

By: Rodriguez
(Marquez)

S.B. No. 1019

A BILL TO BE ENTITLED

AN ACT

relating to the county ethics commission for certain counties.

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

SECTION 1. Section 161.057, Local Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Members of the commission serve terms of two years. Members appointed as provided by Section 161.055(a)(1) serve terms beginning on February 1 of each odd-numbered year. Members appointed as provided by Section 161.055(a)(2) serve terms beginning on February 1 of each even-numbered year.

(a-1) To replace or reappoint the commission members appointed as provided by Section 161.055(a)(2) whose terms expire on January 31, 2013, the commissioners court shall appoint commission members as provided by Section 161.055(a)(2) for one-year terms to begin on February 1, 2013. Thereafter, members appointed as provided by Section 161.055(a)(2) shall serve two-year terms. To the extent of a conflict between this subsection and Subsection (a), this subsection controls. This subsection expires September 1, 2014.

SECTION 2. Section 161.0591, Local Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The position of chair is selected from the commission

1 members by a majority vote of the commission members. The chair
2 serves a term of [~~alternates every~~] six months [~~between members~~
3 ~~appointed under Section 161.055(a)(1) and members appointed under~~
4 ~~Section 161.055(a)(2) and rotates so that each position on the~~
5 ~~commission serves as chair, as follows:~~

6 [~~(1) the rotation of members appointed under Section~~
7 ~~161.055(a)(1) begins with the member appointed by the county judge,~~
8 ~~followed by the members appointed by the county commissioners in~~
9 ~~order of precinct number; and~~

10 [~~(2) the rotation of members appointed under Section~~
11 ~~161.055(a)(2) begins with the member appointed under Section~~
12 ~~161.055(a)(2)(A), followed by the members appointed under Sections~~
13 ~~161.055(a)(2)(B), (C), (D), and (E) in that order].~~

14 (c) A commission member may decline to serve as chair.

15 SECTION 3. Subsections (a) and (c), Section 161.104, Local
16 Government Code, are amended to read as follows:

17 (a) Not later than the 30th [~~60th~~] day after the date a
18 person is appointed to the commission, the person must complete
19 training on the following matters:

20 (1) the legislation that created the commission;

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

22 (3) the requirements of:

23 (A) the open meetings law, Chapter 551,
24 Government Code;

25 (B) the public information law, Chapter 552,
26 Government Code; and

27 (C) other laws relating to public officials,

1 including conflict-of-interest laws.

2 (c) A person who is appointed to and qualifies for office as
3 a member of the commission may not vote, deliberate, or be counted
4 as a member in attendance at a meeting of the commission after the
5 30th day after the date the person is appointed to the commission
6 unless ~~[until]~~ the person has completed ~~[completes]~~ a training
7 program as required by Subsection (a) ~~[that complies with this~~
8 ~~section]~~.

9 SECTION 4. Section 161.105, Local Government Code, is
10 amended by amending Subsection (a) and adding Subsection (e) to
11 read as follows:

12 (a) The commission and commission staff shall make
13 available ~~[provide]~~ periodic training for persons covered by the
14 ethics code adopted by the commission ~~[on at least a quarterly~~
15 ~~basis]~~.

16 (e) A person covered by the ethics code or a lobbyist or
17 vendor required by this section to complete training must complete
18 the training as determined by the commission.

19 SECTION 5. Subsection (d), Section 161.1551, Local
20 Government Code, is amended to read as follows:

21 (d) A commission member serves on the standing preliminary
22 review committee for six months. After the end of a commission
23 member term on the standing preliminary review committee, service
24 on the committee rotates so that each position on the commission
25 serves on the committee, beginning ~~[as provided by Section 161.0591~~
26 ~~for the rotation of the chair, except that the rotation begins]~~ with
27 the initial members of the standing preliminary review committee

1 chosen under Subsection (c) and succeeded by the next member on the
2 list as described below:

3 (1) for the rotation of members appointed under
4 Section 161.055(a)(1), the order of service is the member appointed
5 by the county judge, followed by the members appointed by the county
6 commissioners in order of precinct number; and

7 (2) for the rotation of members appointed under
8 Section 161.055(a)(2), the order of service is the order listed by
9 that section.

10 SECTION 6. Subsections (b) through (e), Section 161.156,
11 Local Government Code, are amended to read as follows:

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

18 (c) If the standing preliminary review committee determines
19 that the complaint does not comply with the form requirements, the
20 committee shall send the complaint to the complainant with the
21 written notice, a statement explaining how the complaint fails to
22 comply, and a copy of the rules for filing sworn complaints. The
23 complainant may resubmit the complaint not later than the 14th
24 [~~21st~~] day after the date the notice under Subsection (b) is mailed.
25 If the standing preliminary review committee determines that the
26 complaint is not resubmitted within the 14-day [~~21-day~~] period, the
27 committee shall:

1 (1) dismiss the complaint; and

2 (2) not later than the 14th [~~10th business~~] day after
3 the date of the dismissal, send written notice to the complainant
4 and the respondent of the dismissal and the grounds for dismissal.

5 (d) If the standing preliminary review committee determines
6 that a complaint is resubmitted under Subsection (c) within the
7 14-day [~~21-day~~] period but is not in proper form, the committee
8 shall send the notice required under Subsection (c), and the
9 complainant may resubmit the complaint under that subsection.

10 (e) If the standing preliminary review committee determines
11 that a complaint returned to the complainant under Subsection (c)
12 or (d) is resubmitted within the 14-day [~~21-day~~] period and that the
13 complaint complies with the form requirements, the committee shall
14 send the written notice under Subsection (b).

15 SECTION 7. Subsections (a) and (b), Section 161.157, Local
16 Government Code, are amended to read as follows:

17 (a) A county public servant [~~The county~~] may not suspend or
18 terminate the employment of or take other adverse action against a
19 county employee who in good faith files a complaint or otherwise
20 reports to the commission, commission staff, or another law
21 enforcement authority a violation of the ethics code by a person
22 subject to the ethics code.

23 (b) A county public servant [~~The county~~] may not suspend or
24 terminate the employment of or take other adverse action against a
25 county employee who in good faith participates in the complaint
26 processing, preliminary review, hearing, or any other aspect of the
27 investigation and resolution by the commission of an alleged

1 violation of the ethics code by a person subject to the ethics code.

2 SECTION 8. Subsection (d), Section 161.158, Local
3 Government Code, is amended to read as follows:

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

7 (1) dismiss the complaint; and

8 (2) not later than the 14th [~~10th business~~] day after
9 the date of the dismissal, send to the complainant and the
10 respondent written notice of the dismissal and the grounds for the
11 dismissal.

12 SECTION 9. Subsections (a) and (b), Section 161.159, Local
13 Government Code, are amended to read as follows:

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

15 (1) the respondent must respond to the notice required
16 by Section 161.156(b) not later than the 14th [~~10th business~~] day
17 after the date the respondent receives the notice; and

18 (2) if the matter is not resolved by agreement between
19 the standing preliminary review committee [~~commission~~] and the
20 respondent before the 30th [~~business~~] day after the date the
21 respondent receives the notice under Section 161.156(b), the
22 [~~standing preliminary review~~] committee shall set the matter for a
23 preliminary review hearing to be held at the next committee meeting
24 [~~for which notice has not yet been posted~~].

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

26 (1) the respondent must respond to the notice required
27 by Section 161.156(b) not later than the 14th [~~25th business~~] day

1 after the date the respondent receives the notice under Section
2 161.156(b); and

3 (2) if the matter is not resolved by agreement between
4 the standing preliminary review committee [~~commission~~] and the
5 respondent before the 30th [~~75th business~~] day after the date the
6 respondent receives the notice under Section 161.156(b), the
7 [~~standing preliminary review~~] committee shall set the matter for a
8 preliminary review hearing to be held at the next committee meeting
9 [~~for which notice has not yet been posted~~].

