

1 AN ACT

2 relating to the creation of a county ethics commission in certain
3 counties; providing civil and criminal penalties.

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

5 SECTION 1. Subtitle B, Title 5, Local Government Code, is
6 amended by adding Chapter 161 to read as follows:

7 CHAPTER 161. COUNTY ETHICS COMMISSION IN CERTAIN COUNTIES

8 SUBCHAPTER A. GENERAL PROVISIONS

9 Sec. 161.001. APPLICABILITY OF CHAPTER. This chapter
10 applies only to a county that:

11 (1) has a population of 650,000 or more;

12 (2) is located on the international border; and

13 (3) before September 1, 2009, had a county ethics
14 board appointed by the commissioners court.

15 Sec. 161.002. DEFINITIONS. In this chapter:

16 (1) "Commission" means a county ethics commission
17 created under this chapter.

18 (2) "Commission staff" means county employees
19 assigned to provide administrative support to the commission.

20 (3) "Communicates directly with" has the meaning
21 assigned by Section 305.002, Government Code.

22 (4) "County affiliate" means a person described and
23 determined by order of the commissioners court on recommendation of
24 the commission. As determined by the commissioners court, the term

1 includes:

2 (A) any person whose goods and services are
3 purchased under the terms of a purchase order or contractual
4 agreement with the county; and

5 (B) as determined by the county, any other
6 persons doing business with the county.

7 (5) "County employee" means a person employed by the
8 county or a county officer and includes a person employed in the
9 judicial branch of the county government who is not subject to the
10 Code of Judicial Conduct. The term does not include a county
11 officer.

12 (6) "County office" means a position held by a county
13 officer.

14 (7) "County officer" means a county judge, county
15 commissioner, county attorney, sheriff, county tax
16 assessor-collector, county clerk, district clerk, county
17 treasurer, county auditor, county purchasing agent, and constable.

18 (8) "County public servant" means a person elected,
19 selected, appointed, employed, or otherwise designated as one of
20 the following, even if the person has not yet qualified for or
21 assumed the duties of office:

22 (A) a county officer or county employee;

23 (B) a person appointed by the commissioners court
24 or a county officer to a position on one of the following, whether
25 the position is compensated or not:

26 (i) an authority, board, bureau,
27 commission, committee, council, department, district, division, or

- 1 office of the county; or
- 2 (ii) a multi-jurisdictional board;
- 3 (C) an attorney at law or notary public when
- 4 participating in the performance of a governmental function;
- 5 (D) a candidate for nomination or election to an
- 6 elected county office; or
- 7 (E) a person who is performing a governmental
- 8 function under a claim of right although the person is not legally
- 9 qualified or authorized to do so.

10 (9) "Lobbyist" means a person who, for compensation in
11 excess of an amount established by the commission, communicates
12 directly with a county officer or county employee to influence
13 official action. The term does not include an attorney who
14 communicates directly with a county officer or county employee to
15 the extent that such communication relates to the attorney's
16 representation of a party in a civil or criminal proceeding.

17 Sec. 161.003. CONFLICT WITH CIVIL SERVICE AGREEMENT.

- 18 (a) This chapter may not be construed to affect:
- 19 (1) the terms of an agreement authorized by Chapter
 - 20 174 between the county and county employees; or
 - 21 (2) any provision of a civil service statute
 - 22 applicable to a county employee.

23 (b) If an agreement authorized by Chapter 174 or a civil
24 service statute applicable to a county employee conflicts with this
25 chapter or an ethics code adopted or enforced under this chapter,
26 the agreement or civil service statute prevails.

27 [Sections 161.004-161.050 reserved for expansion]

1 SUBCHAPTER B. CREATION OF COMMISSION; APPOINTMENT OF COMMISSION

2 MEMBERS

3 Sec. 161.051. CREATION OF COMMISSION BY ORDER. (a) The
4 commissioners court of a county, by an order adopted by a majority
5 of the court's full membership, may create a county ethics
6 commission.

7 (b) A copy of an order adopted under this section shall be
8 placed in the minutes of the court's proceedings. The copy of the
9 order is public information.

10 Sec. 161.052. CREATION OF COMMISSION BY ELECTION. (a) A
11 county ethics commission may be created by approval of the system by
12 a majority of the qualified voters of the county voting at an
13 election called for that purpose.

14 (b) The commissioners court by order may call an election on
15 the question of the creation of a county ethics commission.

16 (c) The commissioners court shall hold the election called
17 under this section on the first authorized uniform election date
18 prescribed by Chapter 41, Election Code, that allows sufficient
19 time for publication of the notice required by Subsection (d) and
20 for compliance with any other requirements established by law.

21 (d) In addition to the notice required by Chapter 4,
22 Election Code, the commissioners court must publish in a newspaper
23 of general circulation in the county, and on the home page of the
24 county's Internet website, a substantial copy of the order calling
25 the election. The first newspaper publication must be made on or
26 before the 15th day before the date of the election and continue
27 once a week for two consecutive weeks, and the notice on the

1 county's Internet website shall remain on the home page each day
2 beginning not later than the 16th day before the election and ending
3 on the date of the election.

4 Sec. 161.053. BALLOT. The commissioners court shall order
5 the ballot at the election to be printed to provide for voting for
6 or against the proposition: "Creation of a county ethics
7 commission."

8 Sec. 161.054. RESULT OF ELECTION. If the proposition is
9 approved, the commissioners court shall declare the result and by
10 order create the county ethics commission. A copy of the order
11 creating the commission shall be placed in the minutes of the
12 court's proceedings.

13 Sec. 161.055. APPOINTMENT OF COMMISSION. (a) The
14 commission is composed of:

15 (1) five members, each of whom is appointed by the
16 county judge or a county commissioner; and

17 (2) five members appointed by the commissioners court,
18 with one member appointed from a list of nominees submitted by each
19 of the following entities:

20 (A) the county civil service commission;

21 (B) a bar association in the county;

22 (C) the sheriff's civil service commission;

23 (D) a dispute resolution center in the county
24 that is affiliated with a council of governments; and

25 (E) a human resources management association in
26 the county.

27 (a-1) The commissioners court shall designate the entities

1 described by Subsections (a)(2)(B), (D), and (E) that may submit
2 nominees for membership on the commission. If a designated entity
3 does not wish to submit nominees, the commissioners court shall
4 select a similar entity that has experience with grievance or
5 mediation structures or processes.

