

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 10  
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State Affairs  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The committee substitute to S.B. 10 (C.S.S.B. 10) creates the Public Integrity Unit (PIU) in the Office of the Attorney General. The PIU is responsible for an initial investigation into complaints alleging offenses against public administration, insurance fraud, and motor fuels tax fraud. Following an initial investigation and a verification of findings by a Texas Ranger, the PIU transfers all complaints rising to the level of reasonable suspicion to the administrative judge presiding over the administrative judicial region of the public official's residence. The administrative judge will then transfer the matter to a county or district attorney in the administrative judicial region who is not from the public official's county of residence. The prosecuting attorney has the discretion to terminate the referred case or continue with the prosecution. The venue for prosecution is the county of residence. Residency is defined as an official's hometown—be it where the official has a homestead, or where the official lived prior to taking office.

C.S.S.B. 10 amends current law relating to the investigation and prosecution of offenses against public administration, including ethics offenses, and offenses involving insurance fraud or the imposition of the motor fuels tax.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 402, Government Code, by adding Subchapter D, as follows:

#### **SUBCHAPTER D. PUBLIC INTEGRITY UNIT**

Sec. 402.101. DEFINITIONS. Defines "offense," "prosecute," and "prosecuting attorney."

Sec. 402.102. OFFENSES AGAINST PUBLIC ADMINISTRATION. Provides that for purposes of this subchapter, the following are offenses against public administration:

- (1) an offense under Title 8 (Offenses Against Public Administration), Penal Code, committed by a state officer or a state employee in connection with the powers and duties of the state office or state employment;
- (2) an offense under Chapter 301 (Legislative Organization), 302 (Speaker of the House of Representatives), 305 (Registration of Lobbyists), 571 (Texas Ethics Commission), 572 (Personal Financial Disclosure, Standards of Conduct, and Conflict of Interest), or 2004 (Representation Before State Agencies);
- (3) an offense under Chapter 573 (Degrees of Relationship; Nepotism Prohibitions) committed by a state officer in connection with the powers and duties of the state office; and

(4) an offense under Title 15 (Regulating Political Funds and Campaigns), Election Code, committed in connection with a campaign for or the holding of state office or an election on a proposed constitutional amendment.

Sec. 402.103. OFFENSES INVOLVING INSURANCE FRAUD. Provides that for the purposes of this subchapter, the following are offenses involving insurance fraud:

(1) an offense under Chapter 35 (Insurance Fraud), Penal Code, including an offense under that chapter that involves workers' compensation insurance under Title 5 (Workers' Compensation), Labor Code; or

(2) a fraudulent insurance act as defined by Section 701.001 (Definitions), Insurance Code, including an act that involves workers' compensation insurance under Title 5, Labor Code.

Sec. 402.104. OFFENSES INVOLVING MOTOR FUELS TAX. Provides that for the purposes of this subchapter, an offense involving motor fuels tax means a felony offense under Section 162.403 (Criminal Offenses), Tax Code.

Sec. 402.105. PUBLIC INTEGRITY UNIT. (a) Requires the office of the attorney general of the State of Texas (OAG) to establish and support a public integrity unit consisting of:

(1) the attorneys and staff employed by the attorney general of the State of Texas (attorney general) to investigate and support prosecution of offenses described by this subchapter; and

(2) one commissioned officer of the Texas Rangers division of the Department of Public Safety of the State of Texas (DPS) to assist with each investigation by the attorney general and verify the resulting findings.

(b) Provides that the prosecuting attorney described by Section 402.106(c) or 402.107(b) serves as part of the public integrity unit from the date a matter is referred to the attorney under Section 402.106(a) or the attorney is appointed under Section 402.107(b) until:

(1) the date on which the investigation for an offense under this subchapter officially ceases; or

(2) the date on which any prosecution of an offense under this subchapter is fully adjudicated.

Sec. 402.106. INVESTIGATION AND PROSECUTION ASSISTANCE BY PUBLIC INTEGRITY UNIT. (a) Authorizes the public integrity unit, on receiving a formal or informal complaint regarding an offense described by this subsection or on request of a prosecuting attorney, to perform an initial investigation into whether a person has committed:

(1) an offense against public administration;

(2) an offense involving insurance fraud; or

(3) an offense involving motor fuels tax.

(b) Requires the commissioned officer of the Texas Rangers division of DPS serving on the public integrity unit to provide assistance for an initial investigation under Subsection (a) and verify the findings made by the unit.

(c) Requires that the matter, if an initial investigation by the public integrity unit demonstrates a reasonable suspicion that an offense described by Subsection (a) occurred, be referred to the prosecuting attorney of the county in which venue is proper under Section 402.109 or Chapter 13 (Venue), Code of Criminal Procedures, as applicable.

(d) Requires the public integrity unit, on request of the prosecuting attorney described by Subsection (c), to assist the attorney in the investigation and prosecution of an offense under this subchapter.

(e) Provides that, if the public integrity unit is assisting in a prosecution as provided by Subsection (d):

(1) the public integrity unit may exercise the powers as necessary to accomplish the assistance; and

(2) the prosecuting attorney described by Subsection (c) retains the authority to represent the state in the district and inferior courts in the prosecution of the offense.

Sec. 402.107. RECUSAL OF PROSECUTING ATTORNEY; SELECTION OF PROSECUTING ATTORNEY BY PRESIDING JUDGE OF ADMINISTRATIVE JUDICIAL REGION. (a) Authorizes a prosecuting attorney to request that the court permit the attorney to recuse himself or herself in a case for good cause, and on approval by the court, the attorney is disqualified.

(b) Requires the presiding judge of the administrative judicial region containing the county served by the attorney, on recusal of the prosecuting attorney under Subsection (a), to appoint a prosecuting attorney from another county in that administrative judicial region.

Sec. 402.108. NOTIFICATION REGARDING DISPOSITION OF CASE. Requires the prosecuting attorney to notify the public integrity unit of:

(1) the termination of a case investigated by the public integrity unit for insufficient evidence; or

(2) the results of the final adjudication of a case investigated by the public integrity unit.

Sec. 402.109. VENUE. Provides that notwithstanding Chapter 13, Code of Criminal Procedure, or other law, if the defendant is a natural person, venue for prosecution of an offense under Subsection 402.106(a)(1) is the county in which the defendant resides.

Sec. 402.110. RESIDENCE. Provides that for the purposes of this subchapter, a person resides in the county where that person:

(1) claims a residence homestead under Chapter 41 (Interests in Land), Property Code, if that person is a member of the legislature;

(2) claimed to be a resident before being subject to residency requirements under Article IV (Executive Department), Texas Constitution, if that person is a member of the executive department of the state;

(3) claims a residence homestead under Chapter 41, Property Code, if that person is a justice on the supreme court or judge on the court of criminal appeals; or

(4) otherwise claims residence if no other provision of this section applies.

Sec. 402.111. COOPERATION OF STATE AGENCIES AND LOCAL LAW ENFORCEMENT AGENCIES. (a) Requires a state agency or local law enforcement agency, to the extent allowed by law, to cooperate with the public integrity unit by providing information requested by the unit as necessary to carry out the purposes of this subchapter.

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

SECTION 2. Amends Section 402.009, Government Code, as follows:

Sec. 402.009. AUTHORITY TO EMPLOY AND COMMISSION PEACE OFFICERS. Authorizes the attorney general to employ and commission peace officers as investigators for:

(1) Creates this subdivision from existing text and makes no further change to this subdivision;

(2) the purpose of investigating offenses under Subchapter D.

SECTION 3. (a) Requires the attorney general, not later than three months after the effective date of this Act, to establish the public integrity unit under Subchapter D, Chapter 402, Government Code, as added by this Act.

(b) Provides that Subchapter D, Chapter 402, Government Code, as added by this Act, applies only to the prosecution of an offense under Subchapter D, Chapter 402, Government Code committed on or after the date that the attorney general establishes the public integrity unit. Provides that for purposes of this section, an offense is committed if any element of the offense occurs before the date described by this section.

(c) Provides that the prosecution of an offense committed before the date described in Subsection (b) of this section is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 4. Effective date: upon passage or September 1, 2015.