

By: Wolens

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 254.0361, Election Code, is
11 transferred to Subchapter C, Chapter 571, Government Code, is
12 redesignated as Section 571.0671, Government Code, and is amended
13 to read as follows:

14 Sec. 571.0671 [~~254.0361~~]. REQUIREMENTS FOR ELECTRONIC
15 FILING SOFTWARE. (a) Computer software provided or approved by the
16 commission for use under Section 254.036(b), Election Code, or
17 Section 305.0064 must:

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

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

23 (3) [~~be capable of being used by a person with basic~~
24 ~~computing skills who uses a computer that uses a Windows operating~~

1 ~~system, Macintosh operating system, or another operating system~~
2 ~~that the commission determines is as popular as those systems for~~
3 ~~use with personal computers, and~~

4 ~~(4)~~ permit a person using a computer to prepare a
5 report or to retrieve information from a report to import
6 information to the report from a variety of computer software
7 applications that meet commission specifications for a standard
8 file format or export information from the report to a variety of
9 computer software applications that meet commission specifications
10 for a standard file format without the need to reenter information.

11 (b) Before determining the specifications for computer
12 software developed, purchased, or licensed for use under Section
13 254.036, Election Code, or Section 305.0064, the commission shall
14 conduct at least one public hearing to discuss the specifications.
15 For at least 10 days following the hearing, the commission shall
16 accept public comments concerning the software specifications.

17 (c) The commission may provide software for use under
18 Section 254.036(b), Election Code, or Section 305.0064 by making
19 the software available on the Internet. If the commission makes the
20 software available on the Internet, the commission is not required
21 to provide the software on computer diskettes, CD-ROMs, or other
22 storage media without charge to persons required to file reports
23 under that section, but may charge a reasonable fee for providing
24 the software on storage media.

25 SECTION 1.02. Section 571.125, Government Code, is amended
26 to read as follows:

27 Sec. 571.125. PRELIMINARY REVIEW HEARING: PROCEDURE. (a)

1 The commission shall conduct a preliminary review hearing if:

2 (1) following the preliminary review, the commission
3 and the respondent cannot agree to the disposition of the complaint
4 or motion; or

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

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

9 (c) During a preliminary review hearing, the commission:

10 (1) may consider all submitted evidence related to the
11 complaint or to the subject matter of a motion under Section
12 571.124(b);

13 (2) may review any documents or material related to
14 the complaint or to the motion; ~~and~~

15 (3) may submit written questions and require those
16 questions to be answered under oath; and

17 (4) shall determine whether there is credible evidence
18 that provides cause for the commission to conclude that a violation
19 within the jurisdiction of the commission has occurred.

20 (d) [~~(b)~~] During a preliminary review hearing, the
21 respondent may appear before the commission with the assistance of
22 counsel, if desired by the respondent, and present any relevant
23 evidence, including a written statement.

24 SECTION 1.03. The heading to Section 571.126, Government
25 Code, is amended to read as follows:

26 Sec. 571.126. PRELIMINARY REVIEW HEARING: RESOLUTION.

27 SECTION 1.04. Sections 571.126(a), (b), and (d), Government

1 Code, are amended to read as follows:

2 (a) As soon as practicable after the completion of a
3 preliminary review hearing, the commission by record vote shall
4 issue a decision stating:

5 (1) whether there is credible evidence for the
6 commission to determine that a violation within the jurisdiction of
7 the commission has occurred and whether the violation is technical
8 or de minimis; or

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

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

24 (1) order a formal [~~an informal~~] hearing to be held in
25 accordance with Sections 571.129 through 571.132 [~~Section~~
26 ~~571.127~~]; and

27 (2) not later than the fifth business day after the

1 date of the decision, send to the complainant, if any, and the
2 respondent:

3 (A) a copy of the decision;

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

6 (C) a statement of the nature of the alleged
7 violation;

8 (D) a description of the evidence of the alleged
9 violation;

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

11 (F) a copy of the commission's rules of
12 procedure; and

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

14 (d) If the commission determines that there is insufficient
15 credible evidence for the commission to determine that a violation
16 within the jurisdiction of the commission has occurred, the
17 commission may dismiss the complaint or motion or promptly conduct
18 a formal [~~an informal~~] hearing under Sections 571.129 through
19 571.132 [~~Section 571.127~~]. Not later than the fifth business day
20 after the date of the commission's determination under this
21 subsection, the commission shall send to the complainant, if any,
22 and the respondent a copy of the decision stating the commission's
23 determination and written notice of the grounds for the
24 determination.

