

By: Christian

H.B. No. 1400

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation of a public integrity unit in the office of
3 the attorney general to prosecute offenses against public
4 administration, including ethics offenses, and offenses involving
5 insurance fraud.

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

7 SECTION 1. Chapter 402, Government Code, is amended by
8 adding Subchapter D to read as follows:

9 SUBCHAPTER D. PUBLIC INTEGRITY UNIT

10 Sec. 402.101. DEFINITIONS. In this subchapter:

11 (1) "Offense" means a prohibited act for which state
12 law imposes a criminal or civil penalty.

13 (2) "Prosecute" means represent the state to impose a
14 criminal or civil penalty.

15 (3) "Prosecuting attorney" means a district attorney,
16 criminal district attorney, or county attorney.

17 Sec. 402.102. OFFENSES AGAINST PUBLIC ADMINISTRATION. For
18 purposes of this subchapter, the following are offenses against
19 public administration:

20 (1) an offense under Title 8, Penal Code, committed by
21 a state officer or a state employee in connection with the powers
22 and duties of the state office or state employment;

23 (2) an offense under Chapter 301, 302, 305, 571, 572,
24 or 2004;

1 (3) an offense under Chapter 573 committed by a state
2 officer in connection with the powers and duties of the state
3 office;

4 (4) an offense under Title 15, Election Code,
5 committed in connection with:

6 (A) a campaign for or the holding of state
7 office; or

8 (B) an election on a proposed constitutional
9 amendment; and

10 (5) an offense involving compliance with the
11 requirements relating to the imposition of the motor fuels tax
12 imposed under Chapter 162, Tax Code, including an offense described
13 by Section 162.403, Tax Code.

14 Sec. 402.103. OFFENSES INVOLVING INSURANCE FRAUD. For
15 purposes of this subchapter, the following are offenses involving
16 insurance fraud:

17 (1) an offense under Chapter 35, Penal Code, including
18 an offense under that chapter that involves workers' compensation
19 insurance under Title 5, Labor Code; or

20 (2) a fraudulent insurance act as defined by Section
21 701.001, Insurance Code, including an act that involves workers'
22 compensation insurance under Title 5, Labor Code.

23 Sec. 402.104. PUBLIC INTEGRITY UNIT. The public integrity
24 unit is in the office of the attorney general.

25 Sec. 402.105. PROSECUTION BY PUBLIC INTEGRITY UNIT. (a) In
26 any district or county court of appropriate jurisdiction and venue,
27 the public integrity unit may prosecute a person for:

1 (1) an offense against public administration; or

2 (2) an offense involving insurance fraud.

3 (b) The public integrity unit must assert the right to
4 prosecute under this section in writing to the appropriate
5 prosecuting attorney. If the unit asserts the right to prosecute
6 under this section:

7 (1) the unit has all the powers of the prosecuting
8 attorney, including the power to represent the state before a grand
9 jury; and

10 (2) the prosecuting attorney may not prosecute the
11 same person for the same act, but on request of the unit shall
12 assist in the prosecution.

13 Sec. 402.106. COOPERATION OF STATE AGENCIES AND LOCAL LAW
14 ENFORCEMENT AGENCIES. (a) To the extent allowed by law, a state
15 agency or local law enforcement agency shall cooperate with the
16 public integrity unit by providing information requested by the
17 unit as necessary to carry out the purposes of this subchapter.

18 (b) Information disclosed under this section is
19 confidential and not subject to disclosure under Chapter 552.

20 Sec. 402.107. VENUE. Notwithstanding Chapter 13, Code of
21 Criminal Procedure, or other law, if the defendant is a natural
22 person, venue for a prosecution by the public integrity unit is in
23 the county in which the defendant resides.

24 SECTION 2. Sections 301.027(b) and (c), Government Code,
25 are amended to read as follows:

26 (b) If the president of the senate or speaker receives a
27 report or statement of facts as provided by Subsection (a), the

1 president of the senate or speaker shall certify the statement of
2 facts to the public integrity unit of the office of the attorney
3 general [~~Travis County district attorney~~] under the seal of the
4 senate or house of representatives, as appropriate.

5 (c) The public integrity unit [~~Travis County district~~
6 ~~attorney~~] shall bring the matter before the grand jury for action.
7 If the grand jury returns an indictment, the public integrity unit
8 [~~district attorney~~] shall prosecute the indictment.

9 SECTION 3. Section 402.009, Government Code, is amended to
10 read as follows:

11 Sec. 402.009. AUTHORITY TO EMPLOY AND COMMISSION PEACE
12 OFFICERS. The attorney general may employ and commission peace
13 officers as investigators for:

14 (1) the limited purpose of assisting the attorney
15 general in carrying out the duties of that office relating to
16 prosecution assistance and crime prevention; or

17 (2) the purpose of investigating offenses against
18 public administration and offenses involving insurance fraud that
19 may be prosecuted under Subchapter D.

20 SECTION 4. Section 35.04, Penal Code, is amended to read as
21 follows:

22 Sec. 35.04. JURISDICTION OF ATTORNEY GENERAL. (a) As
23 provided by Section 402.105, Government Code, the public integrity
24 unit of the office of the attorney general may prosecute an offense
25 under Section 35.02.

26 (b) If the public integrity unit does not assert its right
27 as provided by Section 402.105, Government Code, to prosecute an

1 offense under Section 35.02, the ~~[The]~~ attorney general may:

2 (1) offer to an attorney representing the state in the
3 prosecution of the ~~[an]~~ offense ~~[under Section 35.02]~~ the
4 investigative, technical, and litigation assistance of the
5 attorney general's office; or

6 (2) ~~[~~

7 ~~[(b) The attorney general may prosecute or]~~ assist in the
8 prosecution of the ~~[an]~~ offense ~~[under Section 35.02]~~ on the
9 request of the attorney representing the state ~~[described by~~
10 ~~Subsection (a)]~~.

11 SECTION 5. (a) Not later than March 1, 2010, the attorney
12 general shall establish the public integrity unit under Subchapter
13 D, Chapter 402, Government Code, as added by this Act.

14 (b) Subchapter D, Chapter 402, Government Code, applies
15 only to the prosecution of an offense against public administration
16 or an offense involving insurance fraud committed on or after April
17 1, 2010. For purposes of this section, an offense is committed
18 before April 1, 2010, if any element of the offense occurs before
19 that date.

20 (c) The prosecution of an offense committed before April 1,
21 2010, is covered by the law in effect when the offense was
22 committed, and the former law is continued in effect for that
23 purpose, except that a county attorney, district attorney, or
24 criminal district attorney may, on the request of the attorney
25 general, permit the public integrity unit established under
26 Subchapter D, Chapter 402, Government Code, as added by this Act, to
27 assume the prosecution of such an offense.

1 SECTION 6. This Act takes effect January 1, 2010, but only
2 if the constitutional amendment proposed by the 81st Legislature,
3 Regular Session, 2009, to permit the attorney general to prosecute
4 offenses against public administration, including ethics offenses,
5 and offenses involving insurance fraud, takes effect. If that
6 amendment is not approved by the voters, this Act has no effect.