

By: Murr

H.B. No. 2222

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a public integrity unit to prosecute 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 41, Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. TEXAS PUBLIC INTEGRITY UNIT

Sec. 41.351. DEFINITIONS. In this subchapter:

(1) "Committee" means the public integrity unit committee.

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

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

(4) "Prosecuting attorney" means a district attorney, criminal district attorney, or county attorney.

(5) "Unit" means the Texas Public Integrity Unit.

Sec. 41.352. 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

1 and duties of the state office or state employment;

2 (2) an offense under Chapter 301, 302, 305, 571, 572,
3 or 2004;

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

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

9 (A) a campaign for or the holding of state
10 office; or

11 (B) an election on a proposed constitutional
12 amendment.

13 Sec. 41.353. OFFENSES INVOLVING INSURANCE FRAUD. For
14 purposes of this subchapter, the following are offenses involving
15 insurance fraud:

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

19 (2) a fraudulent insurance act as defined by Section
20 701.001, Insurance Code, including an act that involves workers'
21 compensation insurance under Title 5, Labor Code.

22 Sec. 41.354. OFFENSES INVOLVING MOTOR FUELS TAX. For
23 purposes of this subchapter, an offense involving motor fuels tax
24 means a felony offense under Section 162.403, Tax Code.

25 Sec. 41.355. AUTHORITY OF TEXAS PUBLIC INTEGRITY UNIT. (a)
26 The unit may prosecute a person in any district or county court of
27 appropriate jurisdiction for an offense against public

1 administration, an offense involving insurance fraud, or an offense
2 involving motor fuels tax.

3 (b) The unit must assert the right to prosecute under this
4 section to the prosecuting attorney serving the county in which the
5 offense could be prosecuted. If the unit asserts the right under
6 this section:

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

10 (2) the prosecuting attorney serving a county in which
11 the offense could be prosecuted may not prosecute the same person
12 for the same act, but on request of the unit shall assist in the
13 prosecution.

14 (c) The unit may represent the state in the appeal of a
15 decision of the Texas Ethics Commission under Section [571.133](#).

16 Sec. 41.356. PUBLIC INTEGRITY UNIT COMMITTEE. (a) The unit
17 is under the supervision of the public integrity unit committee.

18 (b) The committee consists of the presiding judges of each
19 administrative judicial region, who shall have the authority to
20 organize, elect officers, and make such rules as may be necessary
21 for the proper administration of the unit.

22 (c) The committee shall hold regular quarterly meetings on
23 dates set by the committee and special meetings at the call of the
24 presiding officer of the committee.

25 Sec. 41.357. UNIT DIRECTOR; FISCAL OFFICER. (a) After
26 complying with the requirements of Subsection (e), the committee
27 shall appoint a unit director who must meet, at a minimum, the

1 eligibility requirements for prosecutors established under Section
2 41.358.

3 (b) The unit director shall perform or delegate the
4 responsibility for performing the following duties:

5 (1) preparing annually or biennially a budget for the
6 unit;

7 (2) negotiating and entering into contracts on behalf
8 of the unit;

9 (3) establishing policies and procedures for all
10 functions of the unit;

11 (4) developing personnel policies and procedures,
12 including disciplinary proceedings; and

13 (5) establishing procedures and practices through
14 which the unit will address an employment-related grievance.

15 (c) The unit director shall employ a sufficient number of
16 prosecutors and other employees to conduct investigations and
17 prosecutions. A person employed under this subsection is an
18 employee of the unit and not of the committee, the judges on the
19 committee, or any judicial district.

20 (d) The director of the unit, on the approval of the
21 committee, may appoint for the unit a fiscal officer. The fiscal
22 officer is responsible for:

23 (1) managing and protecting funds, fees, state aid,
24 and receipts to the same extent that a county auditor manages county
25 funds and funds of other local entities;

26 (2) ensuring that financial transactions of the unit
27 are lawful and allowable; and

1 (3) prescribing accounting procedures for the unit.

2 (e) When there is a vacancy in the position of unit
3 director, the committee shall:

4 (1) publicly advertise the position;

5 (2) post a job description, the qualifications for the
6 position, and the application requirements;

7 (3) conduct a competitive hiring process and adhere to
8 state and federal equal employment opportunity laws; and

9 (4) review applicants who meet the posted
10 qualifications and comply with the application requirements.

