

1-1 By: Birdwell, et al. S.B. No. 548  
 1-2 (In the Senate - Filed January 31, 2019; February 21, 2019,  
 1-3 read first time and referred to Committee on State Affairs;  
 1-4 March 19, 2019, reported favorably by the following vote: Yeas 9,  
 1-5 Nays 0; March 19, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to complaints filed with and certain other filings  
 1-20 submitted to the Texas Ethics Commission.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 571.0771(b), Government Code, is amended  
 1-23 to read as follows:

1-24 (b) Subsection (a) does not apply to:

1-25 (1) a penalty imposed under Section 571.069 or  
 1-26 Subchapter ~~[E or]~~ F; or

1-27 (2) a report required to be filed under Section  
 1-28 ~~[254.038, 254.039]~~ 254.064(c), 254.124(c), or 254.154(c),  
 1-29 Election Code.

1-30 SECTION 2. Section 571.097, Government Code, is amended to  
 1-31 read as follows:

1-32 Sec. 571.097. DEFENSES: ~~[DEFENSE FOR]~~ RELIANCE ON ADVISORY  
 1-33 OPINION; COMMISSION'S FAILURE TO ISSUE OPINION. (a) It is a  
 1-34 defense to prosecution or to imposition of a civil penalty that the  
 1-35 person reasonably relied on a written advisory opinion of the  
 1-36 commission relating to the provision of the law the person is  
 1-37 alleged to have violated or relating to a fact situation that is  
 1-38 substantially similar to the fact situation in which the person is  
 1-39 involved.

1-40 (b) It is a defense to prosecution or to imposition of a  
 1-41 civil penalty for the violation of a law that:

1-42 (1) the person requested a written advisory opinion  
 1-43 from the commission relating to the application of that law to a  
 1-44 specified existing fact situation involving the person that is the  
 1-45 same fact situation or substantially similar to the fact situation  
 1-46 that forms the basis of the alleged violation; and

1-47 (2) the commission did not issue the opinion within  
 1-48 the time prescribed by Section 571.092.

1-49 (c) The defense to prosecution or imposition of a civil  
 1-50 penalty under Subsection (b) applies only to acts giving rise to a  
 1-51 potential violation of law occurring in the period beginning on the  
 1-52 date the time prescribed by Section 571.092 expires and ending on  
 1-53 the date the commission issues the requested opinion.

1-54 SECTION 3. Section 571.1212, Government Code, is amended to  
 1-55 read as follows:

1-56 Sec. 571.1212. CATEGORIZATION OF VIOLATIONS. An allegation  
 1-57 of a violation listed as a Category One violation shall be treated  
 1-58 as a Category Two violation if the executive director at any time  
 1-59 determines that:

1-60 (1) the allegation arises out of the same set of facts  
 1-61 as those that give rise to an allegation of a Category Two

2-1 violation, and the interests of justice or efficiency require  
2-2 resolution of the allegations together; or

2-3 (2) the facts and law related to a particular  
2-4 allegation or a defense to the allegation present a level of  
2-5 complexity that prevents resolution through the preliminary review  
2-6 procedures for Category One violations prescribed by Section  
2-7 571.1242 [~~571.1242(a)~~].

2-8 SECTION 4. Subchapter E, Chapter 571, Government Code, is  
2-9 amended by adding Section 571.1223 to read as follows:

2-10 Sec. 571.1223. DISMISSAL OF COMPLAINT FOLLOWING CORRECTED  
2-11 OR AMENDED STATEMENT, REGISTRATION, OR REPORT. At any stage of a  
2-12 proceeding under this subchapter, the commission shall dismiss a  
2-13 complaint to the extent the complaint alleges a statement,  
2-14 registration, or report violates a law or rule if:

2-15 (1) the respondent has filed a corrected or amended  
2-16 statement, registration, or report before the commission accepts  
2-17 jurisdiction over the complaint; and

2-18 (2) the corrected or amended statement, registration,  
2-19 or report remedies the alleged violation.

2-20 SECTION 5. The heading to Section 571.1241, Government  
2-21 Code, is amended to read as follows:

2-22 Sec. 571.1241. REVIEW OF EXECUTIVE DIRECTOR'S  
2-23 DETERMINATION OF [NO] JURISDICTION.

2-24 SECTION 6. Section 571.1241(a), Government Code, is amended  
2-25 to read as follows:

2-26 (a) If the executive director determines that the  
2-27 commission does not have jurisdiction over the violation alleged in  
2-28 the complaint, the complainant or respondent may request that the  
2-29 commission review the determination. A request for review under  
2-30 this section must be filed not later than the 30th day after the  
2-31 date the complainant or respondent receives the executive  
2-32 director's determination.

