86R10604 BRG-D

By:  Hall S.B. No. 1618

A BILL TO BE ENTITLED

AN ACT

relating to procedures for complaints received by the Texas Ethics Commission.

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

SECTION 1.  Section 571.025, Government Code, is amended to read as follows:

Sec. 571.025.  MEETINGS. The commission shall meet at least once each calendar quarter and at other times:

(1)  at the call of the presiding officer; or

(2)  as necessary to take an action required during a proceeding under Subchapter E within the time prescribed by that subchapter.

SECTION 2.  Section 571.124(e), Government Code, is amended to read as follows:

(e)  If the executive director determines that the commission has jurisdiction, the notice under Section 571.123(b) must include:

(1)  a statement that the commission has jurisdiction over the violation of law alleged in the complaint;

(2)  [~~a statement of whether the complaint will be processed as a Category One violation or a Category Two violation, subject to reconsideration as provided for by Section 571.1212;~~

[~~(3)~~]  the date by which the respondent is required to respond to the notice;

(3) [~~(4)~~]  a copy of the complaint and the rules of procedure of the commission;

(4) [~~(5)~~]  a statement of the rights of the respondent;

(5) [~~(6)~~]  a statement inviting the respondent to provide to the commission any information relevant to the complaint; and

(6) [~~(7)~~]  a statement that a failure to timely respond to the notice will be treated as a separate violation.

SECTION 3.  Section 571.1242, Government Code, is amended by amending Subsections (a) and (d) and adding Subsections (a-1), (b-1), and (b-2) to read as follows:

(a)  The [~~If the alleged violation is a Category One violation:~~

[~~(1)  the~~] respondent must respond to the notice required by Section 571.123(b) not later than the 10th business day after the date the respondent receives the notice.

(a-1)  A [~~; and~~

[~~(2)  if the~~] matter that is not resolved by agreement between the commission and the respondent [~~before the 30th business day after the date the respondent receives the notice under Section 571.123(b), the commission~~] shall be set [~~the matter~~] for a preliminary review hearing to be held at the next commission meeting for which notice has not yet been posted.

(b-1)  Not later than the 30th business day after the date the commission receives a response under Subsection (a), the commission shall send notice of the commission's decision:

(1)  to dismiss the complaint; or

(2)  to hold a preliminary hearing and the date of the hearing.

(b-2)  A notice under Subsection (b-1) may not set a preliminary hearing date later than the 30th business day after the date that the commission sends the notice to the respondent. On request of the respondent, the commission may delay the hearing date up to 60 business days after the date provided in the notice.

(d)  The response required by Subsection (a) [~~or (b)~~] must include any challenge the respondent seeks to raise to the commission's exercise of jurisdiction. In addition, the respondent may:

(1)  acknowledge the occurrence or commission of a violation;

(2)  deny the allegations contained in the complaint and provide evidence supporting the denial; or

(3)  agree to enter into an assurance of voluntary compliance or other agreed order, which may include an agreement to immediately cease and desist.

SECTION 4.  Section 571.126, Government Code, is amended by amending Subsections (b), (c), and (d) and adding Subsection (e) to read as follows:

(b)  If the commission determines that there is credible evidence for the commission to determine that a violation has occurred, the commission shall resolve and settle the complaint or motion to the extent possible. If the commission successfully resolves and settles the complaint or motion, not later than the 10th [~~fifth~~] business day after the date of the final resolution of the complaint or motion, the commission shall send to the complainant, if any, and the respondent a copy of the decision stating the commission's determination and written notice of the resolution and the terms of the resolution. If the commission is unsuccessful in resolving and settling the complaint or motion, the commission shall:

(1)  order a formal hearing to be held in accordance with Sections 571.129 through 571.132; and

(2)  not later than the 10th [~~fifth~~] business day after the date of the decision, send to the complainant, if any, and the respondent:

(A)  a copy of the decision;

(B)  written notice of the date, time, and place of the formal hearing;

(C)  a statement of the nature of the alleged violation;

(D)  a description of the evidence of the alleged violation;

(E)  a copy of the complaint or motion;

(F)  a copy of the commission's rules of procedure; and

(G)  a statement of the rights of the respondent.

(c)  If the commission determines that there is credible evidence for the commission to determine that a violation within the jurisdiction of the commission has not occurred, the commission shall:

(1)  dismiss the complaint or motion; and

(2)  not later than the 10th [~~fifth~~] business day after the date of the dismissal, send to the complainant, if any, and the respondent a copy of the decision stating the commission's determination and written notice of the dismissal and the grounds for dismissal.

(d)  If the commission determines that there is insufficient credible evidence for the commission to determine that a violation within the jurisdiction of the commission has occurred, the commission may dismiss the complaint or motion or promptly conduct a formal hearing under Sections 571.129 through 571.132. Not later than the 10th [~~fifth~~] business day after the date of the commission's determination under this subsection, the commission shall send to the complainant, if any, and the respondent a copy of the decision stating the commission's determination and written notice of the grounds for the determination.

(e)  A notice under Subsection (b) or (d) may not set a formal hearing date later than the 30th business day after the date that the commission sends the notice to the respondent. On request of the respondent, the commission may delay the hearing date up to 60 business days after the date provided in the notice.

SECTION 5.  Section 571.132(a), Government Code, is amended to read as follows:

(a)  Not later than the 25th [~~30th~~] business day after the date the State Office of Administrative Hearings issues a proposal for decision, the commission shall convene a meeting and by motion shall issue:

(1)  a final decision stating the resolution of the formal hearing; and

(2)  a written report stating in detail the commission's findings of fact, conclusions of law, and recommendation of criminal referral or imposition of a civil penalty, if any.

SECTION 6.  Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.143 to read as follows:

Sec. 571.143.  LIABILITY FOR COSTS OF FRIVOLOUS COMPLAINTS. The commission is liable for the respondent's reasonable and necessary attorney's fees and other costs incurred in defending against the complaint if, after a formal hearing, the commission determines that the complaint was frivolous.

SECTION 7.  The following sections of the Government Code are repealed:

(1)  Sections 571.1211(2) and (3);

(2)  Section 571.1212; and

(3)  Sections 571.1242(b) and (c).

SECTION 8.  This Act takes effect September 1, 2019.