6 (b) Not later than the 60th day after the date of the order
7 creating the commission as provided in Section 161.051 or Section
8 161.054:

9 (1) the county judge and each county commissioner
10 shall each appoint one member of the commission; and

11 (2) each entity described by Subsection (a)(2) or
12 alternate entity designated under Subsection (a-1) shall deliver to
13 the commissioners court the entity's nominees for membership on the
14 commission.

15 (c) The commissioners court shall set the date for the first
16 meeting of the initial members. The first meeting must be set not
17 earlier than the 60th day after the date of the order creating the
18 commission and not later than the 90th day after the date of that
19 order.

20 Sec. 161.056. ELIGIBILITY. (a) To be eligible for
21 appointment to the commission, a person must:

22 (1) be at least 18 years old;

23 (2) be a property taxpayer in the county; and

24 (3) have resided in the county for the two years
25 immediately preceding the date on which the person's term will
26 begin.

27 (b) A person is not eligible for appointment to the

1 commission if the person is:

2 (1) an elected officer;

3 (2) a county employee;

4 (3) a county affiliate;

5 (4) a person employed as a lobbyist;

6 (5) a person convicted of a misdemeanor involving
7 moral turpitude or a felony; or

8 (6) a person who is delinquent in payment of local,
9 state, or federal taxes.

10 Sec. 161.057. TERMS. (a) Members of the commission serve
11 terms of two years beginning on February 1 of each odd-numbered
12 year.

13 (b) A member may serve more than one term.

14 Sec. 161.058. VACANCIES. (a) A vacancy on the commission
15 shall be filled for the remainder of the unexpired term as follows:

16 (1) if the vacancy involves a member appointed by the
17 county judge or a county commissioner, the vacancy is filled,
18 except as provided by Subsection (b), by appointment of that
19 officer or the officer's successor in office; or

20 (2) if the vacancy involves a member appointed under
21 Section 161.055(a)(2), the vacancy is filled as provided by that
22 section for an appointment to a full term.

23 (b) If the county judge or county commissioner, as
24 applicable, does not fill the vacancy before the 60th day after the
25 date the position becomes vacant, the commission may fill the
26 vacancy by a majority vote of the remaining members.

27 Sec. 161.059. MEETINGS. (a) The commission shall meet on

1 a regular basis.

2 (b) The commission is a governmental body for purposes of
3 Chapter 551, Government Code.

4 (c) Except as otherwise provided by this chapter, a majority
5 of the commission constitutes a quorum.

6 Sec. 161.0591. CHAIR. (a) The position of chair
7 alternates every six months between members appointed under Section
8 161.055(a)(1) and members appointed under Section 161.055(a)(2)
9 and rotates so that each position on the commission serves as chair,
10 as follows:

11 (1) the rotation of members appointed under Section
12 161.055(a)(1) begins with the member appointed by the county judge,
13 followed by the members appointed by the county commissioners in
14 order of precinct number; and

15 (2) the rotation of members appointed under Section
16 161.055(a)(2) begins with the member appointed under Section
17 161.055(a)(2)(A), followed by the members appointed under Sections
18 161.055(a)(2)(B), (C), (D), and (E) in that order.

19 (b) The member serving as chair may not vote on a matter
20 before the commission except to break a tie vote.

21 Sec. 161.060. REMOVAL OF COMMISSION MEMBER. A member of the
22 commission is a county officer described by Section 87.012(15) and
23 may be removed as provided by Chapter 87 if, after a trial, the jury
24 finds good cause for removal, including:

25 (1) failure to pay local, state, or federal taxes when
26 due;

27 (2) violation of the ethics code adopted by the

1 commission;

2 (3) conviction of a felony or misdemeanor;

3 (4) excessive absenteeism as determined by the
4 commission; and

5 (5) official misconduct.

6 Sec. 161.061. LEGAL REPRESENTATION. The county attorney,
7 or district attorney, or criminal district attorney, as
8 appropriate, with the duty to represent the county in civil matters
9 shall represent the commission in all legal matters.

10 [Sections 161.062-161.100 reserved for expansion]

11 SUBCHAPTER C. POWERS

12 Sec. 161.101. GENERAL POWERS. (a) The commission shall
13 adopt, publish, and enforce an ethics code governing county public
14 servants.

15 (b) The commission may adopt or use as a guide any ethics law
16 or rule of the United States, this state, or a political subdivision
17 in this state to the extent that the law or rule promotes the
18 purposes of this chapter and serves the needs of the county. For
19 purposes of Section 161.002(9), in determining the applicable
20 amount of compensation of a person who communicates directly with a
21 county officer or employee to influence official action and engages
22 in such communication as part of the person's regular employment,
23 the commission shall adopt rules that are substantially similar to
24 the rules or interpretations of the Texas Ethics Commission under
25 Chapter 305, Government Code, to calculate the compensation.

26 (c) The commission may adopt bylaws, rules, forms,
27 policies, or procedures to assist in the administration of the

1 commission's duties under this chapter. The commission may be
2 guided by Robert's Rules of Order to the extent that it does not
3 conflict with the constitution and laws of the United States and
4 this state or conflict with other guidelines adopted by the
5 commission.

6 (d) The commission shall be assigned staff by the county and
7 provided access to county resources to assist in its duties.

8 (e) The commission shall develop and implement policies
9 that provide the public with information on the commission and the
10 ethics code.

11 (f) The commission shall enforce the provisions of the
12 ethics code by issuing appropriate orders or recommendations or by
13 imposing appropriate penalties.

14 Sec. 161.102. ADVISORY OPINIONS. On the request of any
15 person covered by the ethics code adopted by the commission, the
16 commission may issue a written ethics advisory opinion regarding
17 the application of the ethics code to a specified existing or
18 hypothetical factual situation. The commission may not issue an
19 opinion that includes the name of any person who may be affected by
20 the opinion. The name of the person requesting the opinion shall be
21 deemed confidential.

22 Sec. 161.103. PUBLIC INTEREST INFORMATION. (a) The
23 commission shall develop plain-language materials as described by
24 this section. The commission shall post the information on the
25 county's Internet website and make the information otherwise
26 available to the public.

