

1-1 By: Shapleigh S.B. No. 1368
1-2 (In the Senate - Filed March 4, 2009; March 17, 2009, read
1-3 first time and referred to Committee on International Relations and
1-4 Trade; March 26, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 March 26, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1368 By: Williams

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the creation of a county ethics commission in certain
1-11 counties; providing civil and criminal penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subtitle B, Title 5, Local Government Code, is
1-14 amended by adding Chapter 161 to read as follows:

1-15 CHAPTER 161. COUNTY ETHICS COMMISSION IN CERTAIN COUNTIES

1-16 SUBCHAPTER A. GENERAL PROVISIONS

1-17 Sec. 161.001. APPLICABILITY OF CHAPTER. This chapter
1-18 applies only to a county with a population of 650,000 or more that
1-19 is located on the international border.

1-20 Sec. 161.002. DEFINITIONS. In this chapter:

1-21 (1) "Commission" means a county ethics commission
1-22 created under this chapter.

1-23 (2) "Commission staff" means county employees
1-24 assigned to provide administrative support to the commission.

1-25 (3) "Communicates directly with" has the meaning
1-26 assigned by Section 305.002, Government Code.

1-27 (4) "County affiliate" means a person so described and
1-28 determined by order of the commissioners court on recommendation of
1-29 the commission. As determined by the commissioners court, the term
1-30 includes:

1-31 (A) any person whose goods and services are
1-32 purchased under the terms of a purchase order or contractual
1-33 agreement with the county; and

1-34 (B) as determined by the county, any other
1-35 persons doing business with the county.

1-36 (5) "County employee" means a person employed by the
1-37 county or a county officer and includes a person employed in the
1-38 judicial branch of the county government who is not subject to the
1-39 Code of Judicial Conduct. The term does not include a county
1-40 officer.

1-41 (6) "County office" means a position held by a county
1-42 officer.

1-43 (7) "County officer" means a county judge, county
1-44 commissioner, county attorney, sheriff, county tax
1-45 assessor-collector, county clerk, district clerk, county
1-46 treasurer, county auditor, county purchasing agent, and constable.

1-47 (8) "County public servant" means a person elected,
1-48 selected, appointed, employed, or otherwise designated as one of
1-49 the following, even if the person has not yet qualified for or
1-50 assumed the duties of office:

1-51 (A) a county officer or county employee;

1-52 (B) a person appointed by the commissioners court
1-53 or a county officer to a position on one of the following, whether
1-54 the position is compensated or not:

1-55 (i) an authority, board, bureau,
1-56 commission, committee, council, department, district, division, or
1-57 office of the county; or

1-58 (ii) a multi-jurisdictional board;

1-59 (C) an attorney-at-law or notary public when
1-60 participating in the performance of a governmental function;

1-61 (D) a candidate for nomination or election to an
1-62 elected county office; or

1-63 (E) a person who is performing a governmental

2-1 function under a claim of right although the person is not legally
2-2 qualified or authorized to do so.

2-3 (9) "Lobbyist" means a person who, for compensation in
2-4 excess of an amount established by the commission, communicates
2-5 directly with a county officer or county employee to influence
2-6 official action.

2-7 [Sections 161.003-161.050 reserved for expansion]

2-8 SUBCHAPTER B. CREATION OF COMMISSION; APPOINTMENT OF COMMISSION
2-9 MEMBERS

2-10 Sec. 161.051. CREATION OF COMMISSION BY ORDER. (a) The
2-11 commissioners court of a county, by an order adopted by a majority
2-12 of the court's full membership, may create a county ethics
2-13 commission.

2-14 (b) A copy of an order adopted under this section shall be
2-15 placed in the minutes of the court's proceedings. The copy of the
2-16 order is public information.

2-17 Sec. 161.052. CREATION OF COMMISSION BY ELECTION. (a) A
2-18 county ethics commission may be created by approval of the system by
2-19 a majority of the qualified voters of the county voting at an
2-20 election called for that purpose.

2-21 (b) The commissioners court by order may call an election on
2-22 the question of the creation of a county ethics commission.

2-23 (c) The commissioners court shall hold the election called
2-24 under this section on the first authorized uniform election date
2-25 prescribed by Chapter 41, Election Code, that allows sufficient
2-26 time for publication of the notice required by Subsection (d) and
2-27 for compliance with any other requirements established by law.

2-28 (d) In addition to the notice required by Chapter 4,
2-29 Election Code, the commissioners court must publish in a newspaper
2-30 of general circulation in the county, and on the home page of the
2-31 county's Internet website, a substantial copy of the order calling
2-32 the election. The first newspaper publication must be made on or
2-33 before the 15th day before the date of the election and continue
2-34 once a week for two consecutive weeks, and the notice on the
2-35 county's Internet website shall remain on the home page each day
2-36 beginning not later than the 16th day before the election and ending
2-37 on the date of the election.

2-38 Sec. 161.053. BALLOT. The commissioners court shall order
2-39 the ballot at the election to be printed to provide for voting for
2-40 or against the proposition: "Creation of a county ethics
2-41 commission."

2-42 Sec. 161.054. RESULT OF ELECTION. If the proposition is
2-43 approved, the commissioners court shall declare the result and by
2-44 order create the county ethics commission. A copy of the order
2-45 creating the commission shall be placed in the minutes of the
2-46 court's proceedings.

2-47 Sec. 161.055. APPOINTMENT OF COMMISSION. (a) The
2-48 commission is composed of:

2-49 (1) five members, each of whom is appointed by the
2-50 county judge or a county commissioner; and

2-51 (2) four public representative members, appointed as
2-52 provided by this section.

2-53 (b) Not later than the 60th day after the date of the order
2-54 creating the commission as provided in Section 161.051 or Section
2-55 161.054:

2-56 (1) the county judge and each county commissioner
2-57 shall each appoint one member of the commission; and

2-58 (2) the commissioners court shall order publication of
2-59 a notice seeking applicants for four public representative members
2-60 of the commission.

2-61 (c) The commissioners court shall set the date for the first
2-62 meeting of the initial members appointed by the county judge and the
2-63 commissioners court. The first meeting must be set not earlier than
2-64 the 60th day after the date of the order creating the commission and
2-65 not later than the 90th day after the date of that order.

2-66 (d) At the first meeting of the commission, the initial
2-67 members shall elect one member as chair of the commission.

2-68 (e) Not later than the 120th day after the date of the order
2-69 creating the commission, the initial members shall appoint four

3-1 public representatives from the applications received pursuant to
3-2 Subsection (b)(2). After the initial public representatives are
3-3 appointed, the entire board shall appoint the successor public
3-4 representatives.

3-5 Sec. 161.056. ELIGIBILITY. (a) To be eligible for
3-6 appointment to the commission, a person must:

- 3-7 (1) be at least 25 years old; and
- 3-8 (2) have resided in the county for the two years
- 3-9 immediately preceding the date on which the person's term will
- 3-10 begin.