2-33 SECTION 7. The heading to Section 571.1242, Government  
2-34 Code, is amended to read as follows:

2-35 Sec. 571.1242. PRELIMINARY REVIEW[~~;~~ ~~RESPONSE BY~~  
2-36 RESPONDENT].

2-37 SECTION 8. Sections 571.1242(a), (b), and (c), Government  
2-38 Code, are amended to read as follows:

2-39 (a) If the alleged violation is a Category One violation, [~~+~~  
2-40 [~~(1)~~] the respondent must respond to the notice  
2-41 required by Section 571.123(b) not later than the 10th business day  
2-42 after the date the respondent receives the notice[~~, and~~

2-43 [~~(2) if the matter is not resolved by agreement~~  
2-44 ~~between the commission and the respondent before the 30th business~~  
2-45 ~~day after the date the respondent receives the notice under Section~~  
2-46 ~~571.123(b), the commission shall set the matter for a preliminary~~  
2-47 ~~review hearing to be held at the next commission meeting for which~~  
2-48 ~~notice has not yet been posted].~~

2-49 (b) If the alleged violation is a Category Two violation, [~~+~~  
2-50 [~~(1)~~] the respondent must respond to the notice  
2-51 required by Section 571.123(b) not later than the 25th business day  
2-52 after the date the respondent receives the notice under Section  
2-53 571.123(b) [~~, and~~

2-54 [~~(2) if the matter is not resolved by agreement~~  
2-55 ~~between the commission and the respondent before the 75th business~~  
2-56 ~~day after the date the respondent receives the notice under Section~~  
2-57 ~~571.123(b), the commission shall set the matter for a preliminary~~  
2-58 ~~review hearing to be held at the next commission meeting for which~~  
2-59 ~~notice has not yet been posted].~~

2-60 (c) A respondent's failure to timely respond as required by  
2-61 Subsection (a) [~~(a)(1)~~] or (b) [~~(b)(1)~~] is a Category One  
2-62 violation.

2-63 SECTION 9. Section 571.1243, Government Code, is  
2-64 redesignated as Section 571.1242(f), Government Code, and amended  
2-65 to read as follows:

2-66 (f) [~~Sec. 571.1243. PRELIMINARY REVIEW: WRITTEN~~  
2-67 ~~QUESTIONS.~~] During a preliminary review, the commission staff may  
2-68 submit to the complainant or respondent written questions  
2-69 reasonably intended to lead to the discovery of matters relevant to

3-1 the investigation.

3-2 SECTION 10. Section 571.1242, Government Code, is amended  
3-3 by adding Subsections (g), (h), (i), and (j) to read as follows:

3-4 (g) Not later than the 120th day after the later of the date  
3-5 the commission receives a respondent's response to notice as  
3-6 required by Subsection (a) or (b) or the respondent's response to  
3-7 written questions as required by Subsection (f), the commission  
3-8 shall:

3-9 (1) propose an agreement to the respondent to settle  
3-10 the complaint without holding a preliminary hearing; or

3-11 (2) dismiss the complaint.

3-12 (h) The deadline under Subsection (g) is tolled for the  
3-13 duration of any litigation brought by the respondent or the  
3-14 commission regarding the complaint at issue.

3-15 (i) If a respondent rejects a proposed settlement under  
3-16 Subsection (g), the matter shall be set for a preliminary review  
3-17 hearing at the next commission meeting for which notice has not yet  
3-18 been posted.

3-19 (j) If a complaint is dismissed under Subsection (g), the  
3-20 commission shall deny jurisdiction over any subsequent complaint  
3-21 against the respondent that alleges the respondent violated the  
3-22 same statutes or rules based on the same facts alleged in the  
3-23 dismissed complaint.

3-24 SECTION 11. Section 571.125, Government Code, is amended by  
3-25 adding Subsection (f) to read as follows:

3-26 (f) Counsel for the respondent may subpoena a witness to a  
3-27 preliminary review hearing in the same manner as an attorney may  
3-28 issue a subpoena in a proceeding in a county or district court.

3-29 SECTION 12. Section 571.130, Government Code, is amended by  
3-30 adding Subsection (f) to read as follows:

3-31 (f) Counsel for the respondent may subpoena a witness to a  
3-32 formal hearing in the same manner as an attorney may issue a  
3-33 subpoena in a proceeding in a county or district court.

3-34 SECTION 13. Section 571.1242(e), Government Code, is  
3-35 repealed.

3-36 SECTION 14. The changes in law made by this Act to Chapter  
3-37 571, Government Code, apply only to a complaint filed under that  
3-38 chapter on or after the effective date of this Act. A complaint  
3-39 filed before the effective date of this Act is governed by the law  
3-40 in effect when the complaint was filed, and the former law is  
3-41 continued in effect for that purpose.

3-42 SECTION 15. This Act takes effect September 1, 2019.

3-43 \* \* \* \* \*