

SENATE AMENDMENTS

2nd Printing

By: Jetton

H.B. No. 4344

A BILL TO BE ENTITLED

AN ACT

relating to the dismissal of a complaint filed with the State
Commission on Judicial Conduct.

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

SECTION 1. Subchapter B, Chapter 33, Government Code, is
amended by adding Section 33.0331 to read as follows:

Sec. 33.0331. DISMISSAL OF COMPLAINT. (a) Subject to
Subsection (b), the commission shall dismiss each complaint filed
with the commission that the commission has not formally dismissed
or for which the commission has not imposed sanctions or instituted
proceedings on or before the first Monday following the 365th day
after the date the commission receives the complaint.

(b) The chairperson may determine on the executive
director's recommendation that extenuating circumstances require
additional time not to exceed 120 days for disposal of a complaint
that is subject to dismissal under Subsection (a).

SECTION 2. Section 33.0331, Government Code, as added by
this Act, applies only to a complaint filed with the State
Commission on Judicial Conduct on or after the effective date of
this Act.

SECTION 3. This Act takes effect September 1, 2021.

ADOPTED

MAY 25 2021

By: Zaffirini

H.B. No. 4344

Substitute the following for Lutes Law
S. B. of the Senate:

By: J. J. Henry

C.S. .B. No.

A BILL TO BE ENTITLED

AN ACT

relating to a complaint filed with the State Commission on Judicial Conduct.

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

SECTION 1. Section 33.0211, Government Code, is amended by adding Subsection (c) to read as follows:

(c) For each complaint filed with the commission under this chapter, each member of the commission must be:

(1) notified of the complaint; and

(2) briefed and provided detailed information about the complaint.

SECTION 2. Subchapter B, Chapter 33, Government Code, is amended by adding Sections 33.0212, 33.0213, 33.040, and 33.041 to read as follows:

Sec. 33.0212. REPORT AND RECOMMENDATIONS ON FILED COMPLAINTS. (a) Not later than the 120th day after the date a complaint is filed with the commission, commission staff shall prepare and file with each member of the commission a report detailing the investigation of the complaint and recommendations for commission action regarding the complaint.

(b) Not later than the 90th day following the date commission staff files with the commission the report required by Subsection (a), the commission shall determine any action to be taken regarding the complaint, including:

1 (1) a public sanction;

2 (2) a private sanction;

3 (3) a suspension;

4 (4) an order of education;

5 (5) an acceptance of resignation in lieu of
6 discipline;

7 (6) a dismissal; or

8 (7) an initiation of formal proceedings.

9 (c) If, because of extenuating circumstances, commission
10 staff is unable to provide an investigation report and
11 recommendation to the commission before the 120th day following the
12 date the complaint was filed with the commission, the staff shall
13 notify the commission and propose the number of days required for
14 the commission and commission staff to complete the investigation
15 report and recommendations and finalize the complaint. The staff
16 may request an extension of not more than 270 days from the date the
17 complaint was filed with the commission. The commission shall
18 finalize the complaint not later than the 270th day following the
19 date the complaint was filed with the commission.

20 (d) The executive director may request that the chairperson
21 grant an additional 120 days to the time provided under Subsection
22 (c) for the commission and commission staff to complete the
23 investigation report and recommendations and finalize the
24 complaint.

25 (e) If the chairperson grants additional time under
26 Subsection (d), the commission must timely inform the legislature
27 of the extension. The commission may not disclose to the

1 legislature any confidential information regarding the complaint.

2 Sec. 33.0213. NOTIFICATION OF LAW ENFORCEMENT AGENCY
3 INVESTIGATION. On notice by any law enforcement agency
4 investigating an action for which a complaint has been filed with
5 the commission, the commission may place the commission's complaint
6 file on hold and decline any further investigation that would
7 jeopardize the law enforcement agency's investigation. The
8 commission may continue an investigation that would not jeopardize
9 a law enforcement investigation.

10 Sec. 33.040. ANNUAL REPORT. Not later than September 1 of
11 each year, the commission shall prepare and submit to the
12 legislature a report of:

13 (1) the total number of complaints the commission
14 failed to finalize not later than the 270th day following the date
15 the complaint was filed with the commission; and

16 (2) the total number of complaints included in
17 Subdivision (1) that the commission declined to further
18 investigate because of a law enforcement agency investigation.

