

BILL ANALYSIS

Senate Research Center
80R7268 KLA-D

H.B. 762
By: Dutton (Harris)
Jurisprudence
4/30/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 2.02, Texas Rules of Disciplinary Procedure, requires that a disciplinary grievance committee be comprised of no fewer than nine members, two-thirds of whom must be attorneys who are licensed to practice law in the State of Texas and are in good standing, and one-third of whom must be public members. Additionally, all committee panels must be comprised of two-thirds attorneys and one-third public members.

A member of a panel, nevertheless, is disqualified or is subject to recusal as a panel member for an evidentiary hearing if a district judge would, under similar circumstances, be disqualified or recused. However, the standard for a district judge is purportedly much higher, and often times a member of a panel who experiences such a conflict which would demand recusal of himself or herself will not do so unless a party to the disciplinary action brings this allegation before the panel.

H.B. 762 requires a member of a panel of a district grievance committee to recuse himself or herself from disciplinary proceedings if at any time he or she had a direct interest in the conduct at issue or if he or she had any interactions with the complainant or respondent that a reasonable person may deem as a conflict of interest.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to any state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 81.072, Government Code, by adding Subsections (p) and (q), as follows:

(p) Requires a member of a panel of a district grievance committee of the state bar who at any time has had a direct interest in conduct at issue in a grievance matter to which the panel was assigned, or who at any time before the hearing on a grievance matter to which the panel was assigned has had interactions with the complainant or the respondent that would lead a reasonable person to believe the member has a conflict of interest with respect to the matter, to recuse himself or herself from participating in the matter, including from participating in a hearing on the matter, including a closed hearing on a complaint placed on a dismissal docket; and voting on the disposition of the matter.

(q) Authorizes another member of the district grievance committee to be substituted for a member of a panel of a panel of a district grievance committee of the state bar who recuses himself or herself as required by Subsection (p), subject to Subsection (n).

SECTION 2. Makes application of Sections 81.072(p) and (q), Government Code, as added by this Act, prospective.

SECTION 3. Effective date: September 1, 2007.