27 (b) The materials must include:

- 1 (1) a description of:
- 2 (A) the commission's responsibilities;
- 3 (B) the types of conduct that constitute a
4 violation of the ethics code adopted by the commission;
- 5 (C) the types of sanctions the commission may
6 impose;
- 7 (D) the commission's policies and procedures
8 relating to complaint investigation and resolution; and
- 9 (E) the duties of a person filing a complaint
10 with the commission; and
- 11 (2) a diagram showing the basic steps in the
12 commission's procedures relating to complaint investigation and
13 resolution.
- 14 (c) The commission shall provide the materials described by
15 this section to each complainant and respondent.
- 16 (d) The commission shall adopt a policy to effectively
17 distribute materials as required by this section.
- 18 Sec. 161.104. COMMISSION MEMBER EDUCATION AND TRAINING.
- 19 (a) Not later than the 60th day after the date a person is
20 appointed to the commission, the person must complete training on
21 the following matters:
- 22 (1) the legislation that created the commission;
- 23 (2) the role and functions of the commission; and
- 24 (3) the requirements of:
- 25 (A) the open meetings law, Chapter 551,
26 Government Code;
- 27 (B) the public information law, Chapter 552,

1 Government Code; and

2 (C) other laws relating to public officials,
3 including conflict-of-interest laws.

4 (b) A member of the commission must complete subsequent
5 training programs on the following matters:

6 (1) the ethics code adopted by the commission; and

7 (2) the procedural rules adopted by the commission.

8 (c) A person who is appointed to and qualifies for office as
9 a member of the commission may not vote, deliberate, or be counted
10 as a member in attendance at a meeting of the commission until the
11 person completes a training program that complies with this
12 section.

13 Sec. 161.105. EDUCATION AND TRAINING FOR PERSONS COVERED BY
14 ETHICS CODE. (a) The commission and commission staff shall
15 provide periodic training for persons covered by the ethics code
16 adopted by the commission on at least a quarterly basis.

17 (b) The training program must provide information
18 regarding:

19 (1) the ethics code;

20 (2) the role and functions of the commission; and

21 (3) plain-language materials as further described by
22 Section 161.103.

23 (c) In addition to the qualifications under Subchapter C,
24 Chapter 262, before submitting a bid, responding to a request for
25 qualifications or proposals, or otherwise contracting with the
26 county, an officer, principal, or other person with the authority
27 to bind the vendor shall complete training on the ethics code.

1 (d) A lobbyist intending to meet with a person covered by
2 the ethics code shall complete training on the ethics code.

3 Sec. 161.106. CERTAIN DISCUSSIONS OF PENDING COMPLAINTS
4 PROHIBITED. Until a sworn complaint alleging a violation of the
5 ethics code is resolved, a member of the commission may not discuss
6 the complaint with a member of the commissioners court.

7 [Sections 161.107-161.150 reserved for expansion]

8 SUBCHAPTER D. COMPLAINT PROCEDURES AND HEARINGS

9 Sec. 161.151. DEFINITIONS. In this subchapter:

10 (1) "Category One violation" means a violation of the
11 ethics code adopted by the commission as to which it is generally
12 not difficult to ascertain whether the violation occurred or did
13 not occur, including:

14 (A) the failure by a person required to file a
15 statement or report required under the ethics code to:

16 (i) file the statement or report in a manner
17 that complies with applicable requirements; or

18 (ii) file the statement or report in a
19 timely manner;

20 (B) a misrepresentation in a report required
21 under the ethics code; or

22 (C) a failure to respond in a timely manner to a
23 written notice under Section 161.156(b).

24 (2) "Category Two violation" means a violation of the
25 ethics code adopted by the commission that is not a Category One
26 violation.

27 Sec. 161.152. COMPLAINT PROCEDURES AND HEARINGS. The

1 commission shall adopt the complaint procedures and hearings set
2 forth in this subchapter. The commission may adopt additional
3 procedures not in conflict with this subchapter.

4 Sec. 161.153. HEARINGS AND SETTLEMENT. (a) The commission
5 may:

6 (1) hold a hearing on a sworn complaint and render a
7 decision on a complaint or report of a violation as provided by this
8 chapter; and

9 (2) agree to the settlement of issues.

10 (b) The commission may not:

11 (1) consider a complaint or vote to investigate a
12 matter outside the commission's jurisdiction; or

13 (2) investigate any matter except in response to a
14 sworn complaint.

15 Sec. 161.154. CATEGORIZATION OF VIOLATIONS. An allegation
16 of a violation listed as a Category One violation shall be treated
17 as a Category Two violation if the commission at any time determines
18 that:

19 (1) the allegation arises out of the same set of facts
20 as those that give rise to an allegation of a Category Two
21 violation, and the interests of justice or efficiency require
22 resolution of the allegations together; or

23 (2) the facts and law related to a particular
24 allegation or a defense to the allegation present a level of
25 complexity that prevents resolution through the preliminary review
26 procedures for Category One violations prescribed by Section
27 161.159(a).

1 Sec. 161.155. FILING OF COMPLAINT; CONTENTS. (a) An
2 individual may file with the commission a sworn complaint, on a form
3 prescribed by the commission, alleging that a person subject to the
4 ethics code has violated the ethics code. The commission shall make
5 the complaint form available on the county website.

6 (b) A complaint filed under this section must be in writing
7 and under oath and must set forth in simple, concise, and direct
8 statements:

9 (1) the name of the complainant;
10 (2) the street or mailing address of the complainant;
11 (3) the name of each respondent;
12 (4) the position or title of each respondent;
13 (5) the nature of the alleged violation, including if
14 possible the specific rule or provision of the ethics code alleged
15 to have been violated;

16 (6) a statement of the facts constituting the alleged
17 violation and the dates on which or period of time in which the
18 alleged violation occurred; and

19 (7) all documents or other material available to the
20 complainant that are relevant to the allegation, a list of all
21 documents or other material within the knowledge of the complainant
22 and available to the complainant that are relevant to the
23 allegation but that are not in the possession of the complainant,
24 including the location of the documents, if known, and a list of all
25 documents or other material within the knowledge of the complainant
26 that are unavailable to the complainant and that are relevant to the
27 complaint, including the location of the documents, if known.

1 (c) The complaint must be accompanied by an affidavit
2 stating either that the information contained in the complaint is
3 correct or that the complainant has good reason to believe and does
4 believe that the violation occurred. If the complaint is based on
5 information and belief, the complaint shall state the source and
6 basis of the information and belief. The complainant may swear to
7 the facts by oath before a notary public or other authorized
8 official.

9 (d) The complaint must state on its face an allegation that,
10 if true, constitutes a violation of the ethics code.