3-11 (b) A person is not eligible for appointment to the
3-12 commission if the person is:

- 3-13 (1) an elected officer;
- 3-14 (2) a county employee;
- 3-15 (3) a county affiliate;
- 3-16 (4) a person employed as a lobbyist;
- 3-17 (5) a person convicted of a misdemeanor involving
- 3-18 moral turpitude or a felony; or
- 3-19 (6) a person who is delinquent in payment of local,
- 3-20 state, or federal taxes.

3-21 Sec. 161.057. TERMS. (a) Members of the commission serve
3-22 staggered terms of two years, with the terms of four or five members
3-23 expiring each year.

3-24 (b) Notwithstanding Subsection (a), the initial members of
3-25 the commission shall select by lot five members to serve a term of
3-26 two years and four members to serve a term of one year.

3-27 Sec. 161.058. VACANCIES. (a) A vacancy on the commission
3-28 shall be filled for the remainder of the unexpired term as follows:

- 3-29 (1) if the vacancy represents a member appointed by
- 3-30 the county judge or a county commissioner, the vacancy is filled,
- 3-31 except as provided by Subsection (b), by appointment of that
- 3-32 officer or the officer's successor-in-office; or
- 3-33 (2) if the vacancy represents a public representative
- 3-34 member, by the commission.

3-35 (b) If the county judge or county commissioner, as
3-36 applicable, does not fill the vacancy before the 60th day after the
3-37 date the position becomes vacant, the commission may fill the
3-38 vacancy by a majority vote of the remaining members.

3-39 Sec. 161.059. MEETINGS. (a) The commission shall meet on
3-40 a regular basis.

3-41 (b) The commission is a governmental body for purposes of
3-42 Chapter 551, Government Code.

3-43 Sec. 161.060. REMOVAL OF COMMISSION MEMBER. A member of the
3-44 commission may be removed as provided by Chapter 87 if, after a
3-45 trial, the jury finds good cause for removal, including:

- 3-46 (1) failure to pay local, state, or federal taxes when
- 3-47 due;
- 3-48 (2) violation of the ethics code adopted by the
- 3-49 commission;
- 3-50 (3) conviction of a felony or misdemeanor;
- 3-51 (4) excessive absenteeism as determined by the
- 3-52 commission; and
- 3-53 (5) official misconduct.

3-54 Sec. 161.061. LEGAL REPRESENTATION. The county attorney,
3-55 district attorney, or criminal district attorney, as appropriate,
3-56 with the duty to represent the county in civil matters shall
3-57 represent the commission in all legal matters.

3-58 [Sections 161.062-161.100 reserved for expansion]

3-59 SUBCHAPTER C. POWERS

3-60 Sec. 161.101. GENERAL POWERS. (a) The commission shall
3-61 adopt, publish, and enforce an ethics code governing county public
3-62 servants.

3-63 (b) The commission may adopt or use as a guide any ethics law
3-64 or rule of the United States, this state, or a political subdivision
3-65 in this state to the extent that the law or rule promotes the
3-66 purposes of this chapter and serves the needs of the county.

3-67 (c) The commission may adopt bylaws, rules, forms,
3-68 policies, or procedures to assist in the administration of the
3-69 commission's duties under this chapter. The commission may be

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

4-5 (d) The commission shall be assigned staff by the county and
 4-6 provided access to county resources to assist in its duties.

4-7 (e) The commission shall develop and implement policies that
 4-8 provide the public with information on the commission and the
 4-9 ethics code.

4-10 (f) The commission may adopt or use as a guide the
 4-11 provisions of Subchapter D or E.

4-12 (g) The commission shall enforce the provisions of the
 4-13 ethics code by issuing appropriate orders or recommendations or by
 4-14 imposing appropriate penalties.

4-15 Sec. 161.102. ADVISORY OPINIONS. On its own initiative or
 4-16 on the request of any person covered by the ethics code adopted by
 4-17 the commission, the commission may issue a written ethics advisory
 4-18 opinion regarding the application of the ethics code to a specified
 4-19 existing or hypothetical factual situation. The commission may not
 4-20 issue an opinion that includes the name of any person who may be
 4-21 affected by the opinion. If made at the request of a person covered
 4-22 by the ethics code, the name of that person shall be deemed
 4-23 confidential.

4-24 Sec. 161.103. PUBLIC INTEREST INFORMATION. (a) The
 4-25 commission shall develop plain-language materials as described by
 4-26 this section. The commission shall post the information on the
 4-27 county's Internet website and make the information otherwise
 4-28 available to the public.

4-29 (b) The materials must include:

4-30 (1) a description of:

4-31 (A) the commission's responsibilities;

4-32 (B) the types of conduct that constitute a
 4-33 violation of the ethics code adopted by the commission;

4-34 (C) the types of sanctions the commission may
 4-35 impose;

4-36 (D) the commission's policies and procedures
 4-37 relating to complaint investigation and resolution; and

4-38 (E) the duties of a person filing a complaint
 4-39 with the commission; and

4-40 (2) a diagram showing the basic steps in the
 4-41 commission's procedures relating to complaint investigation and
 4-42 resolution.

4-43 (c) The commission shall provide the materials described by
 4-44 this section to each complainant and respondent.

4-45 (d) The commission shall adopt a policy to effectively
 4-46 distribute materials as required by this section.

4-47 Sec. 161.104. COMMISSION MEMBER EDUCATION AND TRAINING.
 4-48 (a) Not later than the 60th day after the date a person is
 4-49 appointed to the commission, the person must complete training on
 4-50 the following matters:

4-51 (1) the legislation that created the commission;

4-52 (2) the role and functions of the commission; and

4-53 (3) the requirements of:

4-54 (A) the open meetings law, Chapter 551,
 4-55 Government Code;

4-56 (B) the public information law, Chapter 552,
 4-57 Government Code; and

4-58 (C) other laws relating to public officials,
 4-59 including conflict-of-interest laws.

4-60 (b) A member of the commission must complete subsequent
 4-61 training programs on the following matters:

4-62 (1) the ethics code adopted by the commission; and

4-63 (2) the procedural rules adopted by the commission.

4-64 (c) Other than the initial appointees and public
 4-65 representatives, a person who is appointed to and qualifies for
 4-66 office as a member of the commission may not vote, deliberate, or be
 4-67 counted as a member in attendance at a meeting of the commission
 4-68 until the person completes a training program that complies with
 4-69 this section.

5-1 Sec. 161.105. EDUCATION AND TRAINING FOR PERSONS COVERED BY
5-2 ETHICS CODE. (a) The commission and commission staff shall
5-3 provide periodic training for persons covered by the ethics code
5-4 adopted by the commission on at least a quarterly basis.

5-5 (b) The training program must provide information
5-6 regarding:

5-7 (1) the ethics code;

5-8 (2) the role and functions of the commission; and

5-9 (3) plain-language materials as further described by
5-10 Section 161.103.

