

1-1 By: Rodriguez S.B. No. 1019
1-2 (In the Senate - Filed March 1, 2011; March 16, 2011, read
1-3 first time and referred to Committee on International Relations and
1-4 Trade; April 6, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 4, Nays 0; April 6, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1019 By: Rodriguez
1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the county ethics commission for certain counties.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. Section 161.057, Local Government Code, is
1-13 amended by amending Subsection (a) and adding Subsection (a-1) to
1-14 read as follows:

1-15 (a) Members of the commission serve terms of two years.
1-16 Members appointed as provided by Section 161.055(a)(1) serve terms
1-17 beginning on February 1 of each odd-numbered year. Members
1-18 appointed as provided by Section 161.055(a)(2) serve terms
1-19 beginning on February 1 of each even-numbered year.

1-20 (a-1) To replace or reappoint the commission members
1-21 appointed as provided by Section 161.055(a)(2) whose terms expire
1-22 on January 31, 2013, the commissioners court shall appoint
1-23 commission members as provided by Section 161.055(a)(2) for
1-24 one-year terms to begin on February 1, 2013. Thereafter, members
1-25 appointed as provided by Section 161.055(a)(2) shall serve two-year
1-26 terms. To the extent of a conflict between this subsection and
1-27 Subsection (a), this subsection controls. This subsection expires
1-28 September 1, 2014.

1-29 SECTION 2. Section 161.0591, Local Government Code, is
1-30 amended by amending Subsection (a) and adding Subsection (c) to
1-31 read as follows:

1-32 (a) The position of chair is selected from the commission
1-33 members by a majority vote of the commission members. The chair
1-34 serves a term of [alternates every] six months [between members
1-35 appointed under Section 161.055(a)(1) and members appointed under
1-36 Section 161.055(a)(2) and rotates so that each position on the
1-37 commission serves as chair, as follows:

1-38 [(1) the rotation of members appointed under Section
1-39 161.055(a)(1) begins with the member appointed by the county judge,
1-40 followed by the members appointed by the county commissioners in
1-41 order of precinct number, and

1-42 [(2) the rotation of members appointed under Section
1-43 161.055(a)(2) begins with the member appointed under Section
1-44 161.055(a)(2)(A), followed by the members appointed under Sections
1-45 161.055(a)(2)(B), (C), (D), and (E) in that order].

1-46 (c) A commission member may decline to serve as chair.

1-47 SECTION 3. Subsections (a) and (c), Section 161.104, Local
1-48 Government Code, are amended to read as follows:

1-49 (a) Not later than the 30th [60th] day after the date a
1-50 person is appointed to the commission, the person must complete
1-51 training on the following matters:

1-52 (1) the legislation that created the commission;
1-53 (2) the role and functions of the commission; and
1-54 (3) the requirements of:

1-55 (A) the open meetings law, Chapter 551,
1-56 Government Code;

1-57 (B) the public information law, Chapter 552,
1-58 Government Code; and

1-59 (C) other laws relating to public officials,
1-60 including conflict-of-interest laws.

1-61 (c) A person who is appointed to and qualifies for office as
1-62 a member of the commission may not vote, deliberate, or be counted
1-63 as a member in attendance at a meeting of the commission after the

2-1 30th day after the date the person is appointed to the commission
 2-2 unless ~~[until]~~ the person has completed ~~[completes]~~ a training
 2-3 program as required by Subsection (a) ~~[that complies with this~~
 2-4 ~~section]~~.

2-5 SECTION 4. Section 161.105, Local Government Code, is
 2-6 amended by amending Subsection (a) and adding Subsection (e) to
 2-7 read as follows:

2-8 (a) The commission and commission staff shall make
 2-9 available ~~[provide]~~ periodic training for persons covered by the
 2-10 ethics code adopted by the commission ~~[on at least a quarterly~~
 2-11 ~~basis]~~.

2-12 (e) A person covered by the ethics code or a lobbyist or
 2-13 vendor required by this section to complete training must complete
 2-14 the training as determined by the commission.

