena and
20 examine witnesses and documents that directly relate to a sworn
21 complaint.

22 (a-1) In connection with a preliminary review, the
23 commission, for good cause and as authorized by this chapter, may
24 subpoena documents and witnesses on application by the commission
25 staff and a motion adopted by a vote of at least six members of the
26 commission, for the purpose of attempting to obtain from the
27 documents or witnesses specifically identified information, if the

1 commission reasonably believes that the specifically identified
2 information:

3 (1) is likely to be determinative as to whether the
4 subject of an investigation has violated a law within the
5 jurisdiction of the commission;

6 (2) can be determined from the documents or is known by
7 the witnesses; and

8 (3) is not reasonably available through a less
9 intrusive means.

10 (a-2) The commission shall adopt procedures for the
11 issuance of subpoenas under this section.

12 (a-3) A copy of a subpoena issued under this section [~~of the~~
13 ~~commission~~] must be delivered to the respondent.

14 (e) A subpoenaed witness who attends a commission hearing is
15 entitled to the same mileage and per diem payments as a witness who
16 appears before a grand jury. A person who provides subpoenaed
17 documents to the commission is entitled to reimbursement from the
18 commission for the person's reasonable cost of producing the
19 documents.

20 SECTION 1.26. Section 571.138, Government Code, is amended
21 to read as follows:

22 Sec. 571.138. STATUS OF COMPLAINANT. The complainant is
23 not a party to a preliminary review, preliminary review [~~informal~~]
24 hearing, or formal hearing under this subchapter.

25 SECTION 1.27. Sections 571.139(a) and (b), Government Code,
26 are amended to read as follows:

27 (a) Except as provided by Section 571.140(b), Chapter 552

1 does not apply to documents or any additional evidence relating to
2 the processing, preliminary review, preliminary review[~~, informal~~]
3 hearing, or resolution of a sworn complaint or motion.

4 (b) Chapter 551 does not apply to the processing,
5 preliminary review, preliminary review[~~, informal~~] hearing, or
6 resolution of a sworn complaint or motion, but does apply to a
7 formal hearing held under Sections 571.129 through 571.131.

8 SECTION 1.28. Section 571.140, Government Code, is amended
9 by amending Subsections (a)-(c) and adding Subsections (b-1), (e),
10 and (f) to read as follows:

11 (a) Except as provided by Subsection (b) or (b-1) or by
12 Section 571.171, proceedings at a preliminary review [~~or informal~~]
13 hearing performed by the commission, a sworn complaint, and
14 documents and any additional evidence relating to the processing,
15 preliminary review, preliminary review[~~, informal~~] hearing, or
16 resolution of a sworn complaint or motion are confidential and may
17 not be disclosed unless entered into the record of a formal hearing
18 or a judicial proceeding, except that a document or statement that
19 was previously public information remains public information.

20 (b) An order issued by the commission after the completion
21 of a preliminary review or [~~an informal~~] hearing determining that a
22 violation other than a technical or de minimis violation has
23 occurred is not confidential.

24 (b-1) A commission employee may, for the purpose of
25 investigating a sworn complaint or motion, disclose to the
26 complainant, the respondent, or a witness information that is
27 otherwise confidential and relates to the sworn complaint if:

1 (1) the employee makes a good faith determination that
2 the disclosure is necessary to conduct the investigation;

3 (2) the employee's determination under Subdivision (1)
4 is objectively reasonable;

5 (3) the executive director authorizes the disclosure;
6 and

7 (4) the employee discloses only the information
8 necessary to conduct the investigation.

9 (c) A person commits an offense if the person discloses
10 information made confidential by this section. An offense under
11 this subsection is a Class C [~~A~~] misdemeanor.

12 (e) The commission shall terminate the employment of a
13 commission employee who violates Subsection (a).

14 (f) A commission employee who discloses confidential
15 information in compliance with Subsection (b-1) is not subject to
16 Subsections (c), (d), and (e).

17 SECTION 1.29. Subchapter E, Chapter 571, Government Code,
18 is amended by adding Section 571.141 to read as follows:

19 Sec. 571.141. AVAILABILITY OF COMMISSION ORDERS ON
20 INTERNET. (a) As soon as practicable following a preliminary
21 review, preliminary review hearing, or formal hearing at which the
22 commission determines that a person has committed a violation
23 within the commission's jurisdiction, the commission shall make
24 available on the Internet:

25 (1) a copy of the commission's order stating the
26 determination; or

27 (2) a summary of the commission's order.

1 (b) This section does not apply to a determination of a
2 violation that is technical or de minimis.

3 SECTION 1.30. Section 571.171, Government Code, is amended
4 to read as follows:

5 Sec. 571.171. INITIATION AND REFERRAL. (a) On a motion
6 adopted by an affirmative [~~record~~] vote of at least six commission
7 members, the commission may initiate civil enforcement actions and
8 refer matters to the appropriate prosecuting attorney for criminal
9 prosecution.

10 (b) On receipt of a sworn complaint, if the executive
11 director reasonably believes that the person who is the subject of
12 the complaint has violated Chapter 36 or 39, Penal Code, the
13 executive director may refer the matter to the appropriate
14 prosecuting attorney for criminal prosecution.

15 (c) In making a referral to a prosecuting attorney under
16 this section, the commission or executive director may disclose
17 confidential information.

18 SECTION 1.31. Subchapter F, Chapter 571, Government Code,
19 is amended by adding Section 571.1731 to read as follows:

20 Sec. 571.1731. WAIVER OR REDUCTION OF LATE FILING PENALTY.

21 (a) A person may request the waiver or reduction of a civil penalty
22 under Section 305.033(b) or 572.033(b) of this code or Section
23 254.042(b), Election Code, by submitting an affidavit to the
24 executive director that states the filer's reasons for requesting a
25 waiver or reduction.

26 (b) The commission may waive or reduce a civil penalty if
27 the commission finds that a waiver or reduction is in the public

1 interest and in the interest of justice. The commission shall
2 consider the following before acting to waive or reduce a civil
3 penalty:

4 (1) the facts and circumstances supporting the
5 person's request for a waiver or reduction;

6 (2) the seriousness of the violation, including the
7 nature, circumstances, consequences, extent, and gravity of the
8 violation, and the amount of the penalty;

9 (3) any history of previous violations by the person;

10 (4) the demonstrated good faith of the person,
11 including actions taken to rectify the consequences of the
12 violation;

13 (5) the penalty necessary to deter future violations;

14 and

15 (6) any other matter that justice may require.

16 (c) After hearing the waiver request, the commission may
17 affirm, reduce, or waive the civil penalty.

18 SECTION 1.32. Sections 571.124(d), 571.127, and 571.128,
19 Government Code, are repealed.

20 SECTION 1.33. Sections 571.0231 and 571.0271, Government
21 Code, as added by this Act, do not affect the entitlement of a
22 member of the Texas Ethics Commission serving on the commission
23 immediately before September 1, 2003, to continue to serve and
24 function as a member of the commission for the remainder of the
25 member's term. Sections 571.0231 and 571.0271, Government Code, as
26 added by this Act, apply only to a member appointed on or after
27 September 1, 2003.

ARTICLE 2. CAMPAIGN FINANCE AND POLITICAL ADVERTISING

SECTION 2.01. Section 251.001(16), Election Code, is amended to read as follows:

(16) "Political advertising" means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that:

(A) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; or

(B) appears:

(i) in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication; or

(ii) on an Internet website.

SECTION 2.02. Section 251.003, Election Code, is amended to read as follows:

Sec. 251.003. PROHIBITION OF DOCUMENT FILING FEE. Except as provided by Section 254.002, a [A] charge may not be made for filing a document required to be filed under this title.