11 Sec. 161.1551. STANDING PRELIMINARY REVIEW COMMITTEE.

12 (a) The standing preliminary review committee shall perform the
13 actions prescribed by this subchapter in conducting a preliminary
14 review of each sworn complaint filed with the commission.

15 (b) The standing preliminary review committee consists of:

16 (1) two members of the commission, determined as
17 provided by Subsection (c); and

18 (2) a review officer selected and retained by the
19 commission.

20 (c) The initial standing preliminary review committee
21 consists of one commission member, chosen by lot, from the members
22 of the commission appointed under Section 161.055(a)(1), and one
23 commission member, chosen by lot, from the members appointed under
24 Section 161.055(a)(2).

25 (d) A commission member serves on the standing preliminary
26 review committee for six months. After the end of a commission
27 member term on the standing preliminary review committee, service

1 on the committee rotates as provided by Section 161.0591 for the
2 rotation of the chair, except that the rotation begins with the
3 initial members of the standing preliminary review committee chosen
4 under Subsection (c).

5 (e) The review officer must be a practicing attorney or
6 former judge.

7 Sec. 161.156. PROCESSING OF COMPLAINT. (a) The standing
8 preliminary review committee shall determine whether a sworn
9 complaint filed with the commission complies with the form
10 requirements of Section 161.155.

11 (b) Not later than the 10th business day after the date a
12 complaint is filed, the standing preliminary review committee shall
13 send written notice to the complainant and the respondent. The
14 notice must state whether the complaint complies with the form
15 requirements of Section 161.155 and include the information
16 required by Section 161.158(c).

17 (c) If the standing preliminary review committee determines
18 that the complaint does not comply with the form requirements, the
19 committee shall send the complaint to the complainant with the
20 written notice, a statement explaining how the complaint fails to
21 comply, and a copy of the rules for filing sworn complaints. The
22 complainant may resubmit the complaint not later than the 21st day
23 after the date the notice under Subsection (b) is mailed. If the
24 standing preliminary review committee determines that the
25 complaint is not resubmitted within the 21-day period, the
26 committee shall:

27 (1) dismiss the complaint; and

1 (2) not later than the 10th business day after the date
2 of the dismissal, send written notice to the complainant and the
3 respondent of the dismissal and the grounds for dismissal.

4 (d) If the standing preliminary review committee determines
5 that a complaint is resubmitted under Subsection (c) within the
6 21-day period but is not in proper form, the committee shall send
7 the notice required under Subsection (c), and the complainant may
8 resubmit the complaint under that subsection.

9 (e) If the standing preliminary review committee determines
10 that a complaint returned to the complainant under Subsection (c)
11 or (d) is resubmitted within the 21-day period and that the
12 complaint complies with the form requirements, the committee shall
13 send the written notice under Subsection (b).

14 (f) If a complaint filed with the commission is within the
15 jurisdiction of the commission but may also be brought under the
16 provisions of a collective bargaining agreement authorized by
17 Chapter 174, a civil service rule under Section 158.0025, or a rule
18 of the sheriff's department, the commission shall defer
19 jurisdiction over the complaint to the sheriff for disposition.
20 The sheriff may return a complaint deferred under this subsection
21 to the commission for additional proceedings as the commission
22 determines appropriate if the sheriff determines that the conduct
23 alleged in the complaint is not within the scope of the collective
24 bargaining agreement, civil service rule, or sheriff's department
25 rule. The sheriff may not return a complaint deferred under this
26 section if:

27 (1) the sheriff disciplines the employee under the

1 collective bargaining agreement, civil service rule, or sheriff's
2 department rule for the conduct alleged in the sworn complaint; or
3 (2) the sheriff determines that the employee did not
4 commit the conduct alleged in the sworn complaint.

5 Sec. 161.157. RETALIATION AGAINST COUNTY EMPLOYEE
6 REPORTING VIOLATION OF ETHICS CODE PROHIBITED. (a) The county may
7 not suspend or terminate the employment of or take other adverse
8 action against a county employee who in good faith files a complaint
9 or otherwise reports to the commission, commission staff, or
10 another law enforcement authority a violation of the ethics code by
11 a person subject to the ethics code.

12 (b) The county may not suspend or terminate the employment
13 of or take other adverse action against a county employee who in
14 good faith participates in the complaint processing, preliminary
15 review, hearing, or any other aspect of the investigation and
16 resolution by the commission of an alleged violation of the ethics
17 code by a person subject to the ethics code.

18 (c) A commission created by a county under this chapter is a
19 part of the "local governmental entity" for purposes of Section
20 554.002, Government Code.

21 (d) An ethics code adopted by a commission pursuant to this
22 chapter is a "law" as defined by Section 554.001, Government Code.

23 Sec. 161.158. PRELIMINARY REVIEW: INITIATION. (a) The
24 standing preliminary review committee shall promptly conduct a
25 preliminary review on receipt of a written complaint that is in
26 compliance with the form requirements of Section 161.155.

27 (b) The standing preliminary review committee shall

1 determine in writing whether the commission has jurisdiction over
2 the violation of the ethics code provision alleged in a sworn
3 complaint processed under Section 161.156.

4 (c) If the standing preliminary review committee determines
5 that the commission has jurisdiction, the committee shall issue a
6 notice under Section 161.156(b) that must include:

7 (1) a statement that the commission has jurisdiction
8 over the violation alleged in the complaint;

9 (2) a statement of whether the complaint will be
10 processed as a Category One violation or a Category Two violation,
11 subject to reconsideration as provided for by Section 161.154;

12 (3) the date by which the respondent is required to
13 respond to the notice;

14 (4) a copy of the complaint and the rules of procedure
15 of the commission;

16 (5) a statement of the rights of the respondent;

17 (6) a statement inviting the respondent to provide to
18 the commission any information relevant to the complaint; and

19 (7) a statement that a failure to timely respond to the
20 notice will be treated as a separate violation.

21 (d) If the standing preliminary review committee determines
22 that the commission does not have jurisdiction over the violation
23 alleged in the complaint, the committee shall:

24 (1) dismiss the complaint; and

25 (2) not later than the 10th business day after the date
26 of the dismissal, send to the complainant and the respondent
27 written notice of the dismissal and the grounds for the dismissal.

1 Sec. 161.159. PRELIMINARY REVIEW: RESPONSE BY RESPONDENT.

2 (a) If the alleged violation is a Category One violation:

3 (1) the respondent must respond to the notice required
4 by Section 161.156(b) not later than the 10th business day after the
5 date the respondent receives the notice; and

6 (2) if the matter is not resolved by agreement between
7 the commission and the respondent before the 30th business day
8 after the date the respondent receives the notice under Section
9 161.156(b), the standing preliminary review committee shall set the
10 matter for a preliminary review hearing to be held at the next
11 committee meeting for which notice has not yet been posted.