2-15 SECTION 5. Subsection (d), Section 161.1551, Local
 2-16 Government Code, is amended to read as follows:

2-17 (d) A commission member serves on the standing preliminary
 2-18 review committee for six months. After the end of a commission
 2-19 member term on the standing preliminary review committee, service
 2-20 on the committee rotates so that each position on the commission
 2-21 serves on the committee, beginning ~~[as provided by Section 161.0591~~
 2-22 ~~for the rotation of the chair, except that the rotation begins]~~ with
 2-23 the initial members of the standing preliminary review committee
 2-24 chosen under Subsection (c) and succeeded by the next member on the
 2-25 list as described below:

2-26 (1) for the rotation of members appointed under
 2-27 Section 161.055(a)(1), the order of service is the member appointed
 2-28 by the county judge, followed by the members appointed by the county
 2-29 commissioners in order of precinct number; and

2-30 (2) for the rotation of members appointed under
 2-31 Section 161.055(a)(2), the order of service is the order listed by
 2-32 that section.

2-33 SECTION 6. Subsections (b) through (e), Section 161.156,
 2-34 Local Government Code, are amended to read as follows:

2-35 (b) Not later than the 14th ~~[10th business]~~ day after the
 2-36 date a complaint is filed, the standing preliminary review
 2-37 committee shall send written notice to the complainant and the
 2-38 respondent. The notice must state whether the complaint complies
 2-39 with the form requirements of Section 161.155 and include the
 2-40 information required by Section 161.158(c).

2-41 (c) If the standing preliminary review committee determines
 2-42 that the complaint does not comply with the form requirements, the
 2-43 committee shall send the complaint to the complainant with the
 2-44 written notice, a statement explaining how the complaint fails to
 2-45 comply, and a copy of the rules for filing sworn complaints. The
 2-46 complainant may resubmit the complaint not later than the 14th
 2-47 ~~[21st]~~ day after the date the notice under Subsection (b) is mailed.
 2-48 If the standing preliminary review committee determines that the
 2-49 complaint is not resubmitted within the 14-day ~~[21-day]~~ period, the
 2-50 committee shall:

2-51 (1) dismiss the complaint; and

2-52 (2) not later than the 14th ~~[10th business]~~ day after
 2-53 the date of the dismissal, send written notice to the complainant
 2-54 and the respondent of the dismissal and the grounds for dismissal.

2-55 (d) If the standing preliminary review committee determines
 2-56 that a complaint is resubmitted under Subsection (c) within the
 2-57 14-day ~~[21-day]~~ period but is not in proper form, the committee
 2-58 shall send the notice required under Subsection (c), and the
 2-59 complainant may resubmit the complaint under that subsection.

2-60 (e) If the standing preliminary review committee determines
 2-61 that a complaint returned to the complainant under Subsection (c)
 2-62 or (d) is resubmitted within the 14-day ~~[21-day]~~ period and that the
 2-63 complaint complies with the form requirements, the committee shall
 2-64 send the written notice under Subsection (b).

2-65 SECTION 7. Subsections (a) and (b), Section 161.157, Local
 2-66 Government Code, are amended to read as follows:

2-67 (a) A county public servant ~~[The county]~~ may not suspend or
 2-68 terminate the employment of or take other adverse action against a
 2-69 county employee who in good faith files a complaint or otherwise

3-1 reports to the commission, commission staff, or another law
3-2 enforcement authority a violation of the ethics code by a person
3-3 subject to the ethics code.

3-4 (b) A county public servant [~~The county~~] may not suspend or
3-5 terminate the employment of or take other adverse action against a
3-6 county employee who in good faith participates in the complaint
3-7 processing, preliminary review, hearing, or any other aspect of the
3-8 investigation and resolution by the commission of an alleged
3-9 violation of the ethics code by a person subject to the ethics code.

3-10 SECTION 8. Subsection (d), Section 161.158, Local
3-11 Government Code, is amended to read as follows:

3-12 (d) If the standing preliminary review committee determines
3-13 that the commission does not have jurisdiction over the violation
3-14 alleged in the complaint, the committee shall:

- 3-15 (1) dismiss the complaint; and
- 3-16 (2) not later than the 14th [~~10th business~~] day after
3-17 the date of the dismissal, send to the complainant and the
3-18 respondent written notice of the dismissal and the grounds for the
3-19 dismissal.