5-11 (c) In addition to the qualifications under Subchapter C,
5-12 Chapter 262, before submitting a bid, responding to a request for
5-13 qualifications or proposals, or otherwise contracting with the
5-14 county, an officer, principal, or other person with the authority
5-15 to bind the vendor shall complete training on the ethics code.

5-16 (d) A lobbyist intending to meet with a person covered by
5-17 the ethics code shall complete training on the ethics code.

5-18 [Sections 161.106-161.150 reserved for expansion]

5-19 SUBCHAPTER D. COMPLAINT PROCEDURES AND HEARINGS

5-20 Sec. 161.151. DEFINITIONS. In this subchapter:

5-21 (1) "Category One violation" means a violation of the
5-22 ethics code adopted by the commission as to which it is generally
5-23 not difficult to ascertain whether the violation occurred or did
5-24 not occur, including:

5-25 (A) the failure by a person required to file a
5-26 statement or report required under the ethics code to:

5-27 (i) file the statement or report in a manner
5-28 that complies with applicable requirements; or

5-29 (ii) file the statement or report in a
5-30 timely manner;

5-31 (B) a misrepresentation in a report required
5-32 under the ethics code; or

5-33 (C) a failure to respond in a timely manner to a
5-34 written notice under Section 161.156(b).

5-35 (2) "Category Two violation" means a violation of the
5-36 ethics code adopted by the commission that is not a Category One
5-37 violation.

5-38 Sec. 161.152. COMPLAINT PROCEDURES AND HEARINGS. The
5-39 commission may adopt the complaint procedures and hearings set
5-40 forth in this subchapter.

5-41 Sec. 161.153. HEARINGS AND SETTLEMENT. (a) The commission
5-42 may:

5-43 (1) hold hearings, on its own motion adopted by an
5-44 affirmative vote of at least six commission members or on a sworn
5-45 complaint, and render decisions on complaints or reports of
5-46 violations as provided by this chapter; and

5-47 (2) agree to the settlement of issues.

5-48 (b) The commission may not consider a complaint or vote to
5-49 investigate a matter outside the commission's jurisdiction.

5-50 Sec. 161.154. CATEGORIZATION OF VIOLATIONS. An allegation
5-51 of a violation listed as a Category One violation shall be treated
5-52 as a Category Two violation if the commission at any time determines
5-53 that:

5-54 (1) the allegation arises out of the same set of facts
5-55 as those that give rise to an allegation of a Category Two
5-56 violation, and the interests of justice or efficiency require
5-57 resolution of the allegations together; or

5-58 (2) the facts and law related to a particular
5-59 allegation or a defense to the allegation present a level of
5-60 complexity that prevents resolution through the preliminary review
5-61 procedures for Category One violations prescribed by Section
5-62 161.159(a).

5-63 Sec. 161.155. FILING OF COMPLAINT; CONTENTS. (a) An
5-64 individual may file with the commission a sworn complaint, on a form
5-65 prescribed by the commission, alleging that a person subject to the
5-66 ethics code has violated the ethics code. The commission shall make
5-67 the complaint form available on the county website.

5-68 (b) A complaint filed under this section must be in writing
5-69 and under oath and must set forth in simple, concise, and direct

6-1 statements:
6-2 (1) the name of the complainant;
6-3 (2) the street or mailing address of the complainant;
6-4 (3) the name of each respondent;
6-5 (4) the position or title of each respondent;
6-6 (5) the nature of the alleged violation, including if
6-7 possible the specific rule or provision of the ethics code alleged
6-8 to have been violated;
6-9 (6) a statement of the facts constituting the alleged
6-10 violation and the dates on which or period of time in which the
6-11 alleged violation occurred; and
6-12 (7) all documents or other material available to the
6-13 complainant that are relevant to the allegation, a list of all
6-14 documents or other material within the knowledge of the complainant
6-15 and available to the complainant that are relevant to the
6-16 allegation but that are not in the possession of the complainant,
6-17 including the location of the documents, if known, and a list of all
6-18 documents or other material within the knowledge of the complainant
6-19 that are unavailable to the complainant and that are relevant to the
6-20 complaint, including the location of the documents, if known.
6-21 (c) The complaint must be accompanied by an affidavit
6-22 stating either that the information contained in the complaint is
6-23 correct or that the complainant has good reason to believe and does
6-24 believe that the violation occurred. If the complaint is based on
6-25 information and belief, the complaint shall state the source and
6-26 basis of the information and belief. The complainant may swear to
6-27 the facts by oath before a notary public or other authorized
6-28 official.
6-29 (d) The complaint must state on its face an allegation that,
6-30 if true, constitutes a violation of the ethics code.
6-31 Sec. 161.156. PROCESSING OF COMPLAINT. (a) The commission
6-32 shall determine whether a sworn complaint filed with the commission
6-33 complies with the form requirements of Section 161.155.
6-34 (b) Not later than the 10th business day after the date a
6-35 complaint is filed, the commission shall send written notice to the
6-36 complainant and the respondent. The notice must state whether the
6-37 complaint complies with the form requirements of Section 161.155
6-38 and include the information required by Section 161.158(d).
6-39 (c) If the commission determines that the complaint does not
6-40 comply with the form requirements, the commission shall send the
6-41 complaint to the complainant with the written notice, a statement
6-42 explaining how the complaint fails to comply, and a copy of the
6-43 rules for filing sworn complaints. The complainant may resubmit
6-44 the complaint not later than the 21st day after the date the notice
6-45 under Subsection (b) is mailed. If the commission determines that
6-46 the complaint is not resubmitted within the 21-day period, the
6-47 commission shall:
6-48 (1) dismiss the complaint; and
6-49 (2) not later than the 10th business day after the date
6-50 of the dismissal, send written notice to the complainant and the
6-51 respondent of the dismissal and the grounds for dismissal.
6-52 (d) If the commission determines that a complaint is
6-53 resubmitted under Subsection (c) within the 21-day period but is
6-54 not in proper form, the commission shall send the notice required
6-55 under Subsection (c), and the complainant may resubmit the
6-56 complaint under that subsection.
6-57 (e) If the commission determines that a complaint returned
6-58 to the complainant under Subsection (c) or (d) is resubmitted
6-59 within the 21-day period and that the complaint complies with the
6-60 form requirements, the commission shall send the written notice
6-61 under Subsection (b).
6-62 Sec. 161.157. RETALIATION AGAINST COUNTY EMPLOYEE
6-63 REPORTING VIOLATION OF ETHICS CODE PROHIBITED. (a) The county may
6-64 not suspend or terminate the employment of or take other adverse
6-65 action against a county employee who in good faith files a complaint
6-66 or otherwise reports to the ethics commission, commission staff, or
6-67 another law enforcement authority a violation of the ethics code by
6-68 a person subject to the ethics code.
6-69 (b) The county may not suspend or terminate the employment

7-1 of or take other adverse action against a county employee who in
7-2 good faith participates in the complaint processing, preliminary
7-3 review, hearing, or any other aspect of the investigation and
7-4 resolution by the commission of an alleged violation of the ethics
7-5 code by a person subject to the ethics code.

