

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;

1 (3) [~~(4)~~] a copy of the complaint and the rules of
2 procedure of the commission;

3 (4) [~~(5)~~] a statement of the rights of the respondent;

4 (5) [~~(6)~~] a statement inviting the respondent to
5 provide to the commission any information relevant to the
6 complaint; and

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

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

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

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

17 (a-1) A [~~, and~~

18 [~~(2) if the~~] matter that is not resolved by agreement
19 between the commission and the respondent [~~before the 30th business~~
20 ~~day after the date the respondent receives the notice under Section~~
21 [571.123](#)(b), ~~the commission~~] shall be set [~~the matter~~] for a
22 preliminary review hearing to be held at the next commission
23 meeting for which notice has not yet been posted.

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

27 (1) to dismiss the complaint; or

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

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

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

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

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

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

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

22 (b) If the commission determines that there is credible
23 evidence for the commission to determine that a violation has
24 occurred, the commission shall resolve and settle the complaint or
25 motion to the extent possible. If the commission successfully
26 resolves and settles the complaint or motion, not later than the
27 10th [~~fifth~~] business day after the date of the final resolution of

1 the complaint or motion, the commission shall send to the
2 complainant, if any, and the respondent a copy of the decision
3 stating the commission's determination and written notice of the
4 resolution and the terms of the resolution. If the commission is
5 unsuccessful in resolving and settling the complaint or motion, the
6 commission shall:

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

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

12 (A) a copy of the decision;

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

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

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

19 (E) a copy of the complaint or motion;

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

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

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

27 (1) dismiss the complaint or motion; and

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

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

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

21 SECTION 5. Section [571.132](#)(a), Government Code, is amended
22 to read as follows:

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

27 (1) a final decision stating the resolution of the

1 formal hearing; and

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

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

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

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

- 15 (1) Sections 571.1211(2) and (3);
16 (2) Section 571.1212; and
17 (3) Sections 571.1242(b) and (c).

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