12 (b) If the alleged violation is a Category Two violation:

13 (1) the respondent must respond to the notice required
14 by Section 161.156(b) not later than the 25th business day after the
15 date the respondent receives the notice under Section 161.156(b);
16 and

17 (2) if the matter is not resolved by agreement between
18 the commission and the respondent before the 75th business day
19 after the date the respondent receives the notice under Section
20 161.156(b), the standing preliminary review committee shall set the
21 matter for a preliminary review hearing to be held at the next
22 committee meeting for which notice has not yet been posted.

23 (c) A respondent's failure to timely respond as required by
24 Subsection (a)(1) or (b)(1) is a Category One violation.

25 (d) The response required by Subsection (a) or (b) must
26 include any challenge the respondent seeks to raise to the
27 commission's exercise of jurisdiction. In addition, the respondent

1 may:

2 (1) acknowledge the occurrence or commission of a
3 violation;

4 (2) deny the allegations contained in the complaint
5 and provide evidence supporting the denial; or

6 (3) agree to enter into an assurance of voluntary
7 compliance or other agreed order, which may include an agreement to
8 immediately cease and desist.

9 (e) If the standing preliminary review committee sets the
10 matter for a preliminary review hearing, the committee shall
11 promptly send to the complainant and the respondent written notice
12 of the date, time, and place of the preliminary review hearing.

13 Sec. 161.160. PRELIMINARY REVIEW: WRITTEN QUESTIONS.
14 During a preliminary review, the commission staff may submit to the
15 complainant or respondent written questions reasonably intended to
16 lead to the discovery of matters relevant to the investigation.

17 Sec. 161.161. PRELIMINARY REVIEW AND PRELIMINARY REVIEW
18 PROCEDURES. The commission shall adopt procedures for the conduct
19 of preliminary reviews and preliminary review hearings. The
20 procedures must include:

21 (1) a reasonable time for responding to questions
22 submitted by the commission and commission staff and subpoenas
23 issued by the commission; and

24 (2) the tolling or extension of otherwise applicable
25 deadlines where:

26 (A) the commission issues a subpoena and the
27 standing preliminary review committee's meeting schedule makes it

1 impossible both to provide a reasonable time for response and to
2 comply with the otherwise applicable deadlines; or

3 (B) the commission determines that, despite the
4 standing preliminary review committee's diligence and the
5 reasonable cooperation of the respondent, a matter is too complex
6 to resolve within the otherwise applicable deadlines without
7 compromising either the committee's investigation or the rights of
8 the respondent.

9 Sec. 161.162. PRELIMINARY REVIEW HEARING: PROCEDURE.

10 (a) The standing preliminary review committee shall conduct a
11 preliminary review hearing if:

12 (1) following the preliminary review, the standing
13 preliminary review committee and the respondent cannot agree to the
14 disposition of the complaint; or

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

16 (b) The standing preliminary review committee shall provide
17 written notice to the complainant and the respondent of the date,
18 time, and place the committee will conduct the preliminary review
19 hearing.

20 (c) At or after the time the standing preliminary review
21 committee provides notice of a preliminary review hearing, the
22 committee may submit to the complainant and the respondent written
23 questions and require those questions to be answered under oath
24 within a reasonable time. After receiving answers to any questions
25 submitted to the complainant under this subsection and before the
26 preliminary review hearing, the committee shall provide the
27 respondent both the questions and the answers to the questions

1 submitted by the complainant. This subsection may not be construed
2 to require a person to give evidence that violates the person's
3 right against self-incrimination under the United States
4 Constitution or the Texas Constitution.

5 (d) On the request of the respondent, the standing
6 preliminary review committee shall request that any information in
7 the possession or control of the complainant, including exculpatory
8 information, that is directly related to the complaint be provided
9 the respondent and the committee.

10 (e) During a preliminary review hearing, the standing
11 preliminary review committee:

12 (1) may consider all submitted evidence related to the
13 complaint;

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

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

19 (f) During a preliminary review hearing, the respondent may
20 appear before the standing preliminary review committee with the
21 assistance of counsel, if desired by the respondent, and present
22 any relevant evidence, including a written statement.

23 Sec. 161.163. PRELIMINARY REVIEW HEARING: RESOLUTION.

24 (a) As soon as practicable after the completion of a preliminary
25 review hearing, the standing preliminary review committee by vote
26 shall issue a decision stating:

27 (1) whether there is credible evidence for the

1 committee to determine that a violation within the jurisdiction of
2 the commission has occurred and whether the violation is technical
3 or de minimis; or

4 (2) that there is insufficient evidence for the
5 committee to determine whether a violation within the jurisdiction
6 of the commission has occurred.

7 (b) If the standing preliminary review committee determines
8 that there is credible evidence for the committee to determine that
9 a violation has occurred, the committee shall resolve and settle
10 the complaint to the extent possible. If the committee
11 successfully resolves and settles the complaint, not later than the
12 10th business day after the date of the final resolution of the
13 complaint, the committee shall send to the complainant and the
14 respondent a copy of the order stating the committee's
15 determination and written notice of the resolution and the terms of
16 the resolution. If the committee is unsuccessful in resolving and
17 settling the complaint, the committee shall:

18 (1) order a formal hearing to be held in accordance
19 with Sections 161.164-161.167; and

20 (2) not later than the 10th business day after the date
21 of the order, send to the complainant and the respondent:

22 (A) a copy of the order;

23 (B) written notice of the date, time, and place
24 of the formal hearing;

25 (C) a statement of the nature of the alleged
26 violation;

27 (D) a description of the evidence of the alleged

1 violation;

2 (E) a copy of the complaint;

3 (F) a copy of the commission's rules of
4 procedure; and

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

6 (c) If the standing preliminary review committee determines
7 that there is credible evidence for the committee to determine that
8 a violation within the jurisdiction of the commission has not
9 occurred, the committee shall:

10 (1) dismiss the complaint; and

11 (2) not later than the fifth business day after the
12 date of the dismissal, send to the complainant and the respondent a
13 copy of the order stating the committee's determination and written
14 notice of the dismissal and the grounds for dismissal.

