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H.B. No. 1690

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of offenses against public  
administration, including ethics offenses.

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

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 administration under  
Section 41.352.

(4) "State agency" means a department, commission,  
board, office, council, authority, or other agency in the executive  
branch of state government that is created by the constitution or a  
statute of this state, including a university system or institution  
of higher education as defined by Section 61.003, Education Code.

(5) "State employee" means an individual, other than a  
state officer, who is employed by:

(A) a state agency;

(B) the Supreme Court of Texas, the Court of

1 Criminal Appeals of Texas, a court of appeals, or the Texas Judicial  
2 Council; or

3 (C) either house of the legislature or a  
4 legislative agency, council, or committee, including the  
5 Legislative Budget Board, the Texas Legislative Council, the State  
6 Auditor's Office, and the Legislative Reference Library.

7 (6) "State officer" means an elected officer, an  
8 appointed officer, a salaried appointed officer, an appointed  
9 officer of a major state agency, or the executive head of a state  
10 agency.

11 Sec. 41.352. OFFENSES AGAINST PUBLIC ADMINISTRATION. For  
12 purposes of this subchapter, the following are offenses against  
13 public administration:

14 (1) an offense under Title 8, Penal Code, committed by  
15 a state officer or a state employee in connection with the powers  
16 and duties of the state office or state employment;

17 (2) an offense under Chapter 301, 302, 571, 572, or  
18 2004 committed by a state officer or a state employee in connection  
19 with the powers and duties of the state office or state employment  
20 or by a candidate for state office;

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

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

26 (A) a campaign for or the holding of state  
27 office; or

1           (B) an election on a proposed constitutional  
2 amendment.

3           Sec. 41.353. INVESTIGATION OF PUBLIC INTEGRITY OFFENSES.

4 (a) Unless another state agency is designated as having primary  
5 responsibility for an investigation of a complaint alleging an  
6 offense against public administration, an investigation of a formal  
7 or informal complaint alleging an offense against public  
8 administration under this subchapter shall be conducted by an  
9 officer of the Texas Rangers. If a state agency other than the Texas  
10 Rangers has primary responsibility for an investigation of a  
11 complaint alleging an offense against public administration, the  
12 Texas Rangers shall provide assistance if assistance is requested  
13 by that state agency.

14           (b) Nothing in this subchapter shall prevent the state  
15 auditor from conducting an investigation under Chapter 321,  
16 including an investigation of a formal or informal complaint  
17 alleging an offense against public administration.

18           (c) If an investigation conducted by the Texas Rangers of a  
19 complaint alleging an offense against public administration  
20 demonstrates a reasonable suspicion that the offense alleged in the  
21 complaint occurred, the officer of the Texas Rangers conducting the  
22 investigation shall refer the complaint to the appropriate  
23 prosecutor of the county in which venue is proper under Section  
24 41.357.

25           (d) Not later than the 90th day before the expiration of the  
26 statute of limitations for the prosecution of an offense against  
27 public administration alleged in a complaint referred by the Texas

1 Rangers under Subsection (c), the prosecutor to whom the complaint  
2 was referred shall notify the Texas Rangers of the status of the  
3 case. The Texas Rangers shall immediately notify the legislature  
4 if a prosecutor does not provide the status notification to the  
5 Texas Rangers within the time provided in this subsection.

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

9 (b) A prosecutor to whom a complaint has been referred under  
10 Section 41.353(c) or the defendant may request that the court with  
11 jurisdiction over the complaint order the prosecutor to be recused  
12 from the case for good cause. If the court approves the request, the  
13 prosecutor shall be considered disqualified.

14 (c) A prosecutor to whom a complaint has been referred under  
15 Section 41.353(c) and who has, either currently or in the past, a  
16 financial or other business relationship with the defendant must  
17 request that the court with jurisdiction over the complaint permit  
18 the prosecutor to be recused from the case for good cause. If the  
19 court approves the request, the prosecutor shall be considered  
20 disqualified.

21 (d) A prosecutor to whom a complaint has been referred under  
22 Section 41.353(c) shall disclose to the court if the prosecutor, in  
23 either a personal or professional capacity, has ever made a  
24 campaign contribution to or received a campaign contribution from  
25 the person against whom the complaint was made or a political  
26 committee organized for the benefit of the person against whom the  
27 complaint was made. The court shall consider a disclosure made

1 under this subsection in determining whether good cause exists for  
2 recusal.