7-6 (c) A commission created by a county under this chapter is a
7-7 part of the "local governmental entity" for purposes of Section
7-8 554.002, Government Code.

7-9 (d) An ethics code adopted by a commission pursuant to this
7-10 chapter is a "law" as defined by Section 554.001, Government Code.

7-11 Sec. 161.158. PRELIMINARY REVIEW: INITIATION. (a) The
7-12 commission staff shall promptly conduct a preliminary review on
7-13 receipt of a written complaint that is in compliance with the form
7-14 requirements of Section 161.155.

7-15 (b) On a motion adopted by an affirmative vote of at least
7-16 six commission members, the commission may initiate a preliminary
7-17 review of the matter that is the subject of the motion without a
7-18 sworn complaint.

7-19 (c) The commission shall determine in writing whether the
7-20 commission has jurisdiction over the violation of the ethics code
7-21 provision alleged in a sworn complaint processed under Section
7-22 161.156.

7-23 (d) If the commission determines that it has jurisdiction,
7-24 it shall issue a notice under Section 161.156(b) that must include:

7-25 (1) a statement that the commission has jurisdiction
7-26 over the violation alleged in the complaint;

7-27 (2) a statement of whether the complaint will be
7-28 processed as a Category One violation or a Category Two violation,
7-29 subject to reconsideration as provided for by Section 161.154;

7-30 (3) the date by which the respondent is required to
7-31 respond to the notice;

7-32 (4) a copy of the complaint and the rules of procedure
7-33 of the commission;

7-34 (5) a statement of the rights of the respondent;

7-35 (6) a statement inviting the respondent to provide to
7-36 the commission any information relevant to the complaint; and

7-37 (7) a statement that a failure to timely respond to the
7-38 notice will be treated as a separate violation.

7-39 (e) If the commission determines that the commission does
7-40 not have jurisdiction over the violation alleged in the complaint,
7-41 the commission shall:

7-42 (1) dismiss the complaint; and

7-43 (2) not later than the 10th business day after the date
7-44 of the dismissal, send to the complainant and the respondent
7-45 written notice of the dismissal and the grounds for the dismissal.

7-46 Sec. 161.159. PRELIMINARY REVIEW: RESPONSE BY RESPONDENT.
7-47 (a) If the alleged violation is a Category One violation:

7-48 (1) the respondent must respond to the notice required
7-49 by Section 161.156(b) not later than the 10th business day after the
7-50 date the respondent receives the notice; and

7-51 (2) if the matter is not resolved by agreement between
7-52 the commission and the respondent before the 30th business day
7-53 after the date the respondent receives the notice under Section
7-54 161.156(b), the commission shall set the matter for a preliminary
7-55 review hearing to be held at the next commission meeting for which
7-56 notice has not yet been posted.

7-57 (b) If the alleged violation is a Category Two violation:

7-58 (1) the respondent must respond to the notice required
7-59 by Section 161.156(b) not later than the 25th business day after the
7-60 date the respondent receives the notice under Section 161.156(b);
7-61 and

7-62 (2) if the matter is not resolved by agreement between
7-63 the commission and the respondent before the 75th business day
7-64 after the date the respondent receives the notice under Section
7-65 161.156(b), the commission shall set the matter for a preliminary
7-66 review hearing to be held at the next commission meeting for which
7-67 notice has not yet been posted.

7-68 (c) A respondent's failure to timely respond as required by
7-69 Subsection (a)(1) or (b)(1) is a Category One violation.

8-1 (d) The response required by Subsection (a) or (b) must
 8-2 include any challenge the respondent seeks to raise to the
 8-3 commission's exercise of jurisdiction. In addition, the respondent
 8-4 may:

8-5 (1) acknowledge the occurrence or commission of a
 8-6 violation;

8-7 (2) deny the allegations contained in the complaint
 8-8 and provide evidence supporting the denial; or

8-9 (3) agree to enter into an assurance of voluntary
 8-10 compliance or other agreed order, which may include an agreement to
 8-11 immediately cease and desist.

8-12 (e) If the commission sets the matter for a preliminary
 8-13 review hearing, the commission shall promptly send to the
 8-14 complainant and the respondent written notice of the date, time,
 8-15 and place of the preliminary review hearing.

8-16 Sec. 161.160. PRELIMINARY REVIEW: WRITTEN QUESTIONS.
 8-17 During a preliminary review, the commission staff may submit to the
 8-18 complainant or respondent written questions reasonably intended to
 8-19 lead to the discovery of matters relevant to the investigation.

8-20 Sec. 161.161. PRELIMINARY REVIEW AND PRELIMINARY REVIEW
 8-21 PROCEDURES. The commission shall adopt procedures for the conduct
 8-22 of preliminary reviews and preliminary review hearings. The
 8-23 procedures must include:

8-24 (1) a reasonable time for responding to questions
 8-25 submitted by the commission and commission staff and subpoenas
 8-26 issued by the commission; and

8-27 (2) the tolling or extension of otherwise applicable
 8-28 deadlines where:

8-29 (A) the commission issues a subpoena and the
 8-30 commission's meeting schedule makes it impossible both to provide a
 8-31 reasonable time for response and to comply with the otherwise
 8-32 applicable deadlines; or

8-33 (B) the commission determines that, despite the
 8-34 commission staff's diligence and the reasonable cooperation of the
 8-35 respondent, a matter is too complex to resolve within the otherwise
 8-36 applicable deadlines without compromising either the commission
 8-37 staff's investigation or the rights of the respondent.

8-38 Sec. 161.162. PRELIMINARY REVIEW HEARING: PROCEDURE.

8-39 (a) The commission shall conduct a preliminary review hearing if:

8-40 (1) following the preliminary review, the commission
 8-41 and the respondent cannot agree to the disposition of the complaint
 8-42 or motion; or

8-43 (2) the respondent in writing requests a hearing.

8-44 (b) The commission shall provide written notice to the
 8-45 complainant, if any, and the respondent of the date, time, and place
 8-46 the commission will conduct the preliminary review hearing.

8-47 (c) At or after the time the commission provides notice of a
 8-48 preliminary review hearing, the commission may submit to the
 8-49 complainant and the respondent written questions and require those
 8-50 questions to be answered under oath within a reasonable time.

8-51 (d) During a preliminary review hearing, the commission:

8-52 (1) may consider all submitted evidence related to the
 8-53 complaint or to the subject matter of a motion under Section
 8-54 161.158(b);

8-55 (2) may review any documents or material related to
 8-56 the complaint or to the motion; and

8-57 (3) shall determine whether there is credible evidence
 8-58 that provides cause for the commission to conclude that a violation
 8-59 within the jurisdiction of the commission has occurred.

8-60 (e) During a preliminary review hearing, the respondent may
 8-61 appear before the commission with the assistance of counsel, if
 8-62 desired by the respondent, and present any relevant evidence,
 8-63 including a written statement.

8-64 Sec. 161.163. PRELIMINARY REVIEW HEARING: RESOLUTION.

8-65 (a) As soon as practicable after the completion of a preliminary
 8-66 review hearing, the commission by vote shall issue a decision
 8-67 stating:

8-68 (1) whether there is credible evidence for the
 8-69 commission to determine that a violation within the jurisdiction of

9-1 the commission has occurred and whether the violation is technical
 9-2 or de minimis; or

9-3 (2) that there is insufficient evidence for the
 9-4 commission to determine whether a violation within the jurisdiction
 9-5 of the commission has occurred.

9-6 (b) If the commission determines that there is credible
 9-7 evidence for the commission to determine that a violation has
 9-8 occurred, the commission shall resolve and settle the complaint or
 9-9 motion to the extent possible. If the commission successfully
 9-10 resolves and settles the complaint or motion, not later than the
 9-11 10th business day after the date of the final resolution of the
 9-12 complaint or motion, the commission shall send to the complainant,
 9-13 if any, and the respondent a copy of the decision stating the
 9-14 commission's determination and written notice of the resolution and
 9-15 the terms of the resolution. If the commission is unsuccessful in
 9-16 resolving and settling the complaint or motion, the commission
 9-17 shall:

9-18 (1) order a formal hearing to be held in accordance
 9-19 with Sections 161.164-161.167; and

9-20 (2) not later than the 10th business day after the date
 9-21 of the decision, send to the complainant, if any, and the
 9-22 respondent:

9-23 (A) a copy of the decision;

9-24 (B) written notice of the date, time, and place
 9-25 of the formal hearing;

9-26 (C) a statement of the nature of the alleged
 9-27 violation;

9-28 (D) a description of the evidence of the alleged
 9-29 violation;

9-30 (E) a copy of the complaint or motion;

9-31 (F) a copy of the commission's rules of
 9-32 procedure; and

9-33 (G) a statement of the rights of the respondent.

9-34 (c) If the commission determines that there is credible
 9-35 evidence for the commission to determine that a violation within
 9-36 the jurisdiction of the commission has not occurred, the commission
 9-37 shall:

9-38 (1) dismiss the complaint or motion; and

9-39 (2) not later than the fifth business day after the
 9-40 date of the dismissal, send to the complainant, if any, and the
 9-41 respondent a copy of the decision stating the commission's
 9-42 determination and written notice of the dismissal and the grounds
 9-43 for dismissal.

9-44 (d) If the commission determines that there is insufficient
 9-45 credible evidence for the commission to determine that a violation
 9-46 within the jurisdiction of the commission has occurred, the
 9-47 commission may dismiss the complaint or motion or promptly conduct
 9-48 a formal hearing under Sections 161.164-161.167. Not later than
 9-49 the fifth business day after the date of the commission's
 9-50 determination under this subsection, the commission shall send to
 9-51 the complainant, if any, and the respondent a copy of the decision
 9-52 stating the commission's determination and written notice of the
 9-53 grounds for the determination.

9-54 Sec. 161.164. FORMAL HEARING: STANDARD OF EVIDENCE.
 9-55 During a formal hearing, the commission shall determine by a
 9-56 preponderance of the evidence whether a violation within the
 9-57 jurisdiction of the commission has occurred.

9-58 Sec. 161.165. FORMAL HEARING: SUBPOENAS AND WITNESSES.

9-59 (a) A subpoena or other request to testify shall be served
 9-60 sufficiently in advance of the scheduled appearance at a formal
 9-61 hearing to allow a reasonable period, as determined by the
 9-62 commission, for the person subpoenaed to prepare for the hearing
 9-63 and to employ counsel if desired.

9-64 (b) Except as provided by Section 161.166(a)(1), the
 9-65 commission may order that a person may not, except as specifically
 9-66 authorized by the presiding officer, make public the name of a
 9-67 witness subpoenaed by the commission before the date of that
 9-68 witness's scheduled appearance.

9-69 (c) A witness may read a written statement or present a

10-1 brief oral opening statement at a formal hearing.

10-2 (d) A person whose name is mentioned or who is identified or
 10-3 referred to in testimony or in statements made by a commission
 10-4 member, commission staff member, or witness and who reasonably
 10-5 believes that the statement tends to adversely affect the person's
 10-6 reputation may:

10-7 (1) request to appear personally before the commission
 10-8 to testify in the person's own behalf; or

10-9 (2) file a sworn statement of facts relevant to the
 10-10 testimony or statement that the person believes adversely affects
 10-11 the person's reputation.

10-12 (e) A witness who testifies at a formal hearing must be
 10-13 sworn.

10-14 Sec. 161.166. FORMAL HEARING: PROCEDURE. (a) Not later
 10-15 than the fifth business day before the date of a scheduled formal
 10-16 hearing or on the granting of a motion for discovery by the
 10-17 respondent, the commission shall provide to the complainant, if
 10-18 any, and to the respondent:

10-19 (1) a list of proposed witnesses to be called at the
 10-20 hearing;

10-21 (2) copies of all documents expected to be introduced
 10-22 as exhibits at the hearing; and

10-23 (3) a brief statement as to the nature of the testimony
 10-24 expected to be given by each witness to be called at the hearing.

10-25 (b) The respondent may not be compelled to give evidence or
 10-26 testimony that violates the respondent's right against
 10-27 self-incrimination under the United States Constitution or the
 10-28 Texas Constitution.

10-29 (c) The commission shall adopt rules governing discovery,
 10-30 hearings, and related procedures consistent with this chapter and
 10-31 Chapter 2001, Government Code.

10-32 Sec. 161.167. FORMAL HEARING: RESOLUTION. (a) Not later
 10-33 than the 30th business day after the date of the formal hearing, the
 10-34 commission shall convene a meeting and by motion shall issue:

10-35 (1) a final decision stating the resolution of the
 10-36 formal hearing; and

10-37 (2) a written report stating the commission's findings
 10-38 of fact, conclusions of law, and recommendation of criminal
 10-39 referral or imposition of a civil penalty, if any.

10-40 (b) Six members of the commission are required for a quorum
 10-41 at a formal hearing.

10-42 (c) Not later than the 10th business day after the date the
 10-43 commission issues the final decision and written report, the
 10-44 commission shall:

10-45 (1) send a copy of the decision and report to the
 10-46 complainant, if any, and to the respondent; and

10-47 (2) make a copy of the decision and report available to
 10-48 the public during reasonable business hours.

10-49 Sec. 161.168. STATUS OF COMPLAINT. (a) The commission
 10-50 shall keep an information file about each sworn or other complaint
 10-51 filed with the commission. The file must include:

10-52 (1) the name of the person who filed the complaint;

10-53 (2) the date the complaint is received by the
 10-54 commission;

10-55 (3) the subject matter of the complaint;

10-56 (4) the name of each person contacted in relation to
 10-57 the complaint;

10-58 (5) a summary of the results of the review or
 10-59 investigation of the complaint; and

10-60 (6) an explanation of the reason the file was closed,
 10-61 if the commission closed the file without taking action other than
 10-62 to investigate the complaint.

10-63 (b) The commission shall provide to the person filing the
 10-64 complaint and to each person who is a subject of the complaint a
 10-65 copy of the commission's policies and procedures relating to
 10-66 complaint investigation and resolution.

10-67 (c) In addition to the notice required by Sections 161.156
 10-68 and 161.167, the commission, at least quarterly until final
 10-69 disposition of a complaint, shall notify the person who filed the

11-1 complaint and each person who is a subject of the complaint, if any,
 11-2 of the status of the sworn or other complaint.

11-3 (d) The commission shall resolve a complaint within six
 11-4 months of its receipt unless it makes a determination that
 11-5 additional time is required to resolve the matter. On a
 11-6 determination that additional time is required, the commission may
 11-7 extend the investigation in three-month increments. Each extension
 11-8 requires separate approval by the commission.

11-9 (e) If the commission does not resolve the matter within six
 11-10 months or within an authorized extension, the complaint shall be
 11-11 deemed to have been dismissed without prejudice.

11-12 Sec. 161.169. EXTENSION OF DEADLINE. The commission may,
 11-13 on its own motion or on the reasonable request of a respondent,
 11-14 extend any deadline for action relating to a sworn complaint,
 11-15 motion, preliminary review hearing, or formal hearing.

11-16 Sec. 161.170. SUBPOENA. (a) In connection with a formal
 11-17 hearing, the commission, as authorized by this chapter, may
 11-18 subpoena and examine witnesses and documents that directly relate
 11-19 to a sworn complaint.

11-20 (b) In connection with a preliminary review, the
 11-21 commission, for good cause and as authorized by this chapter, may
 11-22 subpoena documents and witnesses on application by the commission
 11-23 staff and a motion adopted by a vote of at least five members of the
 11-24 commission, for the purpose of attempting to obtain from the
 11-25 documents or witnesses specifically identified information, if the
 11-26 commission reasonably believes that the specifically identified
 11-27 information:

11-28 (1) is likely to be determinative as to whether the
 11-29 subject of an investigation has violated a provision of the ethics
 11-30 code;

11-31 (2) can be determined from the documents or is known by
 11-32 the witnesses; and

11-33 (3) is not reasonably available through a less
 11-34 intrusive means.

11-35 (c) The commission shall adopt procedures for the issuance
 11-36 of subpoenas under this section.

11-37 (d) A copy of a subpoena issued under this section must be
 11-38 delivered to the respondent.

11-39 (e) At the written request of at least five members of the
 11-40 commission, a peace officer shall serve a subpoena of the
 11-41 commission in the manner prescribed for service of a district court
 11-42 subpoena.

11-43 (f) If a person to whom a subpoena is directed refuses to
 11-44 appear, refuses to answer inquiries, or fails or refuses to produce
 11-45 books, records, or other documents that were under the person's
 11-46 control when the demand was made, the commission shall report that
 11-47 fact to a district court in the county. The district court shall
 11-48 enforce the subpoena by attachment proceedings for contempt in the
 11-49 same manner as the court enforces a subpoena issued by the court.

11-50 (g) A respondent has the right to quash a subpoena as
 11-51 provided by law.

11-52 (h) A subpoenaed witness who attends a commission hearing is
 11-53 entitled to the same mileage and per diem payments as a witness who
 11-54 appears before a grand jury. A person who provides subpoenaed
 11-55 documents to the commission is entitled to reimbursement from the
 11-56 commission for the person's reasonable cost of producing the
 11-57 documents.

11-58 Sec. 161.171. STATUS OF COMPLAINANT. The complainant is
 11-59 not a party to a preliminary review, preliminary review hearing, or
 11-60 formal hearing under this subchapter.

11-61 Sec. 161.172. APPLICABILITY OF OTHER ACTS. (a) Except as
 11-62 provided by Section 161.173(b), Chapter 552, Government Code, does
 11-63 not apply to documents or any additional evidence relating to the
 11-64 processing, preliminary review, preliminary review hearing, or
 11-65 resolution of a sworn complaint or motion.

11-66 (b) Chapter 551, Government Code, does not apply to the
 11-67 processing, preliminary review, preliminary review hearing, or
 11-68 resolution of a sworn complaint or motion, but does apply to a
 11-69 formal hearing held under Sections 161.164-161.167.

12-1 (c) Subchapters C-H, Chapter 2001, Government Code, apply
 12-2 only to a formal hearing under this subchapter, the resolution of a
 12-3 formal hearing, and the appeal of a final order of the commission,
 12-4 and only to the extent consistent with this chapter.

12-5 Sec. 161.173. CONFIDENTIALITY; OFFENSE. (a) Except as
 12-6 provided by Subsection (b) or (c) or by Section 161.201,
 12-7 proceedings at a preliminary review hearing performed by the
 12-8 commission, a sworn complaint, and documents and any additional
 12-9 evidence relating to the processing, preliminary review,
 12-10 preliminary review hearing, or resolution of a sworn complaint or
 12-11 motion are confidential and may not be disclosed unless entered
 12-12 into the record of a formal hearing or a judicial proceeding, except
 12-13 that a document or statement that was previously public information
 12-14 remains public information.

12-15 (b) An order issued by the commission after the completion
 12-16 of a preliminary review or hearing determining that a violation
 12-17 other than a technical or de minimis violation has occurred is not
 12-18 confidential.

12-19 (c) Commission staff may, for the purpose of investigating a
 12-20 sworn complaint or motion, disclose to the complainant, the
 12-21 respondent, or a witness information that is otherwise confidential
 12-22 and relates to the sworn complaint if:

12-23 (1) the employee makes a good faith determination that
 12-24 the disclosure is necessary to conduct the investigation;

12-25 (2) the employee's determination under Subdivision (1)
 12-26 is objectively reasonable;

12-27 (3) the commission specifically authorizes the
 12-28 disclosure; and

12-29 (4) the employee discloses only the information
 12-30 necessary to conduct the investigation.

12-31 (d) A person commits an offense if the person intentionally:

12-32 (1) destroys, mutilates, or alters information
 12-33 obtained under this chapter; or

12-34 (2) removes information obtained under this chapter
 12-35 without permission as provided by this chapter.

12-36 (e) An offense under Subsection (d) is a misdemeanor
 12-37 punishable by:

12-38 (1) a fine of not less than \$25 or more than \$4,000;

12-39 (2) confinement in the county jail for not less than
 12-40 three days or more than three months; or

12-41 (3) both the fine and confinement.

12-42 (f) A person commits an offense if the person distributes
 12-43 information considered confidential under the terms of this
 12-44 chapter.