25 SECTION 1.05. Section 571.136, Government Code, is amended
26 to read as follows:

27 Sec. 571.136. EXTENSION OF DEADLINE. The commission may,

1 on its own motion or on the reasonable request of a respondent,
2 extend any deadline for action relating to a sworn complaint,
3 motion, preliminary review[~~7~~, ~~informal~~] hearing, or formal hearing.

4 SECTION 1.06. Section 571.137, Government Code, is amended
5 by amending Subsection (a) and adding Subsections (a-1) and (a-2)
6 to read as follows:

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

11 (a-1) In connection with a preliminary review, the
12 commission, for good cause and as authorized by this chapter, may
13 subpoena documents that directly relate to a sworn complaint. The
14 commission shall adopt guidelines for the issuance of subpoenas
15 under this subsection.

16 (a-2) A copy of a subpoena issued under this section [~~of the~~
17 ~~commission~~] must be delivered to the respondent.

18 SECTION 1.07. Section 571.138, Government Code, is amended
19 to read as follows:

20 Sec. 571.138. STATUS OF COMPLAINANT. The complainant is
21 not a party to a preliminary review[~~7~~, ~~informal~~] hearing[~~7~~] or
22 formal hearing under this subchapter.

23 SECTION 1.08. Sections 571.139(a) and (b), Government Code,
24 are amended to read as follows:

25 (a) Except as provided by Section 571.140(b), Chapter 552
26 does not apply to documents or any additional evidence relating to
27 the processing, preliminary review[~~7~~, ~~informal~~] hearing, or

1 resolution of a sworn complaint or motion.

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

6 SECTION 1.09. Sections 571.140(a) and (b), Government Code,
7 are amended to read as follows:

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

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

21 SECTION 1.10. Subchapter F, Chapter 571, Government Code,
22 is amended by adding Section 571.1731 to read as follows:

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

24 (a) A person may request the waiver or reduction of a civil penalty
25 under Section 305.033(b) or 572.033(b) of this code or Section
26 254.042(b), Election Code, by submitting an affidavit to the
27 executive director that states the filer's reasons for requesting a

1 waiver or reduction.

2 (b) The commission may waive or reduce a civil penalty if
3 the commission finds that a waiver or reduction is in the public
4 interest and in the interest of justice. The commission shall
5 consider the following before acting to waive or reduce a civil
6 penalty:

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

9 (2) the seriousness of the violation, including the
10 nature, circumstances, consequences, extent, and gravity of the
11 violation, and the amount of the penalty;

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

13 (4) the demonstrated good faith of the person,
14 including actions taken to rectify the consequences of the
15 violation;

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

17 and

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

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

21 SECTION 1.11. Sections 571.127 and 571.128, Government
22 Code, are repealed.

23 ARTICLE 2. CAMPAIGN FINANCE AND POLITICAL ADVERTISING

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

26 (16) "Political advertising" means a communication
27 supporting or opposing a candidate for nomination or election to a

1 public office or office of a political party, a political party, a
2 public officer, or a measure that:

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

6 (B) appears:

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

10 (ii) on an Internet website.

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

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

16 SECTION 2.03. The heading to Section 253.034, Election
17 Code, is amended to read as follows:

18 Sec. 253.034. RESTRICTIONS ON CONTRIBUTIONS DURING AND
19 FOLLOWING REGULAR LEGISLATIVE SESSION.

20 SECTION 2.04. Section 253.034(a), Election Code, is amended
21 to read as follows:

22 (a) During the period beginning on the 30th day before the
23 date a regular legislative session convenes and continuing through
24 the 30th day after the date of final adjournment, a person may not
25 knowingly make a political contribution to:

26 (1) a statewide officeholder;

27 (2) a member of the legislature; or

1 (3) a specific-purpose committee for supporting,
2 opposing, or assisting a statewide officeholder or member of the
3 legislature.

4 SECTION 2.05. The heading to Section 253.0341, Election
5 Code, is amended to read as follows:

6 Sec. 253.0341. RESTRICTIONS ON CONTRIBUTIONS TO
7 LEGISLATIVE CAUCUSES DURING AND FOLLOWING REGULAR LEGISLATIVE
8 SESSION.