3-20 SECTION 9. Subsections (a) and (b), Section 161.159, Local
3-21 Government Code, are amended to read as follows:

3-22 (a) If the alleged violation is a Category One violation:

- 3-23 (1) the respondent must respond to the notice required
3-24 by Section 161.156(b) not later than the 14th [~~10th business~~] day
3-25 after the date the respondent receives the notice; and
- 3-26 (2) if the matter is not resolved by agreement between
3-27 the standing preliminary review committee [~~commission~~] and the
3-28 respondent before the 30th [~~business~~] day after the date the
3-29 respondent receives the notice under Section 161.156(b), the
3-30 [~~standing preliminary review~~] committee shall set the matter for a
3-31 preliminary review hearing to be held at the next committee meeting
3-32 [~~for which notice has not yet been posted~~].

3-33 (b) If the alleged violation is a Category Two violation:

- 3-34 (1) the respondent must respond to the notice required
3-35 by Section 161.156(b) not later than the 14th [~~25th business~~] day
3-36 after the date the respondent receives the notice under Section
3-37 161.156(b); and
- 3-38 (2) if the matter is not resolved by agreement between
3-39 the standing preliminary review committee [~~commission~~] and the
3-40 respondent before the 30th [~~75th business~~] day after the date the
3-41 respondent receives the notice under Section 161.156(b), the
3-42 [~~standing preliminary review~~] committee shall set the matter for a
3-43 preliminary review hearing to be held at the next committee meeting
3-44 [~~for which notice has not yet been posted~~].

3-45 SECTION 10. Subsections (b), (c), and (d), Section 161.163,
3-46 Local Government Code, are amended to read as follows:

3-47 (b) If the standing preliminary review committee determines
3-48 that there is credible evidence for the committee to determine that
3-49 a violation has occurred, the committee shall resolve and settle
3-50 the complaint to the extent possible. If the committee
3-51 successfully resolves and settles the complaint, not later than the
3-52 14th [~~10th business~~] day after the date of the final resolution of
3-53 the complaint, the committee shall send to the complainant and the
3-54 respondent a copy of the order stating the committee's
3-55 determination and written notice of the resolution and the terms of
3-56 the resolution. If the committee is unsuccessful in resolving and
3-57 settling the complaint, the committee shall:

- 3-58 (1) order a formal hearing to be held in accordance
3-59 with Sections 161.164-161.167; and
- 3-60 (2) not later than the 14th [~~10th business~~] day after
3-61 the date of the order, send to the complainant and the respondent:
 - 3-62 (A) a copy of the order;
 - 3-63 (B) written notice of the date, time, and place
3-64 of the formal hearing;
 - 3-65 (C) a statement of the nature of the alleged
3-66 violation;
 - 3-67 (D) a description of the evidence of the alleged
3-68 violation;
 - 3-69 (E) a copy of the complaint;

4-1 (F) a copy of the commission's rules of
4-2 procedure; and

4-3 (G) a statement of the rights of the respondent.

4-4 (c) If the standing preliminary review committee determines
4-5 that there is credible evidence for the committee to determine that
4-6 a violation within the jurisdiction of the commission has not
4-7 occurred, the committee shall:

4-8 (1) dismiss the complaint; and

4-9 (2) not later than the 10th [~~fifth business~~] day after
4-10 the date of the dismissal, send to the complainant and the
4-11 respondent a copy of the order stating the committee's
4-12 determination and written notice of the dismissal and the grounds
4-13 for dismissal.

4-14 (d) If the standing preliminary review committee determines
4-15 that there is insufficient credible evidence for the committee to
4-16 determine that a violation within the jurisdiction of the
4-17 commission has occurred, the commission may dismiss the complaint
4-18 or order a formal hearing under Sections 161.164-161.167. Not
4-19 later than the 10th [~~fifth business~~] day after the date of the
4-20 committee's determination under this subsection, the committee
4-21 shall send to the complainant and the respondent a copy of the
4-22 decision stating the committee's determination and written notice
4-23 of the grounds for the determination.