12-45 (g) A person who obtains access to confidential information
 12-46 under this chapter commits an offense if that person knowingly:

12-47 (1) uses the confidential information for a purpose
 12-48 other than the purpose for which the information was received or for
 12-49 a purpose unrelated to this chapter, including solicitation of
 12-50 political contributions or solicitation of clients;

12-51 (2) permits inspection of the confidential
 12-52 information by a person who is not authorized to inspect the
 12-53 information; or

12-54 (3) discloses the confidential information to a person
 12-55 who is not authorized to receive the information.

12-56 (h) An offense under Subsection (f) or (g) is a misdemeanor
 12-57 punishable by:

12-58 (1) a fine of not more than \$1,000;

12-59 (2) confinement in the county jail for not more than
 12-60 six months; or

12-61 (3) both the fine and confinement.

12-62 (i) A violation under this section constitutes official
 12-63 misconduct.

12-64 (j) In addition to other penalties, the respondent may
 12-65 commence a civil action for damages on the respondent's own behalf
 12-66 against any person who is alleged to have disclosed information
 12-67 made confidential by this subchapter. Any action under this
 12-68 chapter must be brought in a district court in the county. The
 12-69 court may award costs and attorney's fees.

13-1 (k) A county employee is subject to discipline, including
 13-2 termination of employment, for disclosing confidential information
 13-3 under this chapter.

13-4 (l) A county employee who discloses confidential
 13-5 information in compliance with Subsection (c) is not subject to
 13-6 Subsections (d)-(k).

13-7 Sec. 161.174. AVAILABILITY OF COMMISSION ORDERS ON
 13-8 INTERNET. (a) As soon as practicable following a preliminary
 13-9 review, preliminary review hearing, or formal hearing at which the
 13-10 commission determines that a person has committed a violation
 13-11 within the commission's jurisdiction, the commission shall make
 13-12 available on the Internet:

13-13 (1) a copy of the commission's order stating the
 13-14 determination; or

13-15 (2) a summary of the commission's order.

13-16 (b) This section does not apply to a determination of a
 13-17 violation that is technical or de minimis.

13-18 [Sections 161.175-161.200 reserved for expansion]

13-19 SUBCHAPTER E. ENFORCEMENT

13-20 Sec. 161.201. INITIATION AND REFERRAL. (a) On a motion
 13-21 adopted by an affirmative vote of at least six commission members,
 13-22 the commission may initiate civil enforcement actions and refer
 13-23 matters to the appropriate prosecuting attorney for criminal
 13-24 prosecution.

13-25 (b) On receipt of a sworn complaint, if the commission
 13-26 reasonably believes that the person who is the subject of the
 13-27 complaint has violated Chapter 36, 37, or 39, Penal Code, the
 13-28 commission may refer the matter to the appropriate prosecuting
 13-29 attorney for criminal prosecution.

13-30 (c) In making a referral to a prosecuting attorney under
 13-31 this section, the commission may disclose confidential
 13-32 information.

13-33 Sec. 161.202. ORDER. The commission may:

13-34 (1) issue and enforce a cease and desist order to stop
 13-35 a violation;

13-36 (2) issue an affirmative order to require compliance
 13-37 with the laws administered and enforced by the commission; and

13-38 (3) issue an order of public censure with or without
 13-39 penalty as provided pursuant to Section 161.203.

13-40 Sec. 161.203. CIVIL PENALTY FOR DELAY OR VIOLATION.
 13-41 (a) The commission may impose a civil penalty of not more than \$500
 13-42 for each delay in complying with a commission order.

13-43 (b) The commission may impose a civil penalty of not more
 13-44 than \$4,000 for a violation of the ethics code adopted by the
 13-45 commission.

13-46 (c) A penalty paid under this section shall be deposited to
 13-47 the credit of the general fund of the county.

13-48 (d) This section is cumulative of any other available
 13-49 sanctions under this chapter.

13-50 Sec. 161.204. WAIVER OR REDUCTION OF PENALTY. (a) A
 13-51 person may request the waiver or reduction of a civil penalty by
 13-52 submitting an affidavit to the commission that states the filer's
 13-53 reasons for requesting a waiver or reduction.

13-54 (b) The commission may waive or reduce a civil penalty if
 13-55 the commission finds that a waiver or reduction is in the public
 13-56 interest and in the interest of justice. The commission shall
 13-57 consider the following before acting to waive or reduce a civil
 13-58 penalty:

13-59 (1) the facts and circumstances supporting the
 13-60 person's request for a waiver or reduction;

13-61 (2) the seriousness of the violation, including the
 13-62 nature, circumstances, consequences, extent, and gravity of the
 13-63 violation, and the amount of the penalty;

13-64 (3) any history of previous violations by the person;

13-65 (4) the demonstrated good faith of the person,
 13-66 including actions taken to rectify the consequences of the
 13-67 violation;

13-68 (5) the penalty necessary to deter future violations;
 13-69 and

14-1 (6) any other matter that justice may require.
 14-2 (c) After hearing the waiver request, the commission may
 14-3 affirm, reduce, or waive the civil penalty.
 14-4 Sec. 161.205. NOTIFICATION OF REGULATORY OR SUPERVISORY
 14-5 ENTITY. The commission may notify the appropriate regulatory or
 14-6 supervisory entity, including any agency, the State Commission on
 14-7 Judicial Conduct, or the State Bar of Texas, of a violation of the
 14-8 ethics code adopted by the commission.
 14-9 Sec. 161.206. CIVIL PENALTY FOR FRIVOLOUS OR BAD-FAITH
 14-10 COMPLAINT. (a) The commission may impose a civil penalty of not
 14-11 more than \$4,000 for the filing of a frivolous or bad-faith
 14-12 complaint. In this subsection, "frivolous complaint" means a
 14-13 complaint that is groundless and brought in bad faith or is
 14-14 groundless and brought for the purpose of harassment.
 14-15 (b) In addition to other penalties, the respondent may
 14-16 commence a civil action on the respondent's own behalf against any
 14-17 person who filed a frivolous complaint against the respondent. Any
 14-18 action under this chapter shall be brought in a district court in
 14-19 the county. The court may award costs and attorney's fees.
 14-20 (c) A person may file a sworn complaint with the commission,
 14-21 in accordance with Section 161.155, alleging that a complaint
 14-22 relating to that person filed with the commission is frivolous or
 14-23 brought in bad faith. A complaint may be filed under this
 14-24 subsection without regard to whether the complaint alleged to be
 14-25 frivolous or brought in bad faith is pending before the commission
 14-26 or has been resolved. The commission shall act on a complaint made
 14-27 under this subsection as provided by Subchapter D.
 14-28 Sec. 161.207. FACTORS CONSIDERED FOR ASSESSMENT OF
 14-29 SANCTION. The commission shall consider the following factors in
 14-30 assessing a sanction:
 14-31 (1) the seriousness of the violation, including the
 14-32 nature, circumstances, consequences, extent, and gravity of the
 14-33 violation;
 14-34 (2) the history and extent of previous violations;
 14-35 (3) the demonstrated good faith of the violator,
 14-36 including actions taken to rectify the consequences of the
 14-37 violation;
 14-38 (4) the penalty necessary to deter future violations;
 14-39 and
 14-40 (5) any other matters that justice may require.
 14-41 Sec. 161.208. APPEALS. (a) A respondent may appeal the
 14-42 decision by filing a petition in a district court in the county
 14-43 within 30 days after the date of the decision.
 14-44 (b) An appeal under this section is under the substantial
 14-45 evidence rule, and the judgment of the district court is appealable
 14-46 as in other civil cases.
 14-47 (c) If the district court renders judgment for the
 14-48 petitioner, and the petitioner is a county employee, the court may
 14-49 order reinstatement of the county employee, payment of back pay, or
 14-50 other appropriate relief.
 14-51 (d) If the district court renders judgment for the
 14-52 petitioner, the court may order appropriate relief, including costs
 14-53 and attorney's fees.
 14-54 Sec. 161.209. REVIEW UNDER SUBSTANTIAL EVIDENCE RULE. In
 14-55 an appeal under Section 161.208, the district court may not
 14-56 substitute its judgment for the judgment of the commission on the
 14-57 weight of the evidence on questions committed to the commission's
 14-58 discretion but:
 14-59 (1) may affirm the commission's decision in whole or in
 14-60 part; and
 14-61 (2) shall reverse or remand the case for further
 14-62 proceedings if substantial rights of the petitioner have been
 14-63 prejudiced because the commission's findings, inferences,
 14-64 conclusions, or decisions are:
 14-65 (A) in violation of a constitutional or statutory
 14-66 provision;
 14-67 (B) in excess of the commission's authority;
 14-68 (C) made through unlawful procedure;
 14-69 (D) affected by other error of law;

