

1-1 By: Whitmire S.B. No. 828
1-2 (In the Senate - Filed February 12, 2009; March 4, 2009,
1-3 read first time and referred to Committee on State Affairs;
1-4 March 25, 2009, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; March 25, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to a determination of value for purposes of punishment of
1-9 the offense of abuse of official capacity.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 39.02, Penal Code, is amended by adding
1-12 Subsections (e) and (f) to read as follows:

1-13 (e) If separate transactions that violate Subsection (a)(2)
1-14 are conducted pursuant to one scheme or continuing course of
1-15 conduct, the conduct may be considered as one offense and the value
1-16 of the funds involved in the transactions aggregated in determining
1-17 the classification of the offense.

1-18 (f) The value of the use of a thing of value misused under
1-19 Subsection (a)(2) may not exceed:

1-20 (1) the fair market value of the thing at the time of
1-21 the offense; or

1-22 (2) if the fair market value of the thing cannot be
1-23 ascertained, the cost of replacing the thing within a reasonable
1-24 time after the offense.

1-25 SECTION 2. The change in law made by this Act applies only
1-26 to an offense committed on or after the effective date of this Act.
1-27 An offense committed before the effective date of this Act is
1-28 covered by the law in effect when the offense was committed, and the
1-29 former law is continued in effect for that purpose. For purposes of
1-30 this section, an offense was committed before the effective date of
1-31 this Act if any element of the offense occurred before that date.

1-32 SECTION 3. This Act takes effect September 1, 2009.

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