

By: Fallon

H.B. No. 940

A BILL TO BE ENTITLED

AN ACT

relating to the investigation and prosecution of offenses against public administration, including ethics offenses, offenses involving insurance fraud, and offenses involving 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;

(3) an offense under Chapter 573 committed by a state

1 officer in connection with the powers and duties of the state  
2 office; and

3 (4) an offense under Title 15, Election Code,  
4 committed in connection with:

5 (A) a campaign for or the holding of state  
6 office; or

7 (B) an election on a proposed constitutional  
8 amendment.

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

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

15 (2) a fraudulent insurance act as defined by Section  
16 701.001, Insurance Code, including an act that involves workers'  
17 compensation insurance under Title 5, Labor Code.

18 Sec. 402.104. OFFENSES INVOLVING MOTOR FUELS TAX. For  
19 purposes of this subchapter, an offense involving motor fuels tax  
20 means a felony offense under Section 162.403, Tax Code.

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

23 Sec. 402.106. INVESTIGATION AND PROSECUTION BY PUBLIC  
24 INTEGRITY UNIT. (a) The public integrity unit has the authority to  
25 investigate whether a person has committed:

26 (1) an offense against public administration;

27 (2) an offense involving insurance fraud; or

1           (3) an offense involving motor fuels tax.

2           (b) The public integrity unit shall, on request of the  
3 appropriate prosecuting attorney, assist in the prosecution of or  
4 prosecute an offense under this section.

5           (c) If assisting in a prosecution as provided by Subsection  
6 (b), the public integrity unit may exercise the powers as necessary  
7 to accomplish the assistance, and the prosecuting attorney retains  
8 the authority to represent the state in the district and inferior  
9 courts in the prosecution of the offense.

10          (d) If prosecuting an offense as provided by Subsection (b):

11           (1) the public integrity unit has all the powers of the  
12 prosecuting attorney, including the power to represent the state  
13 before a grand jury;

14           (2) the prosecuting attorney may not prosecute the  
15 same person for the same act; and

16           (3) only the attorney general may represent the state  
17 in the district and inferior courts in the prosecution of the  
18 offense.

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

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

26          Sec. 402.108. VENUE. Notwithstanding Chapter 13, Code of  
27 Criminal Procedure, or other law, if the defendant is a natural

1 person, venue for prosecution of an offense against public  
2 administration, an offense involving insurance fraud, or an  
3 offense involving motor fuels tax is in the county in which the  
4 defendant resides.

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

7 (b) If the president of the senate or speaker receives a  
8 report or statement of facts as provided by Subsection (a), the  
9 president of the senate or speaker shall certify the statement of  
10 facts to the public integrity unit of the office of the attorney  
11 general [~~Travis County district attorney~~] under the seal of the  
12 senate or house of representatives, as appropriate. The public  
13 integrity unit shall conduct an investigation on receipt of the  
14 statement of facts under this subsection.

15 (c) If after conducting an investigation under Subsection  
16 (b), the public integrity unit accepts the statement of facts, the  
17 unit shall provide the results of the investigation to the [~~The~~  
18 ~~Travis County~~] district attorney or other prosecuting attorney of  
19 the county in which the person resides, who shall bring the matter  
20 before the grand jury for action. If the grand jury returns an  
21 indictment, the prosecuting [~~district~~] attorney shall prosecute  
22 the indictment or request that the attorney general prosecute the  
23 indictment.

24 SECTION 3. Section 402.009, Government Code, is amended to  
25 read as follows:

26 Sec. 402.009. AUTHORITY TO EMPLOY AND COMMISSION PEACE  
27 OFFICERS. The attorney general may employ and commission peace

1 officers as investigators for:

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

5           (2) the purpose of investigating offenses against  
6 public administration, offenses involving insurance fraud, and  
7 offenses involving motor fuels tax prosecuted under Subchapter D.

8           SECTION 4. (a) Not later than March 1, 2016, the attorney  
9 general shall establish the public integrity unit under Subchapter  
10 D, Chapter 402, Government Code, as added by this Act.

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

17           (c) The prosecution of an offense committed before April 1,  
18 2016, is covered by the law in effect when the offense was  
19 committed, and the former law is continued in effect for that  
20 purpose, except that a county attorney, district attorney, or  
21 criminal district attorney may, on the request of the attorney  
22 general, permit the public integrity unit established under  
23 Subchapter D, Chapter 402, Government Code, as added by this Act, to  
24 assume the prosecution of such an offense.

25           SECTION 5. This Act takes effect January 1, 2016.