SECTION 2.03. Chapter 252, Election Code, is amended by adding Section 252.0131 to read as follows:

Sec. 252.0131. TERMINATION OF CAMPAIGN TREASURER APPOINTMENT BY COMMISSION. (a) The commission by rule shall adopt a process by which the commission may terminate the campaign treasurer appointment of an inactive candidate or political committee that:

1 (1) is required to file a campaign treasurer
2 appointment with the commission;

3 (2) has never filed or has ceased to file reports under
4 Chapter 254;

5 (3) in the case of a candidate, has not been elected to
6 an office specified by Section 252.005(1) or (5); and

7 (4) has not filed:

8 (A) a final report under Section 254.065 or
9 254.125; or

10 (B) a dissolution report under Section 254.126 or
11 254.159.

12 (b) Before the commission may terminate a campaign
13 treasurer appointment, the commission must consider the proposed
14 termination in a regularly scheduled open meeting.

15 (c) Rules adopted under this section must:

16 (1) define "inactive candidate or political
17 committee" for purposes of terminating the candidate's or
18 committee's campaign treasurer appointment; and

19 (2) require written notice to the affected candidate
20 or committee of:

21 (A) the proposed termination of the candidate's
22 or committee's campaign treasurer appointment;

23 (B) the date, time, and place of the meeting at
24 which the commission will consider the proposed termination; and

25 (C) the effect of termination of the candidate's
26 or committee's campaign treasurer appointment.

27 (d) The termination of a campaign treasurer appointment

1 under this section takes effect on the 30th day after the date of
2 the commission meeting at which the commission votes to terminate
3 the appointment. Following that meeting, the commission shall
4 promptly notify the affected candidate or political committee that
5 the appointment has been terminated. The notice must state the
6 effective date of the termination.

7 SECTION 2.04. The heading to Section 253.034, Election
8 Code, is amended to read as follows:

9 Sec. 253.034. RESTRICTIONS ON CONTRIBUTIONS DURING AND
10 FOLLOWING REGULAR LEGISLATIVE SESSION.

11 SECTION 2.05. Section 253.034(a), Election Code, is amended
12 to read as follows:

13 (a) During the period beginning on the 30th day before the
14 date a regular legislative session convenes and continuing through
15 the 20th day after the date of final adjournment, a person may not
16 knowingly make a political contribution to:

- 17 (1) a statewide officeholder;
- 18 (2) a member of the legislature; or
- 19 (3) a specific-purpose committee for supporting,
20 opposing, or assisting a statewide officeholder or member of the
21 legislature.

22 SECTION 2.06. The heading to Section 253.0341, Election
23 Code, is amended to read as follows:

24 Sec. 253.0341. RESTRICTIONS ON CONTRIBUTIONS TO
25 LEGISLATIVE CAUCUSES DURING AND FOLLOWING REGULAR LEGISLATIVE
26 SESSION.

27 SECTION 2.07. Section 253.0341(a), Election Code, is

1 amended to read as follows:

2 (a) During the period beginning on the 30th day before the
3 date a regular legislative session convenes and continuing through
4 the 20th day after the date of final adjournment, a person not a
5 member of the caucus may not knowingly make a contribution to a
6 legislative caucus.

7 SECTION 2.08. The heading to Subchapter A, Chapter 254,
8 Election Code, is amended to read as follows:

9 SUBCHAPTER A. GENERAL PROVISIONS; RECORDKEEPING

10 SECTION 2.09. Subchapter A, Chapter 254, Election Code, is
11 amended by adding Section 254.002 to read as follows:

12 Sec. 254.002. ANNUAL FILING FEE. (a) As provided by this
13 section, each candidate, officeholder, political committee, former
14 candidate, or former officeholder who is required to file reports
15 under this chapter with the commission shall:

16 (1) pay to the commission an annual filing fee of \$100;
17 or

18 (2) file with the commission an affidavit of inability
19 to pay the filing fee.

20 (b) Not later than January 15, a candidate, officeholder,
21 political committee, former candidate, or former officeholder who
22 is required to file a report under Section 254.063(c), 254.093(c),
23 254.123(c), 254.153(c), or 254.202 for the preceding calendar year
24 shall pay the filing fee or file the affidavit of inability to pay
25 the filing fee.

26 (c) If a candidate, officeholder, or political committee
27 becomes subject to the reporting requirements of this chapter after

1 January 1, the person shall pay the filing fee or file the affidavit
2 of inability to pay the filing fee.

3 (d) For purposes of Subsection (c), a report that is filed
4 by electronic transfer to the commission is considered to be
5 accompanied by the filing fee or affidavit of inability to pay the
6 filing fee if, not later than the applicable deadline for the
7 statement or report:

8 (1) the fee or affidavit is sent by first class United
9 States mail or common or contract carrier;

10 (2) the envelope containing the fee or affidavit is
11 properly addressed with postage or handling charges prepaid; and

12 (3) the envelope bears a post office cancellation mark
13 or a receipt mark of a common or contract carrier indicating a time
14 before the deadline or the person required to file the statement or
15 report furnishes satisfactory proof that the envelope was deposited
16 in the mail or with a common or contract carrier before the
17 deadline.

18 (e) The use of funds derived from a political contribution
19 to pay a filing fee under this section is not a violation of Section
20 253.035.

21 SECTION 2.10. Section 254.035, Election Code, is amended by
22 adding Subsection (c) to read as follows:

23 (c) The amount of a political expenditure made by credit
24 card is readily determinable by the person making the expenditure
25 on the date the person receives the credit card statement that
26 includes the expenditure.

27 SECTION 2.11. Section 254.036, Election Code, is amended by

1 amending Subsections (b) and (c) and adding Subsection (c-1) to
2 read as follows:

3 (b) Except as provided by Subsection (c), [~~(d)~~] (e), or
4 (f), [~~or (g)~~] each report filed under this chapter with the
5 commission must be filed by computer diskette, modem, or other
6 means of electronic transfer, using computer software provided by
7 the commission or computer software that meets commission
8 specifications for a standard file format.

9 (c) A candidate, officeholder, or political committee that
10 is required to file reports with the commission may file reports
11 that comply with Subsection (a) if:

12 (1) the candidate, officeholder, or campaign
13 treasurer of the committee files with the commission an affidavit
14 stating that the candidate, officeholder, or committee, an agent of
15 the candidate, officeholder, or committee, or a person with whom
16 the candidate, officeholder, or committee contracts does not use
17 computer equipment to keep the current records of political
18 contributions, political expenditures, or persons making political
19 contributions to the candidate, officeholder, or committee; and

20 (2) the candidate, officeholder, or committee does
21 not, in a calendar year, accept political contributions that in the
22 aggregate exceed \$50,000 or make political expenditures that in the
23 aggregate exceed \$50,000.

24 (c-1) An affidavit under Subsection (c) [~~this subsection~~]
25 must be filed with each report filed under Subsection (a). The
26 affidavit must include a statement that the candidate,
27 officeholder, or political committee understands that the

1 candidate, officeholder, or committee shall file reports as
2 required by Subsection (b) if:

3 (1) the candidate, officeholder, or committee, a
4 consultant of the candidate, officeholder, or committee, or a
5 person with whom the candidate, officeholder, or committee
6 contracts uses computer equipment for a purpose described by this
7 subsection; or

8 (2) the candidate, officeholder, or committee exceeds
9 \$50,000 in political contributions or political expenditures in a
10 calendar year~~[, the candidate, officeholder, or committee is~~
11 ~~required to file reports under Subsection (b)].~~

12 SECTION 2.12. Section 254.0401(a), Election Code, is
13 amended to read as follows:

14 (a) The ~~[Except as provided by Subsection (b), the]~~
15 commission shall make each report filed with the commission under
16 Section 254.036(b) available to the public on the Internet not
17 later than the second business day after the date the report is
18 filed.