9 SECTION 2.06. Section 253.0341(a), Election Code, is
10 amended to read as follows:

11 (a) During the period beginning on the 30th day before the
12 date a regular legislative session convenes and continuing through
13 the 30th day after the date of final adjournment, a person not a
14 member of the caucus may not knowingly make a contribution to a
15 legislative caucus.

16 SECTION 2.07. The heading to Subchapter A, Chapter 254,
17 Election Code, is amended to read as follows:

18 SUBCHAPTER A. GENERAL PROVISIONS; RECORDKEEPING

19 SECTION 2.08. Subchapter A, Chapter 254, Election Code, is
20 amended by adding Section 254.002 to read as follows:

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

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

26 or

27 (2) file with the commission an affidavit of inability

1 to pay the filing fee.

2 (b) Not later than January 15, a candidate, officeholder,
3 political committee, former candidate, or former officeholder who
4 is required to file a report under Section 254.063(c), 254.093(c),
5 254.123(c), 254.153(c), or 254.202 for the preceding calendar year
6 shall pay the filing fee or file the affidavit of inability to pay
7 the filing fee.

8 (c) If a candidate, officeholder, or political committee
9 becomes subject to the reporting requirements of this chapter after
10 January 1, the person shall pay the filing fee or file the affidavit
11 of inability to pay the filing fee.

12 (d) For purposes of Subsection (c), a report that is filed
13 by electronic transfer to the commission is considered to be
14 accompanied by the filing fee or affidavit of inability to pay the
15 filing fee if, not later than the applicable deadline for the
16 statement or report:

17 (1) the fee or affidavit is sent by first-class United
18 States mail or common or contract carrier;

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

21 (3) the envelope bears a post office cancellation mark
22 or a receipt mark of a common or contract carrier indicating a time
23 before the deadline or the person required to file the statement or
24 report furnishes satisfactory proof that the envelope was deposited
25 in the mail or with a common or contract carrier before the
26 deadline.

27 (e) The use of funds derived from a political contribution

1 to pay a filing fee under this section is not a violation of Section
2 253.035.

3 SECTION 2.09. Section 254.036(g), Election Code, is amended
4 to read as follows:

5 (g) A person required to file a report with the commission
6 in connection with the office of [~~district judge,~~] district
7 attorney[~~, or judge of a multicounty statutory county court~~] may
8 file reports that comply with Subsection (a).

9 SECTION 2.10. Section 254.0401(a), Election Code, is
10 amended to read as follows:

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

16 SECTION 2.11. Section 254.042(b), Election Code, is amended
17 to read as follows:

18 (b) If a report other than a report under Section
19 254.064(c), 254.124(c), or 254.154(c) is determined to be late,
20 the person required to file the report is [~~civilly~~] liable to the
21 state for a civil penalty of \$500 [~~an amount determined by~~
22 ~~commission rule, but not to exceed \$100 for each day that the report~~
23 ~~is late~~]. If a report under Section 254.064(c), 254.124(c), or
24 254.154(c) is determined to be late, the person required to file the
25 report is liable to the state for a civil penalty of \$500 for the
26 first day the report is late and \$100 for each day thereafter that
27 the report is late. If a report is more than 30 days late, the

1 commission shall issue a warning of liability by registered mail to
2 the person required to file the report. If the penalty is not paid
3 before the 10th day after the date on which the warning is received,
4 the person is liable for a civil penalty in an amount determined by
5 commission rule, but not to exceed \$10,000.

6 SECTION 2.12. Section 254.151, Election Code, is amended
7 to read as follows:

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

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

12 (2) the full name, residence or business street
13 address, and telephone number of the committee's campaign
14 treasurer;

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

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

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

24 (6) the principal occupation of each person from whom
25 political contributions that in the aggregate exceed \$50 are
26 accepted during the reporting period;

27 (7) the amount of each political expenditure in the

1 form of a political contribution made to a candidate, officeholder,
2 or another political committee that is returned to the committee
3 during the reporting period, the name of the person to whom the
4 expenditure was originally made, and the date it is returned; ~~and~~

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

8 (9) on a separate page or pages of the report, the
9 identification of any political expenditure made by a corporation
10 or labor organization to:

11 (A) establish or administer the political
12 committee; or

13 (B) finance the solicitation of political
14 contributions to the committee under Section 253.100.