15 (d) If the standing preliminary review committee determines
16 that there is insufficient credible evidence for the committee to
17 determine that a violation within the jurisdiction of the
18 commission has occurred, the commission may dismiss the complaint
19 or order a formal hearing under Sections 161.164-161.167. Not
20 later than the fifth business day after the date of the committee's
21 determination under this subsection, the committee shall send to
22 the complainant and the respondent a copy of the decision stating
23 the committee's determination and written notice of the grounds for
24 the determination.

25 Sec. 161.164. FORMAL HEARING: STANDARD OF EVIDENCE.
26 During a formal hearing, the commission shall determine by a
27 preponderance of the evidence whether a violation within the

1 jurisdiction of the commission has occurred.

2 Sec. 161.165. FORMAL HEARING: SUBPOENAS AND WITNESSES.

3 (a) A subpoena or other request to testify shall be served
4 sufficiently in advance of the scheduled appearance at a formal
5 hearing to allow a reasonable period, as determined by the
6 commission, for the person subpoenaed to prepare for the hearing
7 and to employ counsel if desired.

8 (b) Except as provided by Section 161.166(a)(1), the
9 commission may order that a person may not, except as specifically
10 authorized by the presiding officer, make public the name of a
11 witness subpoenaed by the commission before the date of that
12 witness's scheduled appearance.

13 (c) A witness may read a written statement or present a
14 brief oral opening statement at a formal hearing, subject to the
15 rules of evidence applicable to a contested case under Section
16 2001.081, Government Code.

17 (d) A person whose name is mentioned or who is identified or
18 referred to in testimony or in statements made by a commission
19 member, commission staff member, or witness and who reasonably
20 believes that the statement tends to adversely affect the person's
21 reputation may:

22 (1) request to appear personally before the commission
23 to testify in the person's own behalf; or

24 (2) file a sworn statement of facts relevant to the
25 testimony or statement that the person believes adversely affects
26 the person's reputation.

27 (e) A witness who testifies at a formal hearing must be

1 sworn.

2 Sec. 161.166. FORMAL HEARING: PROCEDURE. (a) Not later
3 than the fifth business day before the date of a scheduled formal
4 hearing or on the granting of a motion for discovery by the
5 respondent, the commission shall provide to the respondent:

6 (1) a list of proposed witnesses to be called at the
7 hearing;

8 (2) copies of all documents expected to be introduced
9 as exhibits at the hearing; and

10 (3) a brief statement as to the nature of the testimony
11 expected to be given by each witness to be called at the hearing.

12 (b) The respondent may not be compelled to give evidence or
13 testimony that violates the respondent's right against
14 self-incrimination under the United States Constitution or the
15 Texas Constitution.

16 (c) The commission shall adopt rules governing discovery,
17 hearings, and related procedures consistent with this chapter and
18 Chapter 2001, Government Code.

19 Sec. 161.167. FORMAL HEARING: RESOLUTION. (a) Not later
20 than the 30th business day after the date of the formal hearing, the
21 commission shall convene a meeting and by motion shall issue:

22 (1) a final decision stating the resolution of the
23 formal hearing; and

24 (2) a written report stating the commission's findings
25 of fact, conclusions of law, and recommendation of imposition of a
26 civil penalty, if any.

27 (b) Six members of the commission are required for a quorum

1 at a formal hearing.

2 (c) Not later than the 10th business day after the date the
3 commission issues the final decision and written report, the
4 commission shall:

5 (1) send a copy of the decision and report to the
6 complainant and to the respondent; and

7 (2) make a copy of the decision and report available to
8 the public during reasonable business hours.

9 Sec. 161.168. STATUS OF COMPLAINT. (a) The commission
10 shall keep an information file about each sworn or other complaint
11 filed with the commission. The file must include:

12 (1) the name of the person who filed the complaint;

13 (2) the date the complaint is received by the
14 commission;

15 (3) the subject matter of the complaint;

16 (4) the name of each person contacted in relation to
17 the complaint;

18 (5) a summary of the results of the review or
19 investigation of the complaint; and

20 (6) an explanation of the reason the file was closed,
21 if the commission closed the file without taking action other than
22 to investigate the complaint.

23 (b) The commission shall provide to the person filing the
24 complaint and to each person who is a subject of the complaint a
25 copy of the commission's policies and procedures relating to
26 complaint investigation and resolution.

27 (c) In addition to the notice required by Sections 161.156

1 and 161.167, the commission, at least quarterly until final
2 disposition of a complaint, shall notify the person who filed the
3 complaint and each person who is a subject of the complaint of the
4 status of the sworn complaint.

5 (d) The commission shall resolve a complaint within six
6 months of its receipt unless it makes a determination that
7 additional time is required to resolve the matter. On a
8 determination that additional time is required, the commission may
9 extend the investigation in three-month increments. Each extension
10 requires separate approval by the commission.

11 (e) If the commission does not resolve the matter within six
12 months or within an authorized extension, the complaint shall be
13 deemed to have been dismissed without prejudice.

14 Sec. 161.169. EXTENSION OF DEADLINE. The commission may,
15 on its own motion or on the reasonable request of a respondent,
16 extend any deadline for action relating to a sworn complaint,
17 preliminary review hearing, or formal hearing.

18 Sec. 161.170. SUBPOENA. (a) In connection with a formal
19 hearing, the commission, as authorized by this chapter, may
20 subpoena and examine witnesses and documents that directly relate
21 to a sworn complaint.

22 (b) In connection with a preliminary review, the
23 commission, for good cause and as authorized by this chapter, may
24 subpoena documents and witnesses on application by the commission
25 staff and a motion adopted by a vote of at least five members of the
26 commission, for the purpose of attempting to obtain from the
27 documents or witnesses specifically identified information, if the

1 commission reasonably believes that the specifically identified
2 information:

3 (1) is likely to be determinative as to whether the
4 subject of an investigation has violated a provision of the ethics
5 code;

6 (2) can be determined from the documents or is known by
7 the witnesses; and

8 (3) is not reasonably available through a less
9 intrusive means.

10 (c) The commission shall adopt procedures for the issuance
11 of subpoenas under this section.

12 (d) Section 2001.089, Government Code, applies to a
13 subpoena issued under this subchapter. On the request of the
14 respondent, the commission shall subpoena any information in the
15 possession or control of any person identified in the request,
16 including exculpatory information, that is directly related to the
17 complaint and provide the information to the respondent.

18 (e) A copy of a subpoena issued under this section must be
19 delivered to the respondent.