19 SECTION 2.13. Section 254.042(b), Election Code, is amended
20 to read as follows:

21 (b) If a report other than a report under Section
22 254.064(c), 254.124(c), or 254.154(c) is determined to be late, the
23 person required to file the report is ~~[civilly]~~ liable to the state
24 for a civil penalty of \$500 ~~[an amount determined by commission~~
25 ~~rule, but not to exceed \$100 for each day that the report is late].~~

26 If a report under Section 254.064(c), 254.124(c), or 254.154(c) is
27 determined to be late, the person required to file the report is

1 liable to the state for a civil penalty of \$500 for the first day the
2 report is late and \$100 for each day thereafter that the report is
3 late. If a report is more than 30 days late, the commission shall
4 issue a warning of liability by registered mail to the person
5 required to file the report. If the penalty is not paid before the
6 10th day after the date on which the warning is received, the person
7 is liable for a civil penalty in an amount determined by commission
8 rule, but not to exceed \$10,000.

9 SECTION 2.14. Section 254.151, Election Code, is amended to
10 read as follows:

11 Sec. 254.151. ADDITIONAL CONTENTS OF REPORTS. In addition
12 to the contents required by Section 254.031, each report by a
13 campaign treasurer of a general-purpose committee must include:

14 (1) the committee's full name and address;

15 (2) the full name, residence or business street
16 address, and telephone number of the committee's campaign
17 treasurer;

18 (3) the identity and date of the election for which the
19 report is filed, if applicable;

20 (4) the name of each identified candidate or measure
21 or classification by party of candidates supported or opposed by
22 the committee, indicating whether the committee supports or opposes
23 each listed candidate, measure, or classification by party of
24 candidates;

25 (5) the name of each identified officeholder or
26 classification by party of officeholders assisted by the committee;

27 (6) the principal occupation of each person from whom

1 political contributions that in the aggregate exceed \$50 are
2 accepted during the reporting period;

3 (7) the amount of each political expenditure in the
4 form of a political contribution made to a candidate, officeholder,
5 or another political committee that is returned to the committee
6 during the reporting period, the name of the person to whom the
7 expenditure was originally made, and the date it is returned; ~~and~~

8 (8) on a separate page or pages of the report, the
9 identification of any contribution from a corporation or labor
10 organization made and accepted under Subchapter D, Chapter 253; and

11 (9) on a separate page or pages of the report, the
12 identification of any expenditure made by a corporation or labor
13 organization to:

14 (A) establish or administer the political
15 committee; or

16 (B) finance the solicitation of political
17 contributions to the committee under Section 253.100.

18 SECTION 2.15. Section 255.001, Election Code, is amended by
19 amending Subsection (a) and adding Subsection (a-1) to read as
20 follows:

21 (a) A person may not knowingly enter into a contract or
22 other agreement to print, publish, display, or broadcast political
23 advertising that does not indicate in the advertising:

24 (1) that it is political advertising;

25 (2) the full name of either the individual who
26 personally entered into the contract or agreement with the printer,
27 publisher, or broadcaster or the person that individual represents;

1 and

2 (3) in the case of advertising that is printed or
3 published, the address of either the individual who personally
4 entered into the agreement with the printer or publisher or the
5 person that individual represents.

6 (a-1) A person may not knowingly use, cause or permit to be
7 used, or continue to use any printed, published, displayed, or
8 broadcast political advertising that the person knows does not
9 include the disclosure required by Subsection (a). A person is
10 presumed to know that the use of political advertising is
11 prohibited by this subsection if the commission notifies the person
12 in writing that the use is prohibited.

13 SECTION 2.16. The heading to Section 257.005, Election
14 Code, is amended to read as follows:

15 Sec. 257.005. CANDIDATE FOR STATE OR COUNTY CHAIR [~~STATE~~
16 ~~CHAIRMAN~~] OF POLITICAL PARTY.

17 SECTION 2.17. Section 257.005(a), Election Code, is amended
18 to read as follows:

19 (a) Except as provided by this section, the following are
20 subject to the requirements of this title that apply to a candidate
21 for public office:

22 (1) a [A] candidate for state chair of a political
23 party with a nominee on the ballot in the most recent gubernatorial
24 general election; and

25 (2) a candidate for election to the office of county
26 chair of a political party with a nominee on the ballot in the most
27 recent gubernatorial general election if the county has a

1 population of 400,000 or more [~~is subject to the requirements of~~
2 ~~this title that apply to a candidate for public office, except as~~
3 ~~provided by this section~~].

4 SECTION 2.18. Sections 253.100(d), 254.036(d) and (g), and
5 254.0401(b) and (c), Election Code, are repealed.

6 SECTION 2.19. (a) Section 254.002, Election Code, as added
7 by this Act, applies beginning January 1, 2004.

8 (b) Section 254.036, Election Code, as amended by this Act,
9 applies only to a report required to be filed under Chapter 254,
10 Election Code, on or after September 1, 2003. A report required to
11 be filed under Chapter 254, Election Code, before September 1,
12 2003, is governed by the law in effect on the date the report was
13 required to be filed, and the former law is continued in effect for
14 that purpose.

15 (c) Section 254.042(b), Election Code, as amended by this
16 Act, applies only to a civil penalty imposed for a late report under
17 Chapter 254, Election Code, that is required to be filed on or after
18 September 1, 2003. A civil penalty imposed for a late report under
19 Chapter 254, Election Code, that is required to be filed before
20 September 1, 2003, is governed by the law in effect on the date the
21 report was required to be filed, and the former law is continued in
22 effect for that purpose.

23 (d) Section 254.151, Election Code, as amended by this Act,
24 applies to the reporting of an expenditure made on or after
25 September 1, 2003. The reporting of an expenditure made before
26 September 1, 2003, is governed by the law in effect at the time the
27 expenditure was made.

1 (e) Section 255.001(a), Election Code, as amended by this
2 Act, applies only to a contract to display political advertising
3 that is entered into on or after September 1, 2003. A contract to
4 display political advertising that is entered into before September
5 1, 2003, is governed by the law in effect on the date the contract is
6 entered into, and the former law is continued in effect for that
7 purpose.

8 (f) Section 255.001(a-1), Election Code, as added by this
9 Act, applies only to the use of political advertising on or after
10 September 1, 2003.

11 ARTICLE 3. SPEAKER'S RACE

12 SECTION 3.01. Subchapter B, Chapter 302, Government Code,
13 is amended by adding Section 302.0121 to read as follows:

14 Sec. 302.0121. DECLARATION OF SPEAKER CANDIDACY. (a) Each
15 speaker candidate shall file a declaration of candidacy with the
16 Texas Ethics Commission as provided by this section.

17 (b) A declaration of speaker candidacy must:

18 (1) be in writing;

19 (2) identify the legislative session as to which the
20 candidacy relates; and

21 (3) include:

22 (A) the speaker candidate's name;

23 (B) the speaker candidate's residence or
24 business street address; and

25 (C) the speaker candidate's telephone number.

26 (c) Except as provided by Subsection (e), a speaker
27 candidate may not knowingly accept a contribution, loan, or promise

1 of a contribution or loan in connection with the speaker candidacy
2 or make or authorize a campaign expenditure at a time when a
3 declaration of candidacy for the candidate is not in effect.

4 (d) A declaration of speaker candidacy terminates on the
5 earlier of:

6 (1) the date the speaker candidate files a written
7 statement with the Texas Ethics Commission stating that the
8 candidate has terminated the candidacy; or

9 (2) the date a speaker is elected for the legislative
10 session as to which the speaker candidate filed the statement.

11 (e) A former speaker candidate whose declaration of speaker
12 candidacy is terminated under Subsection (d) may make a campaign
13 expenditure in connection with a debt incurred during the period
14 the former speaker candidate's declaration of candidacy was in
15 effect.