10 SECTION 10. Subsections (b), (c), and (d), Section 161.163,
11 Local Government Code, are amended to read as follows:

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

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

25 (2) not later than the 14th [~~10th business~~] day after
26 the date of the order, send to the complainant and the respondent:

27 (A) a copy of the order;

1 (B) written notice of the date, time, and place
2 of the formal hearing;

3 (C) a statement of the nature of the alleged
4 violation;

5 (D) a description of the evidence of the alleged
6 violation;

7 (E) a copy of the complaint;

8 (F) a copy of the commission's rules of
9 procedure; and

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

11 (c) If the standing preliminary review committee determines
12 that there is credible evidence for the committee to determine that
13 a violation within the jurisdiction of the commission has not
14 occurred, the committee shall:

15 (1) dismiss the complaint; and

16 (2) not later than the 10th [~~fifth business~~] day after
17 the date of the dismissal, send to the complainant and the
18 respondent a copy of the order stating the committee's
19 determination and written notice of the dismissal and the grounds
20 for dismissal.

21 (d) If the standing preliminary review committee determines
22 that there is insufficient credible evidence for the committee to
23 determine that a violation within the jurisdiction of the
24 commission has occurred, the commission may dismiss the complaint
25 or order a formal hearing under Sections 161.164-161.167. Not
26 later than the 10th [~~fifth business~~] day after the date of the
27 committee's determination under this subsection, the committee

1 shall send to the complainant and the respondent a copy of the
2 decision stating the committee's determination and written notice
3 of the grounds for the determination.

4 SECTION 11. Subsection (a), Section 161.166, Local
5 Government Code, is amended to read as follows:

6 (a) Not later than the 10th [~~fifth business~~] day before the
7 date of a scheduled formal hearing or on the granting of a motion
8 for discovery by the respondent, the commission shall provide to
9 the respondent:

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

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

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

16 SECTION 12. Subsections (a) and (c), Section 161.167, Local
17 Government Code, are amended to read as follows:

18 (a) At the conclusion of the formal hearing or not [~~Not~~]
19 later than the 40th [~~30th business~~] day after the date of the formal
20 hearing, the commission may [~~shall~~] convene a meeting and by motion
21 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 (c) Not later than the 14th [~~10th business~~] day after the

1 date the commission issues the final decision and written report,
2 the commission shall:

3 (1) send a copy of the decision and report to the
4 complainant and to the respondent; and

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

7 SECTION 13. Subsections (d) and (e), Section 161.168, Local
8 Government Code, are amended to read as follows:

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

15 (e) If the commission does not resolve the matter within
16 three [~~six~~] months or within an authorized extension, the complaint
17 shall be deemed to have been dismissed without prejudice.

18 SECTION 14. Subsection (b), Section 161.172, Local
19 Government Code, is amended to read as follows:

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 the conduct of a
23 formal hearing [~~held~~] under Sections 161.164-161.167. Chapter 551,
24 Government Code, does not apply to the deliberation by the
25 commission regarding a contested complaint following the
26 conclusion of a formal hearing, but does apply to the meeting at
27 which the commission issues a final decision stating the resolution

1 of the final hearing.

2 SECTION 15. Subsections (a) and (b), Section 161.173, Local
3 Government Code, are amended to read as follows:

4 (a) Except as provided by Subsection (b), (c), or (m),
5 proceedings at a preliminary review hearing performed by the
6 standing preliminary review committee [~~commission~~], a sworn
7 complaint, and documents and any additional evidence relating to
8 the processing, preliminary review, preliminary review hearing, or
9 resolution of a sworn complaint are confidential and may not be
10 disclosed unless entered into the record of a formal hearing or a
11 judicial proceeding, except that a document or statement that was
12 previously public information remains public information.

13 (b) An order issued by the standing preliminary review
14 committee [~~commission~~] after the completion of a preliminary review
15 or hearing determining that a violation other than a technical or de
16 minimis violation has occurred is not confidential.

17 SECTION 16. The change in law made by this Act to Section
18 161.057, Local Government Code, applies only to the term of a member
19 of a county ethics commission appointed on or after the effective
20 date of this Act. The term of a member appointed before the
21 effective date of this Act is governed by the law in effect when the
22 member was appointed, and the former law is continued in effect for
23 that purpose.

24 SECTION 17. This Act takes effect September 1, 2011.