

## **BILL ANALYSIS**

S.B. 548  
By: Birdwell  
State Affairs  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

There have been calls to revise and clarify statutes relating to certain Texas Ethics Commission (TEC) procedures to provide more specific legislative guidance and to ensure a due process standard for those against whom a complaint is filed. S.B. 548 seeks to do so by revising certain deadlines for the issuance of TEC advisory opinions, providing for the correction of certain documentary errors without incurring late filing penalties, and revising certain complaint procedures.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 548 amends the Government Code to exempt a statement, registration, or report relating to certain penalties imposed as a result of Texas Ethics Commission (TEC) complaints procedures and certain special reports required to be filed near the time of an election by a candidate for office, a specific-purpose committee or a general-purpose committee, as applicable, from an applicable civil penalty for late filing if the originally filed document contains an error or omission made in good faith that is corrected or amended according to the method and within the time prescribed by law. The bill requires the TEC to dismiss a complaint at any stage of a complaint proceeding to the extent the complaint alleges a statement, registration, or report violates a law or rule if, before the TEC accepts jurisdiction over the complaint, the respondent has filed a corrected or amended statement, registration, or report that remedies the alleged violation.

S.B. 548 establishes as a defense to prosecution or to imposition of a civil penalty for the violation of a law that the person requested a written advisory opinion from the TEC relating to the application of that law to a specified existing fact situation involving the person that is the same or substantially similar to the fact situation that forms the basis of the alleged violation, and the TEC did not issue the opinion within the time prescribed by statute. The bill limits this defense to acts giving rise to a potential violation of law occurring in the period beginning on the date the deadline for TEC issuance of an advisory opinion expires and ending on the date the TEC issues the opinion.

S.B. 548 authorizes a respondent to request in the same manner authorized for a complainant that the TEC review a determination by the executive director of the TEC that the TEC does not have jurisdiction over the violation alleged in a complaint.

S.B. 548 revises provisions relating to preliminary review of a complaint by the TEC by making the following changes:

- removing requirements for the TEC to set a matter that is not resolved by agreement between the TEC and the respondent within a specified period after the date the respondent receives a notice of the filing of the complaint for a preliminary review hearing to be held at the next TEC meeting for which notice has not yet been posted;
- removing certain notice requirements relating to a preliminary review hearing;
- requiring the TEC, not later than the 120th day after the later of the date the TEC receives a respondent's response to notice of a complaint or receives the respondent's response to written discovery questions, if applicable, to propose an agreement to the respondent to settle the complaint without holding a preliminary hearing or to dismiss the complaint;
- tolling the deadline for the TEC to take those actions for the duration of any litigation brought by the respondent or the TEC regarding the complaint at issue;
- requiring a matter in which a respondent rejects the proposed settlement to be set for a preliminary review hearing at the next TEC meeting for which notice has not yet been posted; and
- requiring the TEC, if a complaint is dismissed, to deny jurisdiction over any subsequent complaint against the respondent that alleges the respondent violated the same statutes or rules based on the same facts alleged in the dismissed complaint.

The bill authorizes counsel for a respondent to subpoena a witness to a preliminary review hearing or a formal hearing in the same manner as an attorney may issue a subpoena in a proceeding in a county or district court.

S.B. 548 repeals Section 571.1242(e), Government Code.

**EFFECTIVE DATE**

September 1, 2019.