15-1 (E) not reasonably supported by substantial
 15-2 evidence considering the reliable and probative evidence in the
 15-3 record as a whole; or

15-4 (F) arbitrary or capricious, characterized by
 15-5 abuse of discretion, or clearly an unwarranted exercise of
 15-6 discretion.

15-7 Sec. 161.210. PROCEDURES FOR REVIEW UNDER SUBSTANTIAL
 15-8 EVIDENCE RULE. (a) After service of the petition on the
 15-9 commission and within the time permitted for filing an answer or
 15-10 within additional time allowed by the court, the commission shall
 15-11 send to the reviewing court the original or a certified copy of the
 15-12 entire record of the proceeding under review. The record shall be
 15-13 filed with the clerk of the court. The record may be shortened by
 15-14 stipulation of all parties to the review proceedings. The court may
 15-15 assess additional costs against a party who unreasonably refuses to
 15-16 stipulate to limit the record, unless the party pays all costs of
 15-17 record preparation. The court may require or permit later
 15-18 corrections or additions to the record.

15-19 (b) A party may apply to the court to present additional
 15-20 evidence. If the court is satisfied that the additional evidence is
 15-21 material and that there were good reasons for the failure to present
 15-22 it in the proceeding before the commission, the court may order that
 15-23 the additional evidence be taken before the commission on
 15-24 conditions determined by the court. The commission may change its
 15-25 findings and decisions by reason of the additional evidence and
 15-26 shall file the additional evidence and any changes, new findings,
 15-27 or decisions with the reviewing court.

15-28 (c) The party seeking judicial review shall offer, and the
 15-29 reviewing court shall admit, the commission record into evidence as
 15-30 an exhibit.

15-31 (d) The court shall conduct the review sitting without a
 15-32 jury and is confined to the commission record, except that the court
 15-33 may receive evidence of procedural irregularities alleged to have
 15-34 occurred before the commission that are not reflected in the
 15-35 record.

15-36 Sec. 161.211. COST OF PREPARING COMMISSION RECORD.
 15-37 (a) The commission may require a party who appeals a final
 15-38 decision under Section 161.208 to pay one-half of the cost of
 15-39 preparation of the original or a certified copy of the record of the
 15-40 commission proceeding that is required to be sent to the reviewing
 15-41 court.

15-42 (b) A charge imposed under this section is a court cost and
 15-43 may be assessed by the court in accordance with the Texas Rules of
 15-44 Civil Procedure.

15-45 Sec. 161.212. CRIMINAL PENALTY. (a) A county public
 15-46 servant or county affiliate commits an offense under this chapter
 15-47 if the person knowingly violates a provision of the ethics code
 15-48 adopted by the commission.

15-49 (b) An offense under this chapter is a misdemeanor
 15-50 punishable by a fine of not less than \$25 and not more than \$4,000.

15-51 (c) This section is cumulative of any other available
 15-52 sanctions under this chapter.

15-53 Sec. 161.213. VENUE. An offense under this subchapter,
 15-54 including perjury, may be prosecuted in any county in which it may
 15-55 be prosecuted under the Code of Criminal Procedure.

15-56 [Sections 161.214-161.300 reserved for expansion]

15-57 SUBCHAPTER F. DISSOLUTION OF COMMISSION

15-58 Sec. 161.301. PETITION FOR DISSOLUTION OF COMMISSION. If,
 15-59 after an ethics commission created pursuant to Section 161.052 has
 15-60 been in effect for at least one year, 10 percent of the qualified
 15-61 voters of the county petition the commissioners court to dissolve
 15-62 the commission, the commissioners court shall call an election to
 15-63 determine whether the commission will be dissolved.

15-64 Sec. 161.302. DISSOLUTION ELECTION. (a) An election under
 15-65 this subchapter must be held in the manner provided for an election
 15-66 to create a county ethics commission.

15-67 (b) The ballot for the election shall be printed to provide
 15-68 for voting for or against the proposition: "Dissolution of the
 15-69 county ethics commission."

16-1 Sec. 161.303. DISSOLUTION OF COMMISSION. If the
16-2 proposition is approved by a majority of the qualified voters
16-3 voting at the election, the commissioners court shall declare the
16-4 result and by order dissolve the ethics commission. A copy of the
16-5 order dissolving the commission shall be placed in the minutes of
16-6 the court's proceedings.

16-7 Sec. 161.304. SAVING PROVISIONS. The dissolution of a
16-8 county ethics commission under this subchapter does not affect:

16-9 (1) the prior operation of the ethics code adopted by
16-10 the commission or any prior action taken under it;

16-11 (2) any violation of the ethics code or any penalty,
16-12 forfeiture, or punishment incurred for a violation of the ethics
16-13 code before the effective date of the dissolution; or

16-14 (3) any investigation, proceeding, or remedy
16-15 concerning any penalty, forfeiture, or punishment, and the
16-16 investigation, proceeding, or remedy may be instituted, continued,
16-17 or enforced, and the penalty, forfeiture, or punishment imposed, as
16-18 if the commission had not been dissolved.

16-19 SECTION 2. This Act takes effect September 1, 2009.

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