3 (e) Following the recusal of a prosecutor under Subsection  
4 (b) or (c), the judges shall select the prosecutor for prosecution  
5 of the complaint by a majority vote. The prosecutor for an offense  
6 against public administration must represent another county within  
7 the same administrative judicial region as the county in which  
8 venue is proper under Section 41.357. A prosecutor may be selected  
9 under this section only with the prosecutor's consent to the  
10 appointment.

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

15 (g) The prosecutor selected to prosecute the public  
16 integrity offense under this section may pursue a waiver to extend  
17 the statute of limitations by no more than two years. If the waiver  
18 adds less than two years to limitations, the prosecutor may pursue a  
19 successive waiver for good cause shown to the court, providing that  
20 the total time of all waivers does not exceed two years.

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

27 (b) Information disclosed under this section is

1 confidential and not subject to disclosure under Chapter 552.

2 Sec. 41.356. CONFLICT OF INTEREST. (a) The Texas Rangers  
3 may refer the investigation of a complaint alleging an offense  
4 against public administration involving a person who is a member of  
5 the executive branch to the local law enforcement agency that would  
6 otherwise have authority to investigate the complaint, if a  
7 conflict of interest arises from the conduct of an investigation by  
8 the officers of the Texas Rangers.

9 (b) If, in the course of conducting an investigation of a  
10 complaint, the Texas Rangers determine that an individual who is  
11 assigned to the security detail of a state official is a fact  
12 witness or has knowledge of the facts underlying the complaint, the  
13 Texas Rangers shall refer the investigation of the complaint to  
14 another law enforcement agency. The public safety director shall  
15 notify the chair of the Public Safety Commission of the referral of  
16 a complaint to another law enforcement agency within 24 hours after  
17 the referral is made.

18 (c) If a formal or informal complaint alleges that the  
19 public safety director or a deputy or assistant director of the  
20 Department of Public Safety has committed an offense against public  
21 administration, the Texas Rangers shall refer the investigation of  
22 the complaint to another law enforcement agency. The public safety  
23 director shall notify the chair of the Public Safety Commission of  
24 the referral of a complaint to another law enforcement agency  
25 within 24 hours after the referral is made.

26 (d) Local law enforcement must comply with all requirements  
27 of this subchapter in conducting an investigation of a complaint

1 alleging an offense against public administration as provided by  
2 this section.

3 Sec. 41.357. VENUE. (a) Notwithstanding Chapter 13, Code  
4 of Criminal Procedure, or any other law, and except as provided by  
5 Subsection (c) or (d), if the defendant is a state officer, venue  
6 for a prosecution under this subchapter is the county in which the  
7 defendant resided at the time the offense was committed.

8 (b) Notwithstanding any other law, if the defendant is a  
9 state employee who is not a state officer, venue for a prosecution  
10 under this subchapter is the county in which the conduct  
11 constituting the offense against public administration occurred.

12 (c) If the defendant holds an office of the executive branch  
13 subject to a residency requirement under Article IV, Texas  
14 Constitution, venue for a prosecution under this subchapter is the  
15 county in which the defendant resided at the time the defendant was  
16 elected to the term of that office during which the offense was  
17 committed.

18 (d) If a complaint alleging an offense against public  
19 administration under this subchapter alleges that an offense was  
20 committed by two or more defendants, venue for the prosecution of  
21 all defendants under this subchapter is any county in which the  
22 conduct constituting the offense against public administration  
23 occurred.

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

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

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

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

15 SECTION 3. Section 411.022, Government Code, is amended by  
16 adding Subsection (c) to read as follows:

17 (c) An officer of the Texas Rangers has the authority to  
18 investigate offenses against public administration prosecuted  
19 under Subchapter F, Chapter 41.

20 SECTION 4. Subchapter F, Chapter 41, Government Code, as  
21 added by this Act, applies only to the prosecution of an offense  
22 against public administration committed on or after September 1,  
23 2015. For purposes of this section, an offense is committed before  
24 September 1, 2015, if any element of the offense occurs before that  
25 date.

26 SECTION 5. The investigation of an offense against public  
27 administration that is classified as ongoing or pending on the



1 effective date of this Act shall remain with the entity that is  
2 conducting the investigation, unless the entity consents to  
3 transfer the investigation to the Texas Rangers.

4 SECTION 6. If any provision of this Act or its application  
5 to any person or circumstance is held invalid, the invalidity does  
6 not affect other provisions or applications of this Act that can be  
7 given effect without the invalid provision or application, and to  
8 this end the provisions of this Act are severable.

9 SECTION 7. This Act takes effect September 1, 2015.