

## **BILL ANALYSIS**

C.S.H.B. 1690  
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General Investigating & Ethics  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, certain criminal investigations of public officials are conducted by a single agency in Travis County, even though most often the public official under investigation is elected to office in a county other than Travis County and the acts alleged occur outside of Travis County. Interested parties assert that transferring the responsibility for investigations into allegations of criminal conduct against a public official to a law enforcement agency with statewide jurisdiction and statewide personnel would mitigate the possibility of political intervention in this criminal justice process. C.S.H.B. 1690 seeks to ensure appropriate accountability in this process.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1690 amends the Government Code to require the investigation of a formal or informal complaint alleging an offense against public administration specified under the bill's provisions to be conducted by an officer of the Texas Rangers. The bill requires an officer of the Texas Rangers conducting an investigation of such a complaint that demonstrates a reasonable suspicion that the offense alleged in the complaint occurred to refer the complaint to the appropriate prosecutor of the county in which venue is proper as established by the bill.

C.S.H.B. 1690 authorizes a prosecutor to whom such a complaint has been referred to request that the court with jurisdiction over the complaint permit the prosecutor to be recused from the case for good cause and establishes that the prosecutor is considered disqualified if the court approves the request. The bill requires the presiding judges of the administrative judicial regions, following the recusal of such a prosecutor, to select the replacement prosecutor by a majority vote and requires the prosecutor for an offense against public administration to represent another county within the same administrative judicial region as the county in which venue is proper as established by the bill. The bill requires the judges, in selecting a replacement prosecutor, to consider the proximity of the county or district represented by the prosecutor to the county in which venue is proper. The bill authorizes the replacement prosecutor to pursue a waiver to extend the statute of limitations for the offense only with the approval of a majority of the presiding judges.

C.S.H.B. 1690 requires a state agency or local law enforcement agency, to the extent allowed by law, to cooperate with the prosecutor of a public integrity prosecution by providing information requested by the prosecutor as necessary to carry out the bill's purposes. The bill establishes that

this information is confidential and not subject to disclosure under state public information law. The bill authorizes an officer of the Texas Rangers to investigate offenses against public administration and authorizes the Texas Rangers to refer the investigation of a complaint alleging such an offense involving a person who is a member of the executive branch to the local law enforcement agency that would otherwise have authority to investigate the complaint, if a conflict of interest arises from the conduct of an investigation by the officers of the Texas Rangers. The bill requires local law enforcement to comply with all of the bill's requirements regarding public integrity prosecutions in conducting an investigation of a complaint alleging an offense against public administration.

C.S.H.B. 1690 establishes venue for a public integrity prosecution in the county in which the defendant resides, if the defendant is a natural person, or, if the defendant holds an office of the executive branch subject to a constitutional residency requirement, in the county in which the defendant resided at the time of election to that office or another executive branch office subject to that residency requirement that the defendant held immediately before election to the office being held by the defendant. The bill prohibits its provisions regarding public integrity prosecution from being construed as limiting the attorney general's authority to prosecute Election Code offenses.

C.S.H.B. 1690 changes from the Travis County district attorney to the appropriate prosecuting attorney as provided under the bill's public integrity prosecution provisions the entity to which the president of the senate or speaker of the house of representatives must certify a statement of facts relating to a prosecution for contempt of the legislature by failing to cooperate with an applicable legislative committee. The bill transfers from the Travis County district attorney to the prosecuting attorney to whom such a statement of facts is certified or the prosecutor selected under the bill's provisions by the presiding judges of the administrative judicial regions following recusal, if applicable, the requirement to bring the matter relating to a prosecution for contempt of the legislature before the grand jury for action and the requirement to prosecute any such indictment returned by the grand jury.

#### **EFFECTIVE DATE**

September 1, 2015.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1690 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

##### INTRODUCED

SECTION 1. Chapter 41, Government Code, is amended by adding Subchapter F to read as follows:

#### **SUBCHAPTER F. PUBLIC INTEGRITY PROSECUTIONS**

Sec. 41.351. DEFINITIONS. In this subchapter:

(1) "Offense" means a prohibited act for which state law imposes a criminal or civil penalty.

(2) "Prosecute" means represent the state to impose a criminal or civil penalty.

##### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 41, Government Code, is amended by adding Subchapter F to read as follows:

#### **SUBCHAPTER F. PUBLIC INTEGRITY PROSECUTIONS**

Sec. 41.351. DEFINITIONS. In this subchapter:

(1) "Offense" means a prohibited act for which state law imposes a criminal or civil penalty.

(2) "Prosecute" means represent the state to impose a criminal or civil penalty.

(3) "Public integrity prosecution" means the prosecution of an offense against public

Sec. 41.352. OFFENSES AGAINST PUBLIC ADMINISTRATION.

Sec. 41.353. SPECIAL PROSECUTOR FOR PUBLIC INTEGRITY OFFENSES.

(a) The chief justice of the supreme court shall appoint a special prosecutor for public integrity offenses.

No equivalent provision.

No equivalent provision.

(b) In any district or county court of appropriate jurisdiction and venue, the special prosecutor for public integrity offenses has the authority to prosecute a person for an offense against public administration.

(c) The supreme court shall provide funds for use by the special prosecutor for public integrity offenses to pay costs incurred as a result of the prosecution of an offense under this subchapter.

(d) The special prosecutor for public integrity offenses serves for a two-year term.

administration under Section 41.352.

Sec. 41.352. OFFENSES AGAINST PUBLIC ADMINISTRATION.

Sec. 41.353. INVESTIGATION OF PUBLIC INTEGRITY OFFENSES.

No equivalent provision.