15 SECTION 2.13. The heading to Section 257.005, Election
16 Code, is amended to read as follows:

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

19 SECTION 2.14. Section 257.005(a), Election Code, is amended
20 to read as follows:

21 (a) A candidate for state or county chair of a political
22 party with a nominee on the ballot in the most recent gubernatorial
23 general election is subject to the requirements of this title that
24 apply to a candidate for public office, except as provided by this
25 section.

26 SECTION 2.15. Sections 253.100(d) and 254.0401(b) and (c),
27 Election Code, are repealed.

1 SECTION 2.16. (a) Section 254.002, Election Code, as added
2 by this Act, applies beginning January 1, 2004.

3 (b) Section 254.036(g), Election Code, as amended by this
4 Act, applies only to a report required to be filed under Chapter
5 254, Election Code, on or after September 1, 2003. A report
6 required to be filed under Chapter 254, Election Code, before
7 September 1, 2003, is governed by the law in effect on the date the
8 report was required to be filed, and the former law is continued in
9 effect for that purpose.

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

18 (d) Section 254.151, Election Code, as amended by this Act,
19 applies to the reporting of a political expenditure made on or after
20 September 1, 2003. The reporting of a political expenditure made
21 before September 1, 2003, is governed by the law in effect at the
22 time the expenditure was made.

23 (e) Section 257.005, Election Code, as amended by this Act,
24 applies only to the acceptance of a political contribution or
25 making of a political expenditure by a candidate for county chair of
26 a political party on or after September 1, 2003. The acceptance of
27 a political contribution or making of a political expenditure by a

1 candidate for county chair of a political party before September 1,
2 2003, is governed by the law in effect at the time the contribution
3 is accepted or the expenditure is made, and the former law is
4 continued in effect for that purpose.

5 ARTICLE 3. LOBBYING

6 SECTION 3.01. Sections 305.005(a) and (c), Government Code,
7 are amended to read as follows:

8 (a) Each person required to register under this chapter
9 shall file a written registration [~~form~~] with the commission [~~on a~~
10 ~~form prescribed by the commission~~] and shall submit a registration
11 fee.

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

13 (1) \$100 for a registrant employed by an organization
14 exempt from federal income tax under Section 501(c)(3) or
15 501(c)(4), Internal Revenue Code of 1986, and its subsequent
16 amendments; or

17 (2) \$600 [~~\$300~~] for any other registrant.

18 SECTION 3.02. Section 305.006(a), Government Code, is
19 amended to read as follows:

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

23 SECTION 3.03. Subchapter A, Chapter 305, Government Code,
24 is amended by adding Section 305.0064 to read as follows:

25 Sec. 305.0064. ELECTRONIC FILING OF REGISTRATIONS AND
26 ACTIVITY REPORTS. (a) Except as provided by Subsection (b) or (c),
27 each registration filed under Section 305.005 and each report filed

1 under Section 305.006 must be filed by computer diskette, modem, or
2 other means of electronic transfer, using computer software
3 provided by the commission or computer software that meets
4 commission specifications for a standard file format.

5 (b) The commission shall adopt rules under which a
6 registrant may file paper registrations or reports on forms
7 prescribed by the commission. The rules must be designed to ensure
8 that:

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

11 (2) registrants may file paper registrations or
12 reports for good cause only.

13 (c) The commission shall implement an electronic filing
14 system under Subsection (a) not later than December 1, 2004. The
15 commission by rule shall identify the first reporting period under
16 Section 305.007 for which a report must be made as required by
17 Subsection (a). This subsection expires January 1, 2005.

18 (d) A registration fee under Section 305.005(c)(1) or (2)
19 for the calendar years 2004 and 2005 is increased by an amount
20 determined by the commission as sufficient to generate additional
21 revenue necessary to develop and implement an electronic filing
22 system under Subsection (a). The commission may impose a different
23 increase for each fee under Section 305.005(c). This subsection
24 expires January 1, 2006.

25 SECTION 3.04. Section 305.033(b), Government Code, is
26 amended to read as follows:

27 (b) If a registration or report is determined to be late,

1 the person responsible for the filing is liable to the state for
2 payment of a civil penalty of \$500 [~~in an amount determined by~~
3 ~~commission rule, but not to exceed \$100 for each day that the~~
4 ~~registration or report is late~~].