16 SECTION 3.02. Section 302.013, Government Code, is amended
17 by amending Subsections (b) and (d) and adding Subsection (e) to
18 read as follows:

19 (b) Each speaker candidate shall file the statement on:

20 (1) the first filing date after the date on which the
21 speaker candidate files the declaration of candidacy required by
22 Section 302.0121 [~~announcement or initiation of the candidacy~~];

23 (2) each filing date during the candidacy; and

24 (3) each filing date until all campaign loans have
25 been repaid.

26 (d) Each speaker candidate shall file the statement by
27 computer diskette, modem, or other means of electronic transfer,

1 using computer software provided [~~on an official form designed~~] by
2 the Texas Ethics Commission or computer software that meets
3 commission specifications for a standard file format.

4 (e) The Texas Ethics Commission shall implement an
5 electronic filing system under Subsection (d) not later than
6 September 1, 2004. The commission by rule shall identify the date
7 on which the requirement that a statement must be made as required
8 by Subsection (d) takes effect and the first reporting period under
9 Subsection (c) for which a statement must be made as required by
10 Subsection (d). This subsection expires January 1, 2005.

11 SECTION 3.03. Section 302.015(b), Government Code, is
12 amended to read as follows:

13 (b) A statement required to be filed on the day before a
14 regular or called session convenes must actually be delivered and
15 in the possession of the Texas Ethics Commission not later than 5
16 [4] p.m. of that day.

17 SECTION 3.04. Subchapter B, Chapter 302, Government Code,
18 is amended by adding Sections 302.0191 and 302.0201 to read as
19 follows:

20 Sec. 302.0191. CONTRIBUTIONS AND EXPENDITURES FROM
21 POLITICAL CONTRIBUTIONS. A person, including a speaker candidate,
22 may not make a contribution to a speaker candidate's campaign or an
23 expenditure to aid or defeat a speaker candidate from:

24 (1) political contributions accepted under Title 15,
25 Election Code;

26 (2) interest earned on political contributions
27 accepted under Title 15, Election Code; or

1 (3) an asset purchased with political contributions
2 accepted under Title 15, Election Code.

3 Sec. 302.0201. DISPOSITION OF UNEXPENDED FUNDS; REPORT.

4 (a) A former speaker candidate may:

5 (1) use unexpended campaign funds to retire debt
6 incurred in connection with the speaker candidacy; or

7 (2) remit unexpended campaign funds to one or more of
8 the following:

9 (A) one or more persons from whom campaign funds
10 were received, in accordance with Subsection (c); or

11 (B) a recognized tax-exempt, charitable
12 organization formed for educational, religious, or scientific
13 purposes.

14 (b) A former speaker candidate may not retain contributions
15 covered by this subchapter, assets purchased with the
16 contributions, or interest and other income earned on the
17 contributions for more than six years after the date the person
18 ceases to be a speaker candidate or hold the office of speaker.

19 (c) The amount of campaign funds disposed of under
20 Subsection (a)(2)(A) to one person may not exceed the aggregate
21 amount accepted from that person in connection with the former
22 speaker candidate's most recent campaign for election to the office
23 of speaker.

24 (d) Not later than January 15 of each year, a former speaker
25 candidate who retains unexpended campaign funds shall file a sworn
26 report with the Texas Ethics Commission that includes:

27 (1) the full name and address of each person to whom a

1 payment from unexpended campaign funds is made;

2 (2) the date and amount of each payment reported under
3 Subdivision (1); and

4 (3) the information required by Section 302.014 as to
5 any contribution, loan, or expenditure not previously reported on a
6 statement filed under Section 302.013.

7 (e) A report filed under this section covers, as applicable:

8 (1) the period:

9 (A) beginning on the date after the last day of
10 the period covered by the most recent statement filed by the former
11 speaker candidate under Section 302.013; and

12 (B) ending on December 31 of the preceding year;

13 or

14 (2) the preceding calendar year.

15 (f) A former speaker candidate shall file the report on an
16 official form designed by the Texas Ethics Commission. Sections
17 302.015 and 302.016 apply to a report filed under this section.

18 (g) For purposes of this section, a speaker candidate
19 elected as speaker of the house of representatives is considered to
20 be a former speaker candidate.

21 SECTION 3.05. Section 302.021, Government Code, is amended
22 by amending Subsections (a) and (f) and adding Subsection (e-1) to
23 read as follows:

24 (a) A speaker candidate or former speaker candidate commits
25 an offense if the person [~~speaker candidate~~]:

26 (1) knowingly fails to file the declaration of
27 candidacy required by Section 302.0121;

1 (2) knowingly [~~wilfully~~] fails to file the statement
2 required by Section 302.013;

3 (3) knowingly accepts a contribution, loan, or promise
4 of a contribution or loan in violation of Section 302.0121(c);

5 (4) [~~(2)~~ knowingly accepts [~~receives~~] a
6 contribution, loan, or promise of a contribution or loan prohibited
7 by Section 302.017 from a corporation, partnership, association,
8 firm, union, foundation, committee, club, or other organization or
9 group of persons; [~~or~~]

10 (5) knowingly accepts a contribution from a person who
11 uses political contributions, interest earned on political
12 contributions, or an asset purchased with political contributions
13 to make the contribution in violation of Section 302.0191;

14 (6) [~~(3)~~ expends campaign funds for any purpose other
15 than those enumerated in Section 302.020;

16 (7) knowingly retains contributions, assets purchased
17 with contributions, or interest or other income earned on
18 contributions in violation of Section 302.0201(b); or

19 (8) knowingly fails to file the report of unexpended
20 campaign funds as required by Section 302.0201(d).

21 (e-1) A person commits an offense if the person knowingly
22 makes a contribution to a speaker candidate's campaign or an
23 expenditure to aid or defeat a speaker candidate from political
24 contributions, interest earned on political contributions, or an
25 asset purchased with political contributions in violation of
26 Section 302.0191.

27 (f) An offense under this section is a Class A misdemeanor

1 ~~[punishable by a fine of not less than \$500 nor more than \$5,000, by~~
2 ~~imprisonment for not more than one year, or by both].~~

3 SECTION 3.06. (a) Section 302.021, Government Code, as
4 amended by this Act, applies only to an offense committed on or
5 after September 1, 2003. For the purposes of this section, an
6 offense is committed before September 1, 2003, if any element of the
7 offense occurs before that date.

8 (b) An offense committed before September 1, 2003, is
9 covered by the law in effect when the offense was committed, and the
10 former law is continued in effect for that purpose.

11 ARTICLE 4. LOBBYING

12 SECTION 4.01. Section 305.002, Government Code, is amended
13 by adding Subdivisions (12) and (13) to read as follows:

14 (12) "Client" means a person or entity for which the
15 registrant is registered or is required to be registered.

16 (13) "Person associated with the registrant" means a
17 partner or other person professionally associated with the
18 registrant through a common business entity, other than a client,
19 that reimburses, retains, or employs the registrant.

20 SECTION 4.02. Section 305.003, Government Code, is amended
21 by amending Subsection (b) and adding Subsection (b-1) to read as
22 follows:

23 (b) Subsection (a)(2) requires a person to register if the
24 person, as part of his regular employment, has communicated
25 directly with a member of the legislative or executive branch to
26 influence legislation or administrative action on behalf of the
27 person by whom he is compensated or reimbursed, whether or not the

1 person receives any compensation for the communication in addition
2 to the salary for that regular employment.

3 (b-1) [~~However,~~] Subsection (a)(2) does not require a
4 member of the judicial, legislative, or executive branch of state
5 government or an officer or employee of a political subdivision of
6 the state to register. This subsection does not apply to an officer
7 or employee of a quasi-governmental agency. For purposes of this
8 subsection, "quasi-governmental agency" means a governmental
9 agency, other than an institution of higher education as defined by
10 Section 61.003, Education Code, that has as one of its primary
11 purposes engaging in an activity that is normally engaged in by a
12 nongovernmental agency, including:

13 (1) acting as a trade association; or

14 (2) competing in the public utility business with
15 private entities.

16 SECTION 4.03. Sections 305.005(a) and (c), Government Code,
17 are amended to read as follows:

18 (a) Each person required to register under this chapter
19 shall file a written registration [~~form~~] with the commission [~~on a~~
20 ~~form prescribed by the commission~~] and shall submit a registration
21 fee.

22 (c) The registration fee and registration renewal fee are:

23 (1) \$100 for a registrant employed by an organization
24 exempt from federal income tax under Section 501(c)(3) or
25 501(c)(4), Internal Revenue Code of 1986, and its subsequent
26 amendments; or

27 (2) \$600 [~~\$300~~] for any other registrant.

1 SECTION 4.04. Section 305.006(a), Government Code, is
2 amended to read as follows:

3 (a) Each registrant shall file with the commission a
4 written, verified report [~~on a form prescribed by the commission~~]
5 concerning the activities described by this section.

6 SECTION 4.05. Subchapter A, Chapter 305, Government Code,
7 is amended by adding Section 305.0064 to read as follows:

8 Sec. 305.0064. ELECTRONIC FILING OF REGISTRATIONS AND
9 ACTIVITY REPORTS. (a) Except as provided by Subsection (b), each
10 registration filed under Section 305.005 and each report filed
11 under Section 305.006 must be filed by computer diskette, modem, or
12 other means of electronic transfer, using computer software
13 provided by the commission or computer software that meets
14 commission specifications for a standard file format.

15 (b) The commission shall adopt rules under which a
16 registrant may file paper registrations or reports on forms
17 prescribed by the commission. The rules must be designed to ensure
18 that:

19 (1) use of the electronic filing system under
20 Subsection (a) is maximized; and

21 (2) registrants may file paper registrations or
22 reports for good cause only.

23 (c) The commission shall implement an electronic filing
24 system under Subsection (a) not later than December 1, 2004. The
25 commission by rule shall identify the date on which the requirement
26 that a registration must be made as required by Subsection (a) takes
27 effect and the first reporting period under Section 305.007 for

1 which a report must be made as required by Subsection (a). This
2 subsection expires January 1, 2005.

3 (d) A registration fee under Section 305.005(c)(1) or (2)
4 for the calendar years 2004 and 2005 is increased by an amount
5 determined by the commission as sufficient to generate additional
6 revenue necessary to develop and implement an electronic filing
7 system under Subsection (a). Additional revenue generated by a fee
8 increase under this subsection may be used only to develop and
9 implement the electronic filing system. The commission may impose
10 a different increase for each fee under Section 305.005(c). This
11 subsection expires January 1, 2006.

12 SECTION 4.06. Sections 305.028(b), (c), and (f)-(h),
13 Government Code, are amended to read as follows:

14 (b) Except as permitted by Subsection (c), a registrant may
15 not represent a client [~~person~~] in communicating directly with a
16 member of the legislative or executive branch to influence a
17 legislative subject matter [~~legislation~~] or an administrative
18 action if the representation of that client [~~person~~]:

19 (1) involves a substantially related matter in which
20 that client's [~~person's~~] interests are materially and directly
21 adverse to the interests of:

- 22 (A) another client of the registrant;
23 (B) an employer or concern employing the
24 registrant; or
25 (C) another client of a [~~partner or other~~] person
26 associated with the registrant; or

27 (2) reasonably appears to be [~~or potentially be~~]

1 adversely limited by:

2 (A) the registrant's, the employer's or
3 concern's, or the [~~partner's or~~] other associated person's
4 responsibilities to another client [~~or to a third person~~]; or

5 (B) the registrant's, employer's or concern's own
6 interests, or [~~partner's or~~] other associated person's own business
7 interests.

8 (c) A registrant may represent a client in the circumstances
9 described in Subsection [~~(a) or~~] (b) if:

10 (1) the registrant reasonably believes the
11 representation of each client will not be materially affected;

12 (2) not later than the second business day after the
13 date the registrant becomes aware of a [~~an actual or potential~~]
14 conflict described by Subsection [~~(a) or~~] (b), the registrant
15 provides written notice, in the manner required by the commission,
16 to each affected [~~or potentially affected~~] client; and

17 (3) not later than the 10th day after the date the
18 registrant becomes aware of a [~~an actual or potential~~] conflict
19 described by Subsection [~~(a) or~~] (b), the registrant files with the
20 commission a statement that:

21 (A) indicates [~~indicating~~] that there is a [~~an~~]
22 actual or potential conflict;

23 (B) states [~~and~~] that the registrant has notified
24 each affected [~~or potentially affected~~] client as required by
25 Subdivision (2); and

26 (C) states the name and address of each affected
27 client.

1 (f) In each report filed with the commission, a registrant
2 shall, under oath, affirm that the registrant has, to the best of
3 the registrant's knowledge, complied with this section.

4 (g) The commission may receive complaints regarding a
5 violation of this section. If the commission determines a
6 violation of this section has occurred, the commission, after
7 notice and hearing:

8 (1) shall [~~may~~] impose a civil [~~any~~] penalty in an
9 amount not to exceed \$2,000 [~~that the commission may impose under~~
10 ~~another state law~~]; and

11 (2) may rescind the person's registration and may
12 prohibit the person from registering with the commission for a
13 period not to exceed two years from the date of the rescission of
14 the person's registration.

15 (h) A penalty under this section is in addition to any other
16 enforcement, criminal, or civil action that the commission or
17 another person may take under this chapter or other law.

18 SECTION 4.07. Section 305.033(b), Government Code, is
19 amended to read as follows:

20 (b) If a registration or report is determined to be late,
21 the person responsible for the filing is liable to the state for
22 payment of a civil penalty of \$500 [~~in an amount determined by~~
23 ~~commission rule, but not to exceed \$100 for each day that the~~
24 ~~registration or report is late~~].

25 SECTION 4.08. Sections 305.028(a) and 305.031(c),
26 Government Code, are repealed.

27 SECTION 4.09. (a) Sections 305.028 and 305.031, Government

1 Code, as amended by this Act, apply only to an offense committed on
2 or after September 1, 2003. For the purposes of this section, an
3 offense is committed before September 1, 2003, if any element of the
4 offense occurs before that date. An offense committed before
5 September 1, 2003, is covered by the law in effect when the offense
6 was committed, and the former law is continued in effect for that
7 purpose.

8 (b) Section 305.033(b), Government Code, as amended by this
9 Act, applies only to a civil penalty imposed for a late registration
10 or report under Chapter 305, Government Code, that is required to be
11 filed on or after September 1, 2003. A civil penalty imposed for a
12 late registration or report under Chapter 305, Government Code,
13 that is required to be filed before September 1, 2003, is governed
14 by the law in effect on the date the report was required to be filed,
15 and the former law is continued in effect for that purpose.

16 ARTICLE 5. PERSONAL FINANCIAL DISCLOSURE BY AND STANDARDS OF
17 CONDUCT FOR STATE OFFICERS AND EMPLOYEES

18 SECTION 5.01. Section 572.022(c), Government Code, is
19 amended to read as follows:

20 (c) The individual filing the statement shall report a
21 description of real property by reporting:

22 (1) the street address, if available, or the number of
23 lots or number of acres, as applicable, in each county, and the name
24 of the county, if the street address is not available; and

25 (2) the names of all persons retaining an interest in
26 the property, excluding an interest that is a severed mineral
27 interest.

1 SECTION 5.02. Section 572.023, Government Code, is amended
2 by amending Subsection (b) and adding Subsections (c) and (d) to
3 read as follows:

4 (b) The account of financial activity consists of:

5 (1) a list of all sources of occupational income,
6 identified by employer, or if self-employed, by the nature of the
7 occupation, including identification of a person or other
8 organization from which the individual or a business in which the
9 individual has a substantial interest received a fee as a retainer
10 for a claim on future services in case of need, as distinguished
11 from a fee for services on a matter specified at the time of
12 contracting for or receiving the fee, if professional or
13 occupational services are not actually performed during the
14 reporting period equal to or in excess of the amount of the
15 retainer, and the category of the amount of the fee;

16 (2) identification by name and the category of the
17 number of shares of stock of any business entity held or acquired,
18 and if sold, the category of the amount of net gain or loss realized
19 from the sale;

20 (3) a list of all bonds, notes, and other commercial
21 paper held or acquired, and if sold, the category of the amount of
22 net gain or loss realized from the sale;

23 (4) identification of each source and the category of
24 the amount of income in excess of \$500 derived from each source from
25 interest, dividends, royalties, and rents;

26 (5) identification of each guarantor of a loan and
27 identification of each person or financial institution to whom a

1 personal note or notes or lease agreement for a total financial
2 liability in excess of \$1,000 existed at any time during the year
3 and the category of the amount of the liability;

4 (6) identification by description of all beneficial
5 interests in real property, whether held directly or in a trust or
6 partnership, and business entities held or acquired, and if sold,
7 the category of the amount of the net gain or loss realized from the
8 sale;

9 (7) identification of a person or other organization
10 from which the individual or the individual's spouse or dependent
11 children received a gift of anything of value in excess of \$250 and
12 a description of each gift, except:

13 (A) a gift received from an individual related to
14 the individual at any time within the second degree by
15 consanguinity or affinity, as determined under Subchapter B [~~A~~],
16 Chapter 573;

17 (B) a political contribution that was reported as
18 required by Chapter 254, Election Code [~~law~~]; and

19 (C) an expenditure required to be reported by a
20 person required to be registered under Chapter 305;

21 (8) identification of the source and the category of
22 the amount of all income received as beneficiary of a trust, other
23 than a blind trust that complies with Subsection (c), and
24 identification of each trust asset, if known to the beneficiary,
25 from which income was received by the beneficiary in excess of \$500;

26 (9) identification by description and the category of
27 the amount of all assets and liabilities of a corporation, firm,

1 ~~[or]~~ partnership, limited partnership, limited liability
2 partnership, professional corporation, professional association,
3 joint venture, or other business association in which 50 percent or
4 more of the outstanding ownership was held, acquired, or sold;

5 (10) a list of all boards of directors of which the
6 individual is a member and executive positions that the individual
7 holds in corporations, firms, partnerships, limited partnerships,
8 limited liability partnerships, professional corporations,
9 professional associations, joint ventures, or other business
10 associations or proprietorships, stating the name of each
11 corporation, firm, partnership, limited partnership, limited
12 liability partnership, professional corporation, professional
13 association, joint venture, or other business association or
14 proprietorship and the position held;

15 (11) identification of any person providing
16 transportation, meals, or lodging expenses permitted under Section
17 36.07(b), Penal Code, and the amount of those expenses, other than
18 expenditures required to be reported under Chapter 305; ~~and~~

19 (12) any corporation, firm, partnership, limited
20 partnership, limited liability partnership, professional
21 corporation, professional association, joint venture, or other
22 business association, excluding a publicly held corporation, in
23 which both the individual ~~[state officer]~~ and a person registered
24 under Chapter 305 have an interest;

25 (13) identification by name and the category of the
26 number of shares of any mutual fund held or acquired, and if sold,
27 the category of the amount of net gain or loss realized from the

1 sale; and

2 (14) identification of each blind trust that complies
3 with Subsection (c), including:

4 (A) the category of the fair market value of the
5 trust;

6 (B) an identification of each asset placed in the
7 trust;

8 (C) the date the trust was created;

9 (D) the name and address of the trustee; and

10 (E) a statement signed by the trustee, under
11 penalty of perjury, stating that:

12 (i) the trustee has not revealed any
13 information to the individual, except information that may be
14 disclosed under Subdivision (8); and

15 (ii) to the best of the trustee's knowledge,
16 the trust complies with this section.

17 (c) For purposes of Subsections (b)(8) and (14), a blind
18 trust is a trust as to which:

19 (1) the trustee:

20 (A) is a disinterested party;

21 (B) is not the individual or a person related to
22 the individual within the first degree by consanguinity or
23 affinity, as determined under Subchapter B, Chapter 573;

24 (C) is not a public officer or public employee;
25 and

26 (D) was not appointed to public office by the
27 individual or by a public officer or public employee the individual

1 supervises;

2 (2) the trustee has complete discretion to manage the
3 trust, including the power to dispose of and acquire trust assets
4 without consulting or notifying the individual; and

5 (3) the trustee is required to notify the individual
6 of the date of disposition and value at disposition of any original
7 investments or interests in real property so that information can
8 be reported on the individual's financial statement.

9 (d) If a blind trust under Subsection (c) is revoked while
10 the individual is subject to this subchapter, or if the individual
11 learns of any replacement assets of the trust, the individual must
12 file an amendment to the individual's most recent financial
13 statement, disclosing the date of revocation and the previously
14 unreported value by category of each asset and the income derived
15 from each asset. For purposes of this section, any replacement
16 asset of which the individual learns is treated after the date the
17 individual learns of the replacement as though it were an original
18 asset of the trust.

19 SECTION 5.03. Section 572.033(b), Government Code, is
20 amended to read as follows:

21 (b) If a statement is determined to be late, the individual
22 responsible for filing the statement is [~~civilly~~] liable to the
23 state for a civil penalty of \$500 [~~an amount determined by~~
24 ~~commission rule, but not to exceed \$100 for each day that the~~
25 ~~statement is late~~]. If a statement is more than 30 days late, the
26 commission shall issue a warning of liability by registered mail to
27 the individual responsible for the filing. If the penalty is not

1 paid before the 10th day after the date on which the warning is
2 received, the individual is liable for a civil penalty in an amount
3 determined by commission rule, but not to exceed \$10,000.

4 SECTION 5.04. Section 572.051, Government Code, is amended
5 to read as follows:

6 Sec. 572.051. STANDARDS OF CONDUCT. (a) A state officer or
7 employee may [~~should~~] not:

8 (1) accept or solicit any gift, favor, or service that
9 might reasonably tend to influence the officer or employee in the
10 discharge of official duties or that the officer or employee knows
11 or should know is being offered with the intent to influence the
12 officer's or employee's official conduct;

13 (2) accept other employment or engage in a business or
14 professional activity that the officer or employee might reasonably
15 expect would require or induce the officer or employee to disclose
16 confidential information acquired by reason of the official
17 position;

18 (3) accept other employment or compensation that could
19 reasonably be expected to impair the officer's or employee's
20 independence of judgment in the performance of the officer's or
21 employee's official duties;

22 (4) make personal investments that could reasonably be
23 expected to create a substantial conflict between the officer's or
24 employee's private interest and the public interest; [~~or~~]

25 (5) intentionally or knowingly solicit, accept, or
26 agree to accept any benefit for having exercised the officer's or
27 employee's official powers or performed the officer's or employee's

1 official duties in favor of another; or

2 (6) intentionally or knowingly solicit, accept, or
3 agree to accept any economic benefit, other than a benefit
4 described by Section 36.10, Penal Code, compensation, or contract
5 from a governmental or other entity that the officer or employee
6 knows or should know would not be offered or paid to or made with the
7 officer or employee but for the officer's or employee's position as
8 a state officer or employee.

9 (b) A member of the legislature who violates this section is
10 subject to discipline by the house to which the member belongs, as
11 provided by Section 11, Article III, Texas Constitution. Any other
12 state officer who violates this section is subject to removal from
13 office for official misconduct as provided by law. A state employee
14 who violates this section is subject to termination of employment.

15 (c) Discipline, removal, or termination under Subsection
16 (b) is in addition to any civil or criminal penalty that applies to
17 the person's conduct.

18 SECTION 5.05. Section 572.052, Government Code, is amended
19 by amending Subsection (a) and adding Subsection (a-1) to read as
20 follows:

21 (a) A member of the legislature may not, for compensation,
22 represent another person before:

23 (1) a state agency in the executive branch of state
24 government; or

25 (2) a state agency in the judicial branch of state
26 government, other than a court, that:

27 (A) receives state funds; and

1 (B) conducts adjudicative proceedings that are
2 not open to the public [unless:

3 ~~[(1) the representation:~~

4 ~~[(A) is made in a proceeding that is adversary in~~
5 ~~nature or in another public hearing that is a matter of record; or~~

6 ~~[(B) involves the filing of documents, contacts~~
7 ~~with the agency, or other relations, that involve only ministerial~~
8 ~~acts on the part of the commission, agency, board, department, or~~
9 ~~officer; and~~

10 ~~[(2) the member discloses to the agency that the~~
11 ~~member is being compensated for the representation].~~

12 (a-1) Subsection (a) does not apply to the representation of
13 a person by a member of the legislature in an administrative
14 proceeding that arises out of the same facts from which a criminal
15 proceeding in which the member represented the person arose.

16 SECTION 5.06. Section 572.053, Government Code, is amended
17 to read as follows:

18 Sec. 572.053. INTRODUCTION OR SPONSORSHIP OF OR VOTING [BY
19 LEGISLATORS] ON CERTAIN MEASURES OR BILLS BY LEGISLATORS [~~CRIMINAL~~
20 ~~OFFENSE]~~. (a) A member of the legislature may not introduce,
21 sponsor, or vote on a measure or a bill, other than a measure that
22 will affect an entire class of business entities, if:

23 (1) it is reasonably foreseeable that the measure or
24 bill will have an economic effect distinguishable from its effect
25 on the public on a business entity or real property in which the
26 member has a substantial interest; or

27 (2) a person related to the member in the second degree

1 by consanguinity or affinity, as determined under Subchapter B,
2 Chapter 573, or a business entity that employs the member or a
3 person related to the member in the second degree by consanguinity
4 or affinity, is registered as a lobbyist under Chapter 305 with
5 respect to the subject matter of the measure or bill.

6 (b) If it is reasonably foreseeable that a measure or bill
7 will have the same effect on a business entity or real property in
8 which a member has a substantial interest as it will have on an
9 entire class of business entities or real property, or if the
10 measure or bill will have an effect on a contract between a member
11 and a governmental entity, the member shall file the notice
12 required by Subsection (d) before introducing, sponsoring, or
13 voting on the measure or bill.

14 (c) A member of the legislature has a substantial interest
15 in real property if the interest is an equitable or legal ownership
16 with a fair market value of \$2,500 or more.

17 (d) A member of the house of representatives to whom
18 Subsection (a) or (b) applies shall file a written notice of that
19 fact with the chief clerk of the house of representatives. A
20 senator to whom Subsection (a) or (b) applies shall file a written
21 notice of that fact with the secretary of the senate. The member
22 shall also file a notice with the commission. A notice filed under
23 this subsection must:

24 (1) identify:

25 (A) the member;

26 (B) the measure or bill with respect to which the
27 notice is required under this section; and

1 (C) whether the member is filing the notice
2 pursuant to Subsection (a) or (b); and

3 (2) be included in the journal of the house to which
4 the member belongs.

5 (e) A person related to the member or an employer to whom
6 Subsection (a)(2) applies shall file a notice with the commission
7 identifying:

8 (1) the member; and

9 (2) the measure or bill with respect to which notice is
10 required under this section.

11 (f) A member of the legislature required by Subsection (b)
12 to file a notice regarding a contract between the member and a
13 governmental entity may satisfy the notice requirement by either:

14 (1) filing a notice under Subsection (d) for each
15 measure and bill, specifying the governmental agency with which the
16 member has a contract; or

17 (2) filing a list, in the manner provided by
18 Subsection (d), at the beginning of each legislative session of
19 each contract between the member and a governmental entity and,
20 during the legislative session, filing an amended list not later
21 than the 10th day after the date the member enters into a new
22 contract with a governmental entity.

23 (g) A member of the legislature who violates this section is
24 subject to discipline by the house to which the member belongs, as
25 provided by Section 11, Article III, Texas Constitution~~[, that will~~
26 ~~directly benefit a specific business transaction of a business~~
27 ~~entity in which the member has a controlling interest.~~

1 ~~[(b) In this section, "controlling interest" includes:~~

2 ~~[(1) an ownership interest or participating interest~~
3 ~~by virtue of shares, stock, or otherwise that exceeds 10 percent,~~

4 ~~[(2) membership on the board of directors or other~~
5 ~~governing body of the business entity, or~~

6 ~~[(3) service as an officer of the business entity.~~

7 ~~[(c) A member of the legislature commits an offense if the~~
8 ~~member violates this section. An offense under this subsection is a~~
9 ~~Class A misdemeanor].~~

10 SECTION 5.07. Article 26.06, Code of Criminal Procedure, is
11 amended to read as follows:

12 Art. 26.06. ELECTED OFFICIALS NOT TO BE APPOINTED. No court
13 may appoint an elected county, district or state official to
14 represent a person accused of crime, unless the official has
15 notified the court of his availability for appointment. If an
16 official has notified the court of his availability and is
17 appointed as counsel, he may decline the appointment if he
18 determines that it is in the best interest of his office to do so.
19 ~~[Nothing in this Code shall modify any statutory provision for~~
20 ~~legislative continuance.]~~

21 SECTION 5.08. The following are repealed:

22 (1) Section 30.003, Civil Practice and Remedies Code;

23 (2) Section 84.005, Family Code; and

24 (3) Section 1205.069, Government Code.

25 SECTION 5.09. (a) Notwithstanding Section 22.004,
26 Government Code, the supreme court may not amend or adopt a rule
27 requiring a court to grant a continuance because an attorney in a

1 civil action is a member of the legislature and shall, not later
2 than September 15, 2003, repeal any such existing rule.

3 (b) Section 572.052, Government Code, as amended by this
4 Act, applies only to representation before a state agency in regard
5 to a matter as to which a member of the legislature is hired on or
6 after September 1, 2003. Representation in regard to a matter as to
7 which a member of the legislature was hired before September 1,
8 2003, and the reporting of that representation are governed by the
9 law in effect at the time the member was hired, and that law is
10 continued in effect for that purpose.

11 (c) Sections 572.022 and 572.023, Government Code, as
12 amended by this Act, apply only to a financial statement required to
13 be filed under Subchapter B, Chapter 572, Government Code, on or
14 after January 1, 2004. A financial statement required to be filed
15 under Subchapter B, Chapter 572, Government Code, before January 1,
16 2004, is governed by the law in effect immediately before the
17 effective date of this Act, and the former law is continued in
18 effect for that purpose.

19 (d) Section 572.033(b), Government Code, as amended by this
20 Act, applies only to a civil penalty imposed for a late report under
21 Subchapter B, Chapter 572, Government Code, that is required to be
22 filed on or after September 1, 2003. A civil penalty imposed for a
23 late report under Subchapter B, Chapter 572, Government Code, that
24 is required to be filed before September 1, 2003, is governed by the
25 law in effect on the date the report was required to be filed, and
26 the former law is continued in effect for that purpose.

27 (e) Section 572.053, Government Code, as amended by this

1 Act, applies only to a vote on a bill or measure cast by a member of
2 the legislature on or after September 1, 2003. A vote on a bill or
3 measure cast by a member of the legislature before September 1,
4 2003, is governed by the law in effect on the date the vote was cast,
5 and the former law is continued in effect for that purpose.

6 ARTICLE 6. PERSONAL FINANCIAL DISCLOSURE BY
7 COUNTY AND MUNICIPAL OFFICERS

8 SECTION 6.01. Subtitle A, Title 5, Local Government Code,
9 is amended by adding Chapter 145 to read as follows:

10 CHAPTER 145. FINANCIAL DISCLOSURE BY
11 MUNICIPAL OFFICERS

12 Sec. 145.001. APPLICABILITY OF CHAPTER. This chapter
13 applies only to a municipality with a population of 200,000 or more.

14 Sec. 145.002. DEFINITION. In this chapter, "municipal
15 officer" means the mayor, a member of the governing body, the
16 municipal attorney, or the city manager of a municipality.

17 Sec. 145.003. FINANCIAL STATEMENT REQUIRED. (a) A
18 municipal officer or a candidate for a municipal office filled by
19 election shall file a financial statement as required by this
20 chapter.

21 (b) The statement must:

22 (1) be filed with the clerk or secretary of the
23 municipality in which the officer or candidate resides; and

24 (2) comply with Sections 572.022 and 572.023,
25 Government Code.

26 Sec. 145.004. FILING DATES; TIMELINESS OF FILING. (a) A
27 municipal officer shall file the financial statement required by

1 this chapter within the time prescribed by Section 572.026(a),
2 Government Code.

3 (b) A person who is appointed to a municipal office shall
4 file the financial statement required by this chapter within the
5 time prescribed by Section 572.026(c), Government Code.

6 (c) A candidate for a municipal office filled by election
7 shall file the financial statement required by this chapter not
8 later than the earlier of:

9 (1) the 20th day after the deadline for filing an
10 application for a place on the ballot in the election; or

11 (2) the fifth day before the date of the election.

12 (d) The timeliness of the filing is governed by Section
13 572.029, Government Code.

14 (e) A municipal officer or a person who is appointed to a
15 municipal office may request the clerk or secretary of the
16 municipality to grant an extension of not more than 60 days for
17 filing the statement. The clerk or secretary shall grant the
18 request if it is received before the filing deadline or if the
19 officer's physical or mental incapacity prevents the officer from
20 filing the statement or requesting an extension before the filing
21 deadline. The clerk or secretary may not grant more than one
22 extension to a person in one year except for good cause shown.

23 (f) The clerk or secretary may not grant an extension to a
24 candidate for a municipal office filled by election.

25 Sec. 145.005. FORM OF STATEMENT. (a) The clerk or
26 secretary of the municipality shall require that the form designed
27 by the Texas Ethics Commission under Chapter 572, Government Code,

1 be used for filing the financial statement.

2 (b) The clerk or secretary shall mail two copies of the form
3 to each municipal officer or person who is appointed to a municipal
4 office who is required to file under this chapter within the time
5 prescribed by Section 572.030(c)(1), Government Code. The clerk or
6 secretary shall mail a copy of the form to each candidate for a
7 municipal office filled by election who is required to file under
8 this chapter not later than the 10th day before the deadline for
9 filing the statement under Section 145.004(c).

10 Sec. 145.006. DUPLICATE OR SUPPLEMENTAL STATEMENTS. If a
11 person has filed a financial statement under one provision of this
12 chapter covering the preceding calendar year, the person is not
13 required to file a financial statement required under another
14 provision of this chapter covering that same year if, before the
15 deadline for filing the statement under the other provision, the
16 person notifies the clerk or secretary of the municipality in
17 writing that the person has already filed a financial statement
18 under this chapter covering that year.

19 Sec. 145.007. PUBLIC ACCESS TO STATEMENTS. (a) Financial
20 statements filed under this chapter are public records. The clerk
21 or secretary of the municipality shall maintain the statements in
22 separate alphabetical files and in a manner that is accessible to
23 the public during regular office hours.

24 (b) Until the first anniversary of the date a financial
25 statement is filed, each time a person, other than the clerk or
26 secretary of the municipality or an employee of the clerk or
27 secretary who is acting on official business, requests to see the

1 financial statement, the clerk or secretary shall place in the file
2 a statement of the person's name and address, whom the person
3 represents, and the date of the request. The clerk or secretary
4 shall retain that statement in the file until the first anniversary
5 of the date the requested financial statement is filed.

6 (c) The clerk or secretary of the municipality may, and on
7 notification from a former officer or candidate shall, destroy any
8 financial statements filed by the officer or candidate after the
9 second anniversary of the date the person ceases to be an officer or
10 candidate, as applicable.

11 Sec. 145.008. NOTIFICATION TO PROSECUTING ATTORNEY. The
12 clerk or secretary of each municipality shall maintain a list of the
13 municipal officers and candidates for municipal office required to
14 file a financial statement under this chapter. Not later than the
15 10th day after each applicable filing deadline, the municipal clerk
16 shall provide to the municipal attorney a copy of the list showing
17 for each municipal officer and candidate for municipal office:

18 (1) whether the officer or candidate timely filed a
19 financial statement as required by this chapter;

20 (2) whether the officer or candidate timely requested
21 and was granted an extension of time to file as provided for by
22 Section 145.004 and the new due date for each such officer or
23 candidate; or

24 (3) whether the officer or candidate did not timely
25 file a financial statement or receive an extension of time.

26 Sec. 145.009. CRIMINAL PENALTY. (a) A municipal officer or
27 a candidate for a municipal office filled by election commits an

1 offense if the officer or candidate knowingly fails to file a
2 financial statement as required by this chapter.

3 (b) An offense under this section is a Class B misdemeanor.

4 (c) It is a defense to prosecution under this section that
5 the officer or candidate did not receive copies of the financial
6 statement form required to be mailed to the officer or candidate by
7 this chapter.

8 Sec. 145.010. CIVIL PENALTY. (a) A person who determines
9 that a person required to file a financial statement under this
10 chapter has failed to do so may notify in writing the municipal
11 attorney of the municipality.

12 (b) On receipt of a written notice under Subsection (a), the
13 municipal attorney shall determine from any available evidence
14 whether the person to whom the notice relates has failed to file a
15 statement. On making that determination, the municipal attorney
16 shall immediately mail by certified mail a notice of the
17 determination to the person responsible for filing the statement.

18 (c) If the person responsible for filing the statement fails
19 to file the statement before the 30th day after the date the person
20 receives the notice under Subsection (b), the person is civilly
21 liable to the municipality for an amount not to exceed \$1,000.

22 (d) A penalty paid under this section shall be deposited to
23 the credit of the general fund of the municipality.

24 SECTION 6.02. Subchapter A, Chapter 159, Local Government
25 Code, is amended by adding Section 159.0071 to read as follows:

26 Sec. 159.0071. NOTIFICATION TO PROSECUTING ATTORNEY. The
27 county clerk of each county shall maintain a list of the county

1 officers and candidates for county office required to file a
2 financial statement under this subchapter. Not later than the 10th
3 day after each applicable filing deadline, the county clerk shall
4 provide to the county attorney or criminal district attorney a copy
5 of the list showing for each county officer and candidate for county
6 office:

7 (1) whether the officer or candidate timely filed a
8 financial statement as required by this subchapter;

9 (2) whether the officer or candidate timely requested
10 and was granted an extension of time to file as provided for by
11 Section 159.004 and the new due date for each such officer or
12 candidate; or

13 (3) whether the officer or candidate did not timely
14 file a financial statement or receive an extension of time.

15 SECTION 6.03. Chapter 145, Local Government Code, as added
16 by this Act, applies beginning January 1, 2004. A municipal officer
17 or candidate for municipal office is not required to include
18 financial activity occurring before January 1, 2003, in a financial
19 disclosure statement under Chapter 145, Local Government Code, as
20 added by this Act.

21 ARTICLE 7. EFFECTIVE DATE

22 SECTION 7.01. This Act takes effect September 1, 2003.