

By: Denny

H.B. No. 913

A BILL TO BE ENTITLED

AN ACT

relating to a special office in the Texas Ethics Commission to investigate criminal conduct related to political funds and campaigns.

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

SECTION 1. Chapter 571, Government Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. SPECIAL OFFICE TO INVESTIGATE CRIMINAL CONDUCT
RELATED TO POLITICAL FUNDS AND CAMPAIGNS

Sec. 571.201. DEFINITIONS. In this subchapter:

(1) "Peace officer" means an individual described by Article 2.12, Code of Criminal Procedure.

(2) "Prosecuting attorney" means a district attorney, criminal district attorney, or county attorney.

(3) "Special office" means the special office created under Section 571.202.

Sec. 571.202. SPECIAL OFFICE TO INVESTIGATE CRIMINAL CONDUCT RELATED TO POLITICAL FUNDS AND CAMPAIGNS. The commission shall establish a special office within the commission to investigate criminal offenses under Title 15, Election Code.

Sec. 571.203. INVESTIGATION OF CONDUCT BY SPECIAL OFFICE.

(a) The special office may on its own motion conduct an investigation of alleged or suspected criminal conduct that constitutes an offense prescribed by Title 15, Election Code, and

1 shall conduct an investigation of a matter referred to the office
2 under Subsection (b) or (c) or Section 273.001, Election Code.

3 (b) Before a peace officer may refer an alleged criminal
4 violation of Title 15, Election Code, to a prosecuting attorney for
5 criminal prosecution, the peace officer shall notify the special
6 office in writing of the alleged violation and include with the
7 notification a report describing the facts and circumstances of the
8 alleged violation. This section does not prohibit a peace officer
9 from issuing a citation or making an arrest.

10 (c) Before a prosecuting attorney may take any action to
11 prosecute an alleged criminal violation of Title 15, Election Code,
12 the prosecuting attorney shall notify the special office in writing
13 of the alleged violation and include with the notification a report
14 describing the facts and circumstances of the alleged violation.

15 (d) As soon as practicable and not later than the 45th day
16 after receiving a notice and report under Subsection (b) or (c), or
17 a referral from a prosecuting attorney or the attorney general
18 under Section 273.001, Election Code, the special office shall
19 evaluate the report or information provided with the referral and
20 determine whether an offense prescribed by Title 15, Election Code,
21 has been committed. If the special office does not make a
22 determination within the period prescribed by this subsection, the
23 appropriate prosecuting attorney may initiate a criminal
24 prosecution.

25 Sec. 571.204. DETERMINATION OF CRIMINAL CONDUCT. (a) If
26 the special office determines that an offense prescribed by Title
27 15, Election Code, has been committed:

1 (1) the special office shall notify in writing the
2 official who notified or referred the investigation to the office
3 that the office recommends criminal prosecution; and

4 (2) the appropriate prosecuting attorney may proceed
5 with the criminal prosecution of the alleged violation.

6 (b) If the special office determines that an offense
7 prescribed by Title 15, Election Code, has not been committed:

8 (1) the special office shall notify in writing the
9 official who notified or referred the investigation to the office
10 that the office does not recommend criminal prosecution; and

11 (2) a prosecuting attorney may not prosecute a person
12 for the alleged violation.

13 SECTION 2. Section 273.001, Election Code, is amended by
14 amending Subsections (a) and (b) and adding Subsection (b-1) to
15 read as follows:

16 (a) If two or more registered voters of the territory
17 covered by an election present affidavits alleging criminal conduct
18 in connection with the election to the county or district attorney
19 having jurisdiction in that territory, the county or district
20 attorney shall investigate the allegations or refer the allegations
21 to the special office of the Texas Ethics Commission established
22 under Subchapter G, Chapter 571, Government Code, if the alleged
23 criminal conduct is an offense prescribed by Title 15. If the
24 election covers territory in more than one county, the voters may
25 present the affidavits to the attorney general, and the attorney
26 general shall investigate the allegations or refer the allegations
27 to the special office of the Texas Ethics Commission established

1 under Subchapter G, Chapter 571, Government Code, if the alleged
2 criminal conduct is an offense prescribed by Title 15.

3 (b) Except as provided by Subsection (b-1), a [A] district
4 or county attorney having jurisdiction or the attorney general may
5 conduct an investigation on the officer's own initiative to
6 determine if criminal conduct occurred in connection with an
7 election.

8 (b-1) A district or county attorney having jurisdiction or
9 the attorney general may not conduct an investigation on the
10 officer's own initiative to determine if a person committed an
11 offense prescribed by Title 15 but may refer a matter to the special
12 office of the Texas Ethics Commission established under Subchapter
13 G, Chapter 571, Government Code.

14 SECTION 3. (a) The Texas Ethics Commission shall establish
15 the special office to investigate criminal conduct related to
16 political funds and campaigns as required by Subchapter G, Chapter
17 571, Government Code, as added by this Act, not later than January
18 1, 2006.

19 (b) Beginning on January 1, 2006, a peace officer, a
20 district or county attorney, or the attorney general shall refer an
21 alleged criminal violation of Title 15, Election Code, to the
22 special office of the Texas Ethics Commission as required by
23 Section 571.203, Government Code, as added by this Act, and Section
24 273.001, Election Code, as amended by this Act. An alleged criminal
25 violation of Title 15, Election Code, presented to a district or
26 county attorney or the attorney general under Section 273.001,
27 Election Code, or prosecuted or referred to a prosecuting attorney

1 before January 1, 2006, is governed by the law in effect immediately
2 before the effective date of this Act, and the former law is
3 continued in effect for that purpose.

4 SECTION 4. This Act takes effect September 1, 2005.