(a) The investigation of a formal or informal complaint alleging an offense against public administration under this subchapter shall be conducted by an officer of the Texas Rangers.

(b) If an investigation conducted by the Texas Rangers of a complaint alleging an offense against public administration demonstrates a reasonable suspicion that the offense alleged in the complaint occurred, the officer of the Texas Rangers conducting the investigation shall refer the complaint to the appropriate prosecutor of the county in which venue is proper under Section 41.357.

Sec. 41.357. VENUE. (a) Notwithstanding Chapter 13, Code of Criminal Procedure, or any other law, and except as provided by Subsection (b), if the defendant is a natural person, venue for a prosecution under this subchapter is the county in which the defendant resides.

(b) If the defendant holds an office of the executive branch subject to a residency requirement under Article IV, Texas Constitution, venue for a prosecution under this subchapter is the county in which the defendant resided at the time the defendant was elected to that office or another office of the executive branch subject to that requirement that the defendant held immediately before being elected to the office being held by the defendant.

No equivalent provision.

No equivalent provision.

(e) The supreme court may adopt rules governing the operations of the special prosecutor for public integrity offenses.

No equivalent provision.

Sec. 41.354. COOPERATION OF STATE AGENCIES AND LOCAL LAW ENFORCEMENT AGENCIES. (a) To the extent allowed by law, a state agency or local law enforcement agency shall cooperate with the special prosecutor for public integrity offenses prosecuting an offense against public administration by providing information requested by the special prosecutor as necessary to carry out the purposes of this subchapter.

(b) Information disclosed under this section is confidential and not subject to disclosure under Chapter 552.

Sec. 41.355. CONFLICT OF INTEREST. In the event of an investigation of an offense against public administration involving a person who is a member of the executive branch, the special prosecutor for public integrity offenses may use investigators

No equivalent provision.

Sec. 41.354. RECUSAL OF PROSECUTOR. (a) In this section, "judges" means the presiding judges of the administrative judicial regions.

(b) A prosecutor to whom a complaint has been referred under Section 41.353(b) may request that the court with jurisdiction over the complaint permit the prosecutor to be recused from the case for good cause. If the court approves the request, the prosecutor shall be considered disqualified.

(c) Following the recusal of a prosecutor under Subsection (b), the judges shall select the prosecutor for prosecution of the complaint by a majority vote. The prosecutor for an offense against public administration must represent another county within the same administrative judicial region as the county in which venue is proper under Section 41.357.

(d) In selecting a prosecutor under this section, the judges shall consider the proximity of the county or district represented by the prosecutor to the county in which venue is proper under Section 41.357.

(e) The prosecutor selected to prosecute the public integrity offense under this section may pursue a waiver to extend the statute of limitations for the offense only with the approval of a majority of the judges.

Sec. 41.355. COOPERATION OF STATE AGENCIES AND LOCAL LAW ENFORCEMENT AGENCIES. (a) To the extent allowed by law, a state agency or local law enforcement agency shall cooperate with the prosecutor of a public integrity prosecution by providing information requested by the prosecutor as necessary to carry out the purposes of this subchapter.

(b) Information disclosed under this section is confidential and not subject to disclosure under Chapter 552.

Sec. 41.356. CONFLICT OF INTEREST. (a) The Texas Rangers may refer the investigation of a complaint alleging an offense against public administration involving a person who is a member of the executive branch to the local law

other than officers of the Texas Rangers if the special prosecutor believes that an investigation conducted by the officers of the Texas Rangers would be a conflict of interest.

No equivalent provision.

SECTION 2. Sections 301.027(b) and (c), Government Code, are amended to read as follows:

(b) If the president of the senate or speaker receives a report or statement of facts as provided by Subsection (a), the president of the senate or speaker shall certify the statement of facts to the special prosecutor for public integrity offenses under Subchapter F, Chapter 41, [Travis County district attorney] under the seal of the senate or house of representatives, as appropriate.

(c) The special prosecutor for public integrity offenses [Travis County district attorney] shall bring the matter before the grand jury for action. If the grand jury returns an indictment, the special prosecutor [district attorney] shall prosecute the indictment.

SECTION 3. Section 411.022, Government Code, is amended by adding Subsection (c).

SECTION 4. Subchapter F, Chapter 41, Government Code, as added by this Act, applies only to the prosecution of an offense against public administration committed on or after September 1, 2015. For purposes of this section, an offense is committed before September 1, 2015, if any element of the offense occurs before that date.

SECTION 5. This Act takes effect September 1, 2015.

enforcement agency that would otherwise have authority to investigate the complaint, if a conflict of interest arises from the conduct of an investigation by the officers of the Texas Rangers.

(b) Local law enforcement must comply with all requirements of this subchapter in conducting an investigation of a complaint alleging an offense against public administration as provided by this section.

Sec. 41.358. PROSECUTION OF CERTAIN OFFENSES BY ATTORNEY GENERAL. Nothing in this subchapter shall be construed as limiting the authority of the attorney general to prosecute offenses under Section 273.021, Election Code.

SECTION 2. Sections 301.027(b) and (c), Government Code, are amended to read as follows:

(b) If the president of the senate or speaker receives a report or statement of facts as provided by Subsection (a), the president of the senate or speaker shall certify the statement of facts to the appropriate prosecuting [Travis County district] attorney as provided under Section 41.353(b) under the seal of the senate or house of representatives, as appropriate.

(c) The prosecuting [Travis County district] attorney to whom a statement of facts is certified under Subsection (a) or the prosecutor selected under Section 41.354(c), if applicable, shall bring the matter before the grand jury for action. If the grand jury returns an indictment, the prosecuting [district] attorney shall prosecute the indictment.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.