20 (f) At the written request of at least five members of the
21 commission, a peace officer shall serve a subpoena of the
22 commission in the manner prescribed for service of a district court
23 subpoena.

24 (g) If a person to whom a subpoena is directed refuses to
25 appear, refuses to answer inquiries, or fails or refuses to produce
26 books, records, or other documents that were under the person's
27 control when the demand was made, the commission shall report that

1 fact to a district court in the county. The district court shall
2 enforce the subpoena by attachment proceedings for contempt in the
3 same manner as the court enforces a subpoena issued by the court.

4 (h) A respondent has the right to quash a subpoena in a
5 district court in the county as provided by law.

6 (i) A subpoenaed witness who attends a commission hearing is
7 entitled to the same mileage and per diem payments as a witness who
8 appears before a grand jury. A person who provides subpoenaed
9 documents to the commission is entitled to reimbursement from the
10 commission for the person's reasonable cost of producing the
11 documents.

12 Sec. 161.171. STATUS OF COMPLAINANT. The complainant is
13 not a party to a preliminary review, preliminary review hearing, or
14 formal hearing under this subchapter.

15 Sec. 161.172. APPLICABILITY OF OTHER ACTS. (a) Except as
16 provided by Section 161.173(b), Chapter 552, Government Code, does
17 not apply to documents or any additional evidence relating to the
18 processing, preliminary review, preliminary review hearing, or
19 resolution of a sworn complaint.

20 (b) Chapter 551, Government Code, does not apply to the
21 processing, preliminary review, preliminary review hearing, or
22 resolution of a sworn complaint, but does apply to a formal hearing
23 held under Sections 161.164-161.167.

24 (c) Subchapters C-H, Chapter 2001, Government Code, apply
25 only to a formal hearing under this subchapter, the resolution of a
26 formal hearing, and the appeal of a final order of the commission,
27 and only to the extent consistent with this chapter.

1 Sec. 161.173. CONFIDENTIALITY; OFFENSE. (a) Except as
2 provided by Subsection (b), (c), or (m), proceedings at a
3 preliminary review hearing performed by the commission, a sworn
4 complaint, and documents and any additional evidence relating to
5 the processing, preliminary review, preliminary review hearing, or
6 resolution of a sworn complaint are confidential and may not be
7 disclosed unless entered into the record of a formal hearing or a
8 judicial proceeding, except that a document or statement that was
9 previously public information remains public information.

10 (b) An order issued by the commission after the completion
11 of a preliminary review or hearing determining that a violation
12 other than a technical or de minimis violation has occurred is not
13 confidential.

14 (c) Commission staff may, for the purpose of investigating a
15 sworn complaint, disclose to the complainant, the respondent, or a
16 witness information that is otherwise confidential and relates to
17 the sworn complaint if:

18 (1) the employee makes a good faith determination that
19 the disclosure is necessary to conduct the investigation;

20 (2) the employee's determination under Subdivision (1)
21 is objectively reasonable;

22 (3) the commission specifically authorizes the
23 disclosure; and

24 (4) the employee discloses only the information
25 necessary to conduct the investigation.

26 (d) A person commits an offense if the person intentionally:

27 (1) destroys, mutilates, or alters information

1 obtained under this chapter; or

2 (2) removes information obtained under this chapter
3 without permission as provided by this chapter.

4 (e) An offense under Subsection (d) is a misdemeanor
5 punishable by:

6 (1) a fine of not less than \$25 or more than \$4,000;

7 (2) confinement in the county jail for not less than
8 three days or more than three months; or

9 (3) both the fine and confinement.

10 (f) A person commits an offense if the person distributes
11 information considered confidential under the terms of this
12 chapter.

13 (g) A person who obtains access to confidential information
14 under this chapter commits an offense if that person knowingly:

15 (1) uses the confidential information for a purpose
16 other than the purpose for which the information was received or for
17 a purpose unrelated to this chapter, including solicitation of
18 political contributions or solicitation of clients;

19 (2) permits inspection of the confidential
20 information by a person who is not authorized to inspect the
21 information; or

22 (3) discloses the confidential information to a person
23 who is not authorized to receive the information.

24 (h) An offense under Subsection (f) or (g) is a misdemeanor
25 punishable by:

26 (1) a fine of not more than \$1,000;

27 (2) confinement in the county jail for not more than

1 six months; or

2 (3) both the fine and confinement.

3 (i) If conduct that constitutes an offense under this
4 section also constitutes an offense under the Penal Code, including
5 under Section 37.10 or 39.06 of that code, the person may be
6 prosecuted under this section or the Penal Code, as applicable.

7 (j) A violation under this section constitutes official
8 misconduct.

9 (k) In addition to other penalties, the respondent may
10 commence a civil action for damages on the respondent's own behalf
11 against any person who is alleged to have disclosed information
12 made confidential by this subchapter. Any action under this
13 chapter must be brought in a district court in the county. The
14 court may award costs and attorney's fees.

15 (l) A county employee is subject to discipline, including
16 termination of employment, for disclosing confidential information
17 under this chapter.

18 (m) The commission may disclose confidential information in
19 making a referral to a prosecuting attorney concerning an offense
20 under this section.

21 (n) A county employee who discloses confidential
22 information in compliance with Subsection (c) or (m) is not subject
23 to Subsections (d)-(l).

24 Sec. 161.174. AVAILABILITY OF COMMISSION ORDERS ON
25 INTERNET. (a) As soon as practicable following a preliminary
26 review, preliminary review hearing, or formal hearing at which the
27 commission determines that a person has committed a violation

1 within the commission's jurisdiction, the commission shall make
2 available on the Internet:

3 (1) a copy of the commission's order stating the
4 determination; or

5 (2) a summary of the commission's order.

6 (b) This section does not apply to a determination of a
7 violation that is technical or de minimis.

8 [Sections 161.175-161.200 reserved for expansion]

9 SUBCHAPTER E. ENFORCEMENT

10 Sec. 161.201. ORDER. The commission may:

11 (1) issue and enforce a cease and desist order to stop
12 a violation;

13 (2) issue an affirmative order to require compliance
14 with the laws administered and enforced by the commission; and

15 (3) issue an order of public censure with or without a
16 civil penalty imposed under Section 161.202.

17 Sec. 161.202. CIVIL PENALTY FOR DELAY OR VIOLATION.

18 (a) The commission may impose a civil penalty of not more than \$500
19 for each delay in complying with a commission order.