5 SECTION 3.05. Section 305.033(b), Government Code, as
6 amended by this Act, applies only to a civil penalty imposed for a
7 late registration or report under Chapter 305, Government Code,
8 that is required to be filed on or after September 1, 2003. A civil
9 penalty imposed for a late registration or report under Chapter
10 305, Government Code, that is required to be filed before September
11 1, 2003, is governed by the law in effect on the date the report was
12 required to be filed, and the former law is continued in effect for
13 that purpose.

14 ARTICLE 4. PERSONAL FINANCIAL DISCLOSURE BY AND STANDARDS OF
15 CONDUCT FOR STATE OFFICERS AND EMPLOYEES

16 SECTION 4.01. Section 572.021, Government Code, is amended
17 to read as follows:

18 Sec. 572.021. FINANCIAL STATEMENT REQUIRED. A state
19 officer, a partisan or independent candidate for an office as an
20 elected officer, and a party chairman shall file with the
21 commission a verified financial statement complying with Sections
22 572.022 through 572.024 [~~572.025~~].

23 SECTION 4.02. Section 572.023(b), Government Code, is
24 amended to read as follows:

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

26 (1) a list of all sources of occupational income,
27 identified by employer, or if self-employed, by the nature of the

1 occupation, including identification of a person or other
2 organization from which the individual or a business in which the
3 individual has a substantial interest received a fee as a retainer
4 for a claim on future services in case of need, as distinguished
5 from a fee for services on a matter specified at the time of
6 contracting for or receiving the fee, if professional or
7 occupational services are not actually performed during the
8 reporting period equal to or in excess of the amount of the
9 retainer, and the category of the amount of the fee;

10 (2) identification by name and the category of the
11 number of shares of stock of any business entity held or acquired,
12 and if sold, the category of the amount of net gain or loss realized
13 from the sale;

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

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

20 (5) identification of each guarantor of a loan and
21 identification of each person or financial institution to whom a
22 personal note or notes or lease agreement for a total financial
23 liability in excess of \$1,000 existed at any time during the year
24 and the category of the amount of the liability;

25 (6) identification by description of all beneficial
26 interests in real property and business entities held or acquired,
27 and if sold, the category of the amount of the net gain or loss

1 realized from the sale;

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

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

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

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

14 (8) identification of the source and the category of
15 the amount of all income received as beneficiary of a trust and
16 identification of each asset, if known to the beneficiary, from
17 which income was received by the beneficiary in excess of \$500;

18 (9) identification by description and the category of
19 the amount of all assets and liabilities of a corporation or
20 partnership in which 50 percent or more of the outstanding
21 ownership was held, acquired, or sold;

22 (10) a list of all boards of directors of which the
23 individual is a member and executive positions that the individual
24 holds in corporations, firms, partnerships, or proprietorships,
25 stating the name of each corporation, firm, partnership, or
26 proprietorship and the position held;

27 (11) identification of any person providing

1 transportation, meals, or lodging expenses permitted under Section
2 36.07(b), Penal Code, and the amount of those expenses, other than
3 expenditures required to be reported under Chapter 305; ~~and~~

4 (12) any partnership, joint venture, or other business
5 association, excluding a publicly held corporation, in which both
6 the state officer and a person registered under Chapter 305 have an
7 interest; and

8 (13) identification by name and the category of the
9 number of shares of any mutual fund held or acquired, and if sold,
10 the category of the amount of net gain or loss realized from the
11 sale.

12 SECTION 4.03. Section 572.033(b), Government Code, is
13 amended to read as follows:

14 (b) If a statement is determined to be late, the individual
15 responsible for filing the statement is ~~[civilly]~~ liable to the
16 state for a civil penalty of \$500 ~~[an amount determined by~~
17 ~~commission rule, but not to exceed \$100 for each day that the~~
18 ~~statement is late]~~. If a statement is more than 30 days late, the
19 commission shall issue a warning of liability by registered mail to
20 the individual responsible for the filing. If the penalty is not
21 paid before the 10th day after the date on which the warning is
22 received, the individual is liable for a civil penalty in an amount
23 determined by commission rule, but not to exceed \$10,000.

24 SECTION 4.04. The heading to Section 572.052, Government
25 Code, is amended to read as follows:

26 Sec. 572.052. REPRESENTATION BY LEGISLATORS BEFORE STATE
27 AGENCIES OR POLITICAL SUBDIVISIONS; CRIMINAL OFFENSE.

1 SECTION 4.05. Section 572.052(a), Government Code, is
2 amended to read as follows:

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

5 (1) a state agency in the executive branch of state
6 government; or

7 (2) a political subdivision ~~[unless:~~

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

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

11 ~~[(B) involves the filing of documents, contacts~~
12 ~~with the agency, or other relations, that involve only ministerial~~
13 ~~acts on the part of the commission, agency, board, department, or~~
14 ~~officer; and~~

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

17 SECTION 4.06. Subchapter C, Chapter 572, Government Code,
18 is amended by adding Section 572.0531 to read as follows:

19 Sec. 572.0531. RECUSAL BY LEGISLATORS ON MATTERS ON WHICH
20 IMMEDIATE FAMILY MEMBERS LOBBY; CRIMINAL OFFENSE. (a) A member of
21 the legislature may not introduce or vote on a measure or bill with
22 respect to which the member's spouse, parent, or child is required
23 to register as a lobbyist under Chapter 305.

24 (b) A member of the house of representatives to whom
25 Subsection (a) applies shall file a written notice of that fact with
26 the chief clerk of the house of representatives. A senator to whom
27 Subsection (a) applies shall file a written notice of that fact with

1 the secretary of the senate. A notice filed under this section
2 must:

3 (1) identify:

4 (A) the member;

5 (B) the member's relative who is required to
6 register as a lobbyist; and

7 (C) the measure or bill with respect to which the
8 notice is required under this section; and

9 (2) be included in the journal of the house of
10 representatives or senate, as appropriate.

11 (c) A member of the legislature who violates this section is
12 subject to punishment or expulsion as provided by Section 11,
13 Article III, Texas Constitution.

14 SECTION 4.07. The heading to Section 572.056, Government
15 Code, is amended to read as follows:

16 Sec. 572.056. COMPENSATION OF [CONTRACTS BY] STATE OFFICERS
17 FOR SOLICITATION OF CONTRACT WITH GOVERNMENTAL ENTITY [ENTITIES];
18 CRIMINAL OFFENSE.

19 SECTION 4.08. Subchapter C, Chapter 572, Government Code,
20 is amended by adding Sections 572.0561 and 572.059 to read as
21 follows:

22 Sec. 572.0561. CONTRACT WITH GOVERNMENTAL ENTITY OR
23 GOVERNMENT CONTRACTOR; CRIMINAL OFFENSE. (a) A state officer may
24 not solicit or accept a commission, fee, bonus, retainer, or rebate
25 that is compensation for the officer's provision of services,
26 including consulting services, or sale of goods to:

27 (1) a governmental entity that receives state funds;

1 or

2 (2) a governmental entity that imposes a tax that is
3 collected and distributed to the entity by the comptroller.

4 (b) A state officer may not be employed by a business entity
5 that receives a commission, fee, bonus, retainer, or rebate that is
6 compensation for the business entity's provision of services,
7 including consulting services, or sale of goods to:

8 (1) a governmental entity that receives state funds;

9 or

10 (2) a governmental entity that imposes a tax that is
11 collected and distributed to the entity by the comptroller.

12 (c) A state officer may not be employed by a business entity
13 that receives a commission, fee, bonus, retainer, or rebate from
14 another business entity that is compensation for the provision of
15 services, including consulting services, or sale of goods to the
16 other business entity for provision or sale to:

17 (1) a governmental entity that receives state funds;

18 or

19 (2) a governmental entity that imposes a tax that is
20 collected and distributed to the entity by the comptroller.

21 (d) For purposes of this section, a state officer is
22 employed by a business entity if the state officer:

23 (1) has a substantial interest in the business entity;

24 (2) is an independent contractor of the business
25 entity;

26 (3) serves as a consultant to the business entity; or

27 (4) is designated as "of counsel" or "of the firm" by

1 the business entity, if the business entity is a partnership,
2 limited liability partnership, or professional corporation
3 organized for the practice of law.

4 (e) A state officer who knowingly violates this section
5 commits an offense. An offense under this section is a Class A
6 misdemeanor.

7 Sec. 572.059. EMPLOYMENT OF STATE OFFICER BY LOBBYIST;
8 CRIMINAL OFFENSE. (a) A state officer may not be employed by a
9 business entity that is engaged in the representation of clients
10 for the purpose of influencing legislative or administrative
11 action.

12 (b) For purposes of this section, a state officer is
13 employed by a business entity if the state officer:

14 (1) has a substantial interest in the business entity;

15 (2) is an independent contractor of the business
16 entity;

17 (3) serves as a consultant to the business entity; or

18 (4) is designated as "of counsel" or "of the firm" by
19 the business entity, if the business entity is a partnership,
20 limited liability partnership, or professional corporation
21 organized for the practice of law.

22 (c) A state officer who knowingly violates this section
23 commits an offense. An offense under this section is a Class A
24 misdemeanor.

25 SECTION 4.09. Article 26.06, Code of Criminal Procedure, is
26 amended to read as follows:

27 Art. 26.06. ELECTED OFFICIALS NOT TO BE APPOINTED. No court

1 may appoint an elected county, district or state official to
2 represent a person accused of crime, unless the official has
3 notified the court of his availability for appointment. If an
4 official has notified the court of his availability and is
5 appointed as counsel, he may decline the appointment if he
6 determines that it is in the best interest of his office to do so.
7 ~~[Nothing in this Code shall modify any statutory provision for~~
8 ~~legislative continuance.]~~

9 SECTION 4.10. The following are repealed:

- 10 (1) Section 30.003, Civil Practice and Remedies Code;
11 (2) Section 231.003, Election Code;
12 (3) Section 84.005, Family Code; and
13 (4) Sections 572.025 and 1205.069, Government Code.

14 SECTION 4.11. (a) Notwithstanding Section 22.004,
15 Government Code, the supreme court may not amend or adopt a rule
16 requiring a court to grant a continuance because an attorney in a
17 civil action is a member of the legislature and shall, not later
18 than September 15, 2003, repeal any such existing rule.

19 (b) The changes made by this Act by the amendment of
20 Sections 572.021 and 572.052, Government Code, and the repeal of
21 Section 572.025, Government Code, apply only to representation
22 before an executive state agency or political subdivision for which
23 a member of the legislature is hired on or after September 1, 2003.
24 Representation for which a member of the legislature was hired
25 before September 1, 2003, and the reporting of that representation
26 are governed by the law in effect at the time the member was hired,
27 and that law is continued in effect for that purpose.

1 (c) Section 572.023, Government Code, as amended by this
2 Act, applies only to a financial statement required to be filed
3 under Subchapter B, Chapter 572, Government Code, on or after
4 January 1, 2004. A financial statement required to be filed under
5 Subchapter B, Chapter 572, Government Code, before January 1, 2004,
6 is governed by the law in effect at the time the financial statement
7 was required to be filed, and the former law is continued in effect
8 for that purpose.

9 (d) Section 572.033(b), Government Code, as amended by this
10 Act, applies only to a civil penalty imposed for a late report under
11 Subchapter B, Chapter 572, Government Code, that is required to be
12 filed on or after September 1, 2003. A civil penalty imposed for a
13 late report under Subchapter B, Chapter 572, Government Code, that
14 is required to be filed before September 1, 2003, is governed by the
15 law in effect on the date the report was required to be filed, and
16 the former law is continued in effect for that purpose.

17 ARTICLE 5. PERSONAL FINANCIAL DISCLOSURE BY
18 COUNTY AND MUNICIPAL OFFICERS

19 SECTION 5.01. Subtitle A, Title 5, Local Government Code,
20 is amended by adding Chapter 145 to read as follows:

21 CHAPTER 145. FINANCIAL DISCLOSURE BY
22 MUNICIPAL OFFICERS

23 Sec. 145.001. DEFINITION. In this chapter, "municipal
24 officer" means the mayor, a member of the governing body, the
25 municipal attorney, or the city manager of a municipality.

26 Sec. 145.002. FINANCIAL STATEMENT REQUIRED. (a) A
27 municipal officer or a candidate for a municipal office filled by

1 election shall file a financial statement as required by this
2 chapter.

3 (b) The statement must:

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

6 (2) comply with Sections 572.022 and 572.023,
7 Government Code.

8 Sec. 145.003. FILING DATES; TIMELINESS OF FILING. (a) A
9 municipal officer shall file the financial statement required by
10 this chapter within the time prescribed by Section 572.026(a),
11 Government Code.

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

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

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

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

21 (d) The timeliness of the filing is governed by Section
22 572.029, Government Code.

23 (e) A municipal officer or a person who is appointed to a
24 municipal office may request the clerk or secretary of the
25 municipality to grant an extension of not more than 60 days for
26 filing the statement. The clerk or secretary shall grant the
27 request if it is received before the filing deadline or if the

1 officer's physical or mental incapacity prevents the officer from
2 filing the statement or requesting an extension before the filing
3 deadline. The clerk or secretary may not grant more than one
4 extension to a person in one year except for good cause shown.

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

7 Sec. 145.004. FORM OF STATEMENT. (a) The clerk or
8 secretary of the municipality shall require that the form designed
9 by the Texas Ethics Commission under Chapter 572, Government Code,
10 be used for filing the financial statement.

11 (b) The clerk or secretary shall mail two copies of the form
12 to each municipal officer or person who is appointed to a municipal
13 office who is required to file under this chapter within the time
14 prescribed by Section 572.030(c)(1), Government Code. The clerk or
15 secretary shall mail a copy of the form to each candidate for a
16 municipal office filled by election who is required to file under
17 this chapter not later than the 10th day before the deadline for
18 filing the statement under Section 145.003(c).

19 Sec. 145.005. DUPLICATE OR SUPPLEMENTAL STATEMENTS. If a
20 person has filed a financial statement under one provision of this
21 chapter covering the preceding calendar year, the person is not
22 required to file a financial statement required under another
23 provision of this chapter covering that same year if, before the
24 deadline for filing the statement under the other provision, the
25 person notifies the clerk or secretary of the municipality in
26 writing that the person has already filed a financial statement
27 under this chapter covering that year.

1 Sec. 145.006. PUBLIC ACCESS TO STATEMENTS. (a) Financial
2 statements filed under this chapter are public records. The clerk
3 or secretary of the municipality shall maintain the statements in
4 separate alphabetical files and in a manner that is accessible to
5 the public during regular office hours.

6 (b) Until the first anniversary of the date a financial
7 statement is filed, each time a person, other than the clerk or
8 secretary of the municipality or an employee of the clerk or
9 secretary who is acting on official business, requests to see the
10 financial statement, the clerk or secretary shall place in the file
11 a statement of the person's name and address, whom the person
12 represents, and the date of the request. The clerk or secretary
13 shall retain that statement in the file until the first anniversary
14 of the date the requested financial statement is filed.

15 (c) The clerk or secretary of the municipality may, and on
16 notification from a former officer or candidate shall, destroy any
17 financial statements filed by the officer or candidate after the
18 second anniversary of the date the person ceases to be an officer or
19 candidate, as applicable.

20 Sec. 145.007. CRIMINAL PENALTY. (a) A municipal officer or
21 a candidate for a municipal office filled by election commits an
22 offense if the officer or candidate knowingly fails to file a
23 financial statement as required by this chapter.

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

25 (c) It is a defense to prosecution under this section that
26 the officer or candidate did not receive copies of the financial
27 statement form required to be mailed to the officer or candidate by

1 this chapter.

2 Sec. 145.008. CIVIL PENALTY. (a) A person who determines
3 that a person required to file a financial statement under this
4 chapter has failed to do so may notify in writing the municipal
5 attorney of the municipality.

6 (b) On receipt of a written notice under Subsection (a), the
7 municipal attorney shall determine from any available evidence
8 whether the person to whom the notice relates has failed to file a
9 statement. On making that determination, the municipal attorney
10 shall immediately mail by certified mail a notice of the
11 determination to the person responsible for filing the statement.

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

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

18 SECTION 5.02. Section 159.001, Local Government Code, is
19 repealed.

20 SECTION 5.03. Chapter 145, Local Government Code, as added
21 by this Act, applies beginning January 1, 2004. A municipal officer
22 or candidate for municipal office is not required to include
23 financial activity occurring before January 1, 2004, in a financial
24 disclosure statement under Chapter 145, Local Government Code, as
25 added by this Act.

26 SECTION 5.04. Subchapter A, Chapter 159, Local Government
27 Code, as amended by this Act, applies beginning January 1, 2004. A

1 county officer or candidate for county office in a county with a
2 population of less than 100,000 is not required to include
3 financial activity occurring before January 1, 2004, in a financial
4 disclosure statement under Subchapter A, Chapter 159, Local
5 Government Code, as amended by this Act.

6 ARTICLE 6. EFFECTIVE DATE

7 SECTION 6.01. This Act takes effect September 1, 2003.