11 Sec. 41.358. STANDARDS FOR PROSECUTORS. (a) A prosecutor
12 appointed by the unit director must comply with a code of ethics
13 developed by the committee.

14 (b) To be eligible for appointment as a prosecutor, a person
15 must be a resident of this state and be licensed to practice law in
16 this state.

17 (c) A prosecutor employed by the unit may not engage in the
18 private practice of law.

19 Sec. 41.359. AUTHORIZATION TO CARRY WEAPON. A prosecutor
20 employed by the unit director is authorized to carry a weapon while
21 engaged in the actual discharge of the prosecutor's duties only if:

22 (1) the prosecutor possesses a license to carry a
23 concealed handgun issued under Subchapter H, Chapter 411; and

24 (2) the unit director agrees to the authorization.

25 Sec. 41.360. IMMUNITY FROM LIABILITY. (a) A member of the
26 committee, the unit director, or a prosecutor employed by the
27 director is not liable for damages arising from an act or omission

1 committed while performing the person's duties.

2 (b) This section does not apply if the act or omission is:

3 (1) reckless or intentional;

4 (2) done wilfully, wantonly, or with gross negligence;

5 or

6 (3) done with conscious indifference or reckless
7 disregard for the safety of others.

8 Sec. 41.361. COOPERATION OF STATE AGENCIES AND LOCAL LAW
9 ENFORCEMENT AGENCIES. (a) To the extent allowed by law, a state
10 agency or local law enforcement agency shall cooperate with the
11 unit by providing information requested by the unit as necessary to
12 carry out the purposes of this subchapter.

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

15 Sec. 41.362. VENUE. Notwithstanding other law, venue for
16 prosecution of an offense involving insurance fraud or an offense
17 involving motor fuels tax is in the county in which the offense is
18 committed.

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

21 (b) If the president of the senate or speaker receives a
22 report or statement of facts as provided by Subsection (a), the
23 president of the senate or speaker shall certify the statement of
24 facts to the Texas Public Integrity Unit established under
25 Subchapter F, Chapter 41, [~~Travis County district attorney~~] under
26 the seal of the senate or house of representatives, as appropriate.

27 (c) The Texas Public Integrity Unit [~~Travis County district~~

1 ~~attorney~~] shall bring the matter before the grand jury for action.
2 If the grand jury returns an indictment, the public integrity unit
3 [~~district attorney~~] shall prosecute the indictment.

4 SECTION 3. Section 571.133(a), Government Code, is amended
5 to read as follows:

6 (a) To appeal a final decision of the commission, the
7 respondent or the respondent's agent may file a petition in a
8 district court in [~~Travis County or in~~] the county in which the
9 respondent resides.

10 SECTION 4. Article 20.03, Code of Criminal Procedure, is
11 amended to read as follows:

12 Art. 20.03. ATTORNEY REPRESENTING STATE ENTITLED TO APPEAR.
13 "The attorney representing the State" means the Attorney General,
14 district attorney, criminal district attorney, [~~or~~] county
15 attorney, or prosecutor employed by the director of the Texas
16 Public Integrity Unit established under Subchapter F, Chapter 41,
17 Government Code. The attorney representing the State, is entitled
18 to go before the grand jury and inform them of offenses liable to
19 indictment at any time except when they are discussing the
20 propriety of finding an indictment or voting upon the same.

21 SECTION 5. (a) Not later than March 1, 2016, the public
22 integrity unit committee shall appoint the director of the Texas
23 Public Integrity Unit under Subchapter F, Chapter 41, Government
24 Code, as added by this Act.

25 (b) Subchapter F, Chapter 41, Government Code, as added by
26 this Act, applies only to the prosecution of an offense against
27 public administration committed on or after April 1, 2016. For

1 purposes of this section, an offense is committed before April 1,
2 2016, if any element of the offense occurs before that date.

3 (c) The prosecution of an offense committed before April 1,
4 2016, is covered by the law in effect when the offense was
5 committed, and the former law is continued in effect for that
6 purpose, except that a county attorney, district attorney, or
7 criminal district attorney may, on the request of the Texas Public
8 Integrity Unit established under Subchapter F, Chapter 41,
9 Government Code, as added by this Act, permit the Texas Public
10 Integrity Unit to assume the prosecution of such an offense.

11 SECTION 6. This Act takes effect January 1, 2016.