20 (b) The commission may impose a civil penalty of not more
21 than \$4,000 for a violation of the ethics code adopted by the
22 commission.

23 (c) A penalty paid under this section shall be deposited to
24 the credit of the general fund of the county.

25 (d) This section is cumulative of any other available
26 sanctions under this chapter.

27 Sec. 161.203. WAIVER OR REDUCTION OF PENALTY. (a) A

1 person may request the waiver or reduction of a civil penalty by
2 submitting an affidavit to the commission that states the filer's
3 reasons for requesting a waiver or reduction.

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

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

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

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

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

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

19 and

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

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

23 Sec. 161.204. NOTIFICATION OF REGULATORY OR SUPERVISORY
24 ENTITY. The commission may notify the appropriate regulatory or
25 supervisory entity, including any agency, the State Commission on
26 Judicial Conduct, or the State Bar of Texas, of a violation of the
27 ethics code adopted by the commission.

1 Sec. 161.205. CIVIL PENALTY FOR FRIVOLOUS OR BAD-FAITH
2 COMPLAINT. (a) The commission may impose a civil penalty of not
3 more than \$4,000 for the filing of a frivolous or bad-faith
4 complaint. In this subsection, "frivolous complaint" means a
5 complaint that is groundless and brought in bad faith or is
6 groundless and brought for the purpose of harassment.

7 (b) In addition to other penalties, the respondent may
8 commence a civil action on the respondent's own behalf against any
9 person who filed a frivolous complaint against the respondent. Any
10 action under this chapter shall be brought in a district court in
11 the county. The court may award costs and attorney's fees.

12 (c) A person may file a sworn complaint with the commission,
13 in accordance with Section 161.155, alleging that a complaint
14 relating to that person filed with the commission is frivolous or
15 brought in bad faith. A complaint may be filed under this
16 subsection without regard to whether the complaint alleged to be
17 frivolous or brought in bad faith is pending before the commission
18 or has been resolved. The commission shall act on a complaint made
19 under this subsection as provided by Subchapter D.

20 Sec. 161.206. FACTORS CONSIDERED FOR ASSESSMENT OF
21 SANCTION. The commission shall consider the following factors in
22 assessing a sanction:

23 (1) the seriousness of the violation, including the
24 nature, circumstances, consequences, extent, and gravity of the
25 violation;

26 (2) the history and extent of previous violations;

27 (3) the demonstrated good faith of the violator,

1 including actions taken to rectify the consequences of the
2 violation;

3 (4) the penalty necessary to deter future violations;
4 and

5 (5) any other matters that justice may require.

6 Sec. 161.207. APPEALS. (a) A respondent may appeal the
7 decision by filing a petition in a district court in the county
8 within 30 days after the date of the decision.

9 (b) An appeal brought under this section is not limited to
10 questions of law, and the substantial evidence rule does not apply.
11 The action shall be determined by trial de novo. The reviewing
12 court shall try all issues of fact and law in the manner applicable
13 to other civil suits in this state but may not admit in evidence the
14 fact of prior action by the commission or the nature of that action,
15 except to the limited extent necessary to show compliance with
16 statutory provisions that vest jurisdiction in the court. A party
17 is entitled, on demand, to a jury determination of any issue of fact
18 on which a jury determination is available in other civil suits in
19 this state.

20 (c) If the district court renders judgment for the
21 petitioner, and the petitioner is a county employee, the court may
22 order reinstatement of the county employee, payment of back pay, or
23 other appropriate relief.

24 (d) If the district court renders judgment for the
25 petitioner, the court may order appropriate relief, including costs
26 and attorney's fees.

27 Sec. 161.208. DELIVERY OF RECORD TO REVIEWING COURT.

1 (a) After service of the petition on the commission and within the
2 time permitted for filing an answer or within additional time
3 allowed by the court, the commission shall send to the reviewing
4 court the original or a certified copy of the entire record of the
5 proceeding under review.

6 (b) The record shall be filed with the clerk of the court.
7 The record may be shortened by stipulation of all parties to the
8 review proceedings. The court may assess additional costs against
9 a party who unreasonably refuses to stipulate to limit the record,
10 unless the party pays all costs of record preparation.

11 (c) The court may require or permit later corrections or
12 additions to the record.

13 Sec. 161.209. COST OF PREPARING COMMISSION RECORD.

14 (a) The commission may require a party who appeals a final
15 decision under Section 161.207 to pay one-half of the cost of
16 preparation of the original or a certified copy of the record of the
17 commission proceeding that is required to be sent to the reviewing
18 court.

19 (b) A charge imposed under this section is a court cost and
20 may be assessed by the court in accordance with the Texas Rules of
21 Civil Procedure.

22 Sec. 161.210. COLLECTIONS. The county attorney may collect
23 a fine or other penalty imposed by the commission under this chapter
24 in the same manner as provided for the collection of a debt owed to
25 the county.

26 [Sections 161.211-161.300 reserved for expansion]

1 SUBCHAPTER F. DISSOLUTION OF COMMISSION

2 Sec. 161.301. PETITION FOR DISSOLUTION OF COMMISSION. If,
3 after an ethics commission created pursuant to Section 161.052 has
4 been in effect for at least one year, 10 percent of the qualified
5 voters of the county petition the commissioners court to dissolve
6 the commission, the commissioners court shall call an election to
7 determine whether the commission will be dissolved.

8 Sec. 161.302. DISSOLUTION ELECTION. (a) An election under
9 this subchapter must be held in the manner provided for an election
10 to create a county ethics commission.

11 (b) The ballot for the election shall be printed to provide
12 for voting for or against the proposition: "Dissolution of the
13 county ethics commission."

14 Sec. 161.303. DISSOLUTION OF COMMISSION. If the
15 proposition is approved by a majority of the qualified voters
16 voting at the election, the commissioners court shall declare the
17 result and by order dissolve the ethics commission. A copy of the
18 order dissolving the commission shall be placed in the minutes of
19 the court's proceedings.

20 Sec. 161.304. SAVING PROVISIONS. The dissolution of a
21 county ethics commission under this subchapter does not affect:

22 (1) the prior operation of the ethics code adopted by
23 the commission or any prior action taken under it; or

24 (2) any penalty, forfeiture, or punishment incurred
25 for a violation of the ethics code before the effective date of the
26 dissolution.

27 SECTION 2. This Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1368 passed the Senate on April 9, 2009, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 29, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1368 passed the House, with amendments, on May 26, 2009, by the following vote: Yeas 135, Nays 4, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor