

By: Riddle

H.B. No. 776

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a public integrity unit in the office of the attorney general to prosecute offenses against public administration, including ethics offenses, and offenses involving insurance fraud or the imposition of the motor fuels tax.

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

SECTION 1. Chapter 402, Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. PUBLIC INTEGRITY UNIT

Sec. 402.101. 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) "Prosecuting attorney" means a district attorney, criminal district attorney, or county attorney.

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

(1) an offense under Title 8, 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, 302, 305, 571, 572, or 2004;

1 (3) an offense under Chapter 573 committed by a state
2 officer in connection with the powers and duties of the state
3 office; and

4 (4) an offense under Title 15, Election Code,
5 committed in connection with a campaign for or the holding of state
6 office.

7 Sec. 402.103. OFFENSES INVOLVING INSURANCE FRAUD. For
8 purposes of this subchapter, the following are offenses involving
9 insurance fraud:

10 (1) an offense under Chapter 35, Penal Code, including
11 an offense under that chapter that involves workers' compensation
12 insurance under Title 5, Labor Code; or

13 (2) a fraudulent insurance act as defined by Section
14 701.001, Insurance Code, including an act that involves workers'
15 compensation insurance under Title 5, Labor Code.

16 Sec. 402.104. OFFENSES INVOLVING MOTOR FUELS TAX. For
17 purposes of this subchapter, an offense involving the motor fuels
18 tax means an offense involving compliance with the requirements
19 relating to the imposition of the motor fuels tax imposed under
20 Chapter 162, Tax Code, including an offense described by Section
21 162.403, Tax Code.

22 Sec. 402.105. PUBLIC INTEGRITY UNIT. The public integrity
23 unit is in the office of the attorney general.

24 Sec. 402.106. PROSECUTION BY PUBLIC INTEGRITY UNIT. (a) In
25 any district or county court of appropriate jurisdiction and venue,
26 the public integrity unit may prosecute a person for:

27 (1) an offense against public administration;

1 (2) an offense involving insurance fraud; or

2 (3) an offense involving the motor fuels tax.

3 (b) The public integrity unit must assert the right to
4 prosecute under this section in writing to the appropriate
5 prosecuting attorney. If the unit asserts the right to prosecute
6 under this section:

7 (1) the unit has all the powers of the prosecuting
8 attorney, including the power to represent the state before a grand
9 jury; and

10 (2) the prosecuting attorney may not prosecute the
11 same person for the same act, but on request of the unit shall
12 assist in the prosecution.

13 Sec. 402.107. COOPERATION OF STATE AGENCIES AND LOCAL LAW
14 ENFORCEMENT AGENCIES. (a) To the extent allowed by law, a state
15 agency or local law enforcement agency shall cooperate with the
16 public integrity unit by providing information requested by the
17 unit as necessary to carry out the purposes of this subchapter.

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

20 Sec. 402.108. VENUE. Notwithstanding Chapter 13, Code of
21 Criminal Procedure, or other law, if the defendant is a natural
22 person, venue for a prosecution by the public integrity unit is in
23 the county in which the defendant resides.

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

26 (b) If the president of the senate or speaker receives a
27 report or statement of facts as provided by Subsection (a), the

1 president of the senate or speaker shall certify the statement of
2 facts to the public integrity unit of the office of the attorney
3 general [~~Travis County district attorney~~] under the seal of the
4 senate or house of representatives, as appropriate.

5 (c) The public integrity unit [~~Travis County district~~
6 ~~attorney~~] shall bring the matter before the grand jury for action.
7 If the grand jury returns an indictment, the public integrity unit
8 [~~district attorney~~] shall prosecute the indictment.

9 SECTION 3. Section 402.009, Government Code, is amended to
10 read as follows:

11 Sec. 402.009. AUTHORITY TO EMPLOY AND COMMISSION PEACE
12 OFFICERS. The attorney general may employ and commission peace
13 officers as investigators for:

14 (1) the limited purpose of assisting the attorney
15 general in carrying out the duties of that office relating to
16 prosecution assistance and crime prevention; or

17 (2) the purpose of investigating offenses against
18 public administration, offenses involving insurance fraud, and
19 offenses involving the imposition of the motor fuels tax that may be
20 prosecuted under Subchapter D.

21 SECTION 4. Section 35.04, Penal Code, is amended to read as
22 follows:

23 Sec. 35.04. JURISDICTION OF ATTORNEY GENERAL. (a) As
24 provided by Section 402.106, Government Code, the public integrity
25 unit of the office of the attorney general may prosecute an offense
26 under Section 35.02.

27 (b) If the public integrity unit does not assert its right

1 as provided by Section 402.106, Government Code, to prosecute an
2 offense under Section 35.02, the ~~[The]~~ attorney general may:

3 (1) offer to an attorney representing the state in the
4 prosecution of the ~~[an]~~ offense ~~[under Section 35.02]~~ the
5 investigative, technical, and litigation assistance of the
6 attorney general's office; or

7 (2) ~~[~~

8 ~~[(b) The attorney general may prosecute or]~~ assist in the
9 prosecution of the ~~[an]~~ offense ~~[under Section 35.02]~~ on the
10 request of the attorney representing the state ~~[described by~~
11 ~~Subsection (a)]~~.

12 SECTION 5. (a) Not later than March 1, 2016, the attorney
13 general shall establish the public integrity unit under Subchapter
14 D, Chapter 402, Government Code, as added by this Act.

15 (b) Subchapter D, Chapter 402, Government Code, as added by
16 this Act, applies only to the prosecution of an offense against
17 public administration, an offense involving insurance fraud, or an
18 offense involving the imposition of the motor fuels tax committed
19 on or after April 1, 2016. For purposes of this section, an offense
20 is committed before April 1, 2016, if any element of the offense
21 occurs before that date.

22 (c) The prosecution of an offense committed before April 1,
23 2016, is covered by the law in effect when the offense was
24 committed, and the former law is continued in effect for that
25 purpose, except that a county attorney, district attorney, or
26 criminal district attorney may, on the request of the attorney
27 general, permit the public integrity unit established under

1 Subchapter D, Chapter 402, Government Code, as added by this Act, to
2 assume the prosecution of such an offense.

3 SECTION 6. This Act takes effect January 1, 2016, but only
4 if the constitutional amendment proposed by the 84th Legislature,
5 Regular Session, 2015, to permit the attorney general to prosecute
6 offenses against public administration, including ethics offenses,
7 and offenses involving insurance fraud or the imposition of the
8 motor fuels tax, takes effect. If that amendment is not approved by
9 the voters, this Act has no effect.