4-24 SECTION 11. Subsection (a), Section 161.166, Local
4-25 Government Code, is amended to read as follows:

4-26 (a) Not later than the 10th [~~fifth business~~] day before the
4-27 date of a scheduled formal hearing or on the granting of a motion
4-28 for discovery by the respondent, the commission shall provide to
4-29 the respondent:

4-30 (1) a list of proposed witnesses to be called at the
4-31 hearing;

4-32 (2) copies of all documents expected to be introduced
4-33 as exhibits at the hearing; and

4-34 (3) a brief statement as to the nature of the testimony
4-35 expected to be given by each witness to be called at the hearing.

4-36 SECTION 12. Subsections (a) and (c), Section 161.167, Local
4-37 Government Code, are amended to read as follows:

4-38 (a) At the conclusion of the formal hearing or not [~~Not~~]
4-39 later than the 40th [~~30th business~~] day after the date of the formal
4-40 hearing, the commission may [~~shall~~] convene a meeting and by motion
4-41 shall issue:

4-42 (1) a final decision stating the resolution of the
4-43 formal hearing; and

4-44 (2) a written report stating the commission's findings
4-45 of fact, conclusions of law, and recommendation of imposition of a
4-46 civil penalty, if any.

4-47 (c) Not later than the 14th [~~10th business~~] day after the
4-48 date the commission issues the final decision and written report,
4-49 the commission shall:

4-50 (1) send a copy of the decision and report to the
4-51 complainant and to the respondent; and

4-52 (2) make a copy of the decision and report available to
4-53 the public during reasonable business hours.

4-54 SECTION 13. Subsections (d) and (e), Section 161.168, Local
4-55 Government Code, are amended to read as follows:

4-56 (d) The commission shall resolve a complaint within three
4-57 [~~six~~] months of its receipt unless it makes a determination that
4-58 additional time is required to resolve the matter. On a
4-59 determination that additional time is required, the commission may
4-60 extend the investigation in three-month increments. Each extension
4-61 requires separate approval by the commission.

4-62 (e) If the commission does not resolve the matter within
4-63 three [~~six~~] months or within an authorized extension, the complaint
4-64 shall be deemed to have been dismissed without prejudice.

4-65 SECTION 14. Subsection (b), Section 161.172, Local
4-66 Government Code, is amended to read as follows:

4-67 (b) Chapter 551, Government Code, does not apply to the
4-68 processing, preliminary review, preliminary review hearing, or
4-69 resolution of a sworn complaint, but does apply to the conduct of a

5-1 formal hearing [~~held~~] under Sections 161.164-161.167. Chapter 551,
5-2 Government Code, does not apply to the deliberation by the
5-3 commission regarding a contested complaint following the
5-4 conclusion of a formal hearing, but does apply to the meeting at
5-5 which the commission issues a final decision stating the resolution
5-6 of the final hearing.

5-7 SECTION 15. Subsections (a) and (b), Section 161.173, Local
5-8 Government Code, are amended to read as follows:

5-9 (a) Except as provided by Subsection (b), (c), or (m),
5-10 proceedings at a preliminary review hearing performed by the
5-11 standing preliminary review committee [~~commission~~], a sworn
5-12 complaint, and documents and any additional evidence relating to
5-13 the processing, preliminary review, preliminary review hearing, or
5-14 resolution of a sworn complaint are confidential and may not be
5-15 disclosed unless entered into the record of a formal hearing or a
5-16 judicial proceeding, except that a document or statement that was
5-17 previously public information remains public information.

5-18 (b) An order issued by the standing preliminary review
5-19 committee [~~commission~~] after the completion of a preliminary review
5-20 or hearing determining that a violation other than a technical or de
5-21 minimis violation has occurred is not confidential.

5-22 SECTION 16. The change in law made by this Act to Section
5-23 161.057, Local Government Code, applies only to the term of a member
5-24 of a county ethics commission appointed on or after the effective
5-25 date of this Act. The term of a member appointed before the
5-26 effective date of this Act is governed by the law in effect when the
5-27 member was appointed, and the former law is continued in effect for
5-28 that purpose.

5-29 SECTION 17. This Act takes effect September 1, 2011.

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