19 Sec. 33.041. LEGISLATIVE REPORT. (a) The commission shall
20 prepare a report for the 88th Legislature regarding any statutory
21 changes that would improve the commission's effectiveness,
22 efficiency, and transparency in filing, investigating, and
23 processing any complaint filed with the commission.

24 (b) This section expires September 1, 2023.

25 SECTION 3. Section 33.0212, Government Code, as added by
26 this Act, applies only to a complaint filed with the State
27 Commission on Judicial Conduct on or after the effective date of

1 this Act.

2 SECTION 4. This Act takes effect September 1, 2022.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 27, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4344 by Jetton (Relating to a complaint filed with the State Commission on Judicial Conduct.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4344, As Passed 2nd House : a negative impact of (\$403,960) through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2022	(\$201,980)
2023	(\$201,980)
2024	(\$201,980)
2025	(\$201,980)
2026	(\$201,980)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2021
2022	(\$201,980)	2.0
2023	(\$201,980)	2.0
2024	(\$201,980)	2.0
2025	(\$201,980)	2.0
2026	(\$201,980)	2.0

Fiscal Analysis

The bill would require the State Commission on Judicial Conduct (SCJC) staff to notify, brief, and provide details regarding each filed complaint to Commission members. The bill would require commission staff to prepare and file with each member of the Commission a report detailing the investigation of the complaint and recommendations for Commission action regarding the complaint within 120 days of a complaint being filed. The bill would require the Commission to determine any action to be taken regarding the complaint within 90 days of the commission staff filing the report.

The bill would provide that the staff may request an extension of not more than 270 days from the date the

complaint was filed with the agency if extenuating circumstances prevent them from providing an investigation report and recommendation to the Commission before the 120th day following the date the complaint was filed.

The bill would provide that the executive director may request that the chairperson grant an additional 120 days beyond the 270 for the Commission and commission staff to complete the investigation report and recommendations and finalize the complaint. If the chairperson were to grant additional time, the bill would require SCJC to timely inform the legislature of the extension without disclosing any confidential information about the complaint.

The bill would provide that, on notice by any law enforcement agency investigating an action for which a complaint has been filed with SCJC, SCJC may place the complaint file on hold and decline any further investigation that would jeopardize the law enforcement agency's investigation. Under the bill's provisions, SCJC may continue an investigation that would not jeopardize a law enforcement investigation.

The bill would require that, not later than September 1 of each year, the commission staff to prepare and submit to the legislature a report of the total number of complaints SCJC failed to finalize not later than the 270th day following the date the complaint was filed with the agency and the total number of those complaints that the agency declined to further investigate because of a law enforcement agency investigation.

The bill would also require SCJC to prepare a report for the 88th Legislature regarding any statutory changes that would improve the commission's effectiveness, efficiency, and transparency in filing, investigating, and processing any complaint filed with the commission.

The bill would take effect September 1, 2022 and would apply only to complaints filed with SCJC on or after the bill's effective date.

Methodology

Costs reflected in the table above are based on information provided by SCJC.

According to SCJC, the agency does not currently have the responsibility of creating and presenting reports to the Commission. To implement the bill's provisions, agency staff would be required to track cases that are filed on a weekly, or in some cases daily, basis and thereafter timely transfer the cases to the appropriate legal staff member to conduct a preliminary investigation within the 120 day deadline in order to make a recommendation to the Commission.

Based on information provided by SCJC, it is assumed that 2.0 additional staff attorneys would be needed to implement the bill's provisions. Salary costs for these positions would total \$150,000 each year of the 2022-23 biennium and in subsequent years. Operating and payroll related benefit costs would total \$52,355 each year of the 2022-23 biennium and in subsequent years.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 242 Comm On Judicial Conduct

LBB Staff: JMc, SD, SLE, MW, BH

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 24, 2021

TO: Honorable Joan Huffman, Chair, Senate Committee on Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4344 by Jetton (relating to a complaint filed with the State Commission on Judicial Conduct.),
Committee Report 2nd House, Substituted

Estimated Two-year Net Impact to General Revenue Related Funds for HB4344, Committee Report 2nd House, Substituted : a negative impact of (\$403,960) through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

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<i>Fiscal Year</i>	Probable Savings/(Cost) from General Revenue Fund 1	<i>Change in Number of State Employees from FY 2021</i>
2022	(\$201,980)	2.0
2023	(\$201,980)	2.0
2024	(\$201,980)	2.0
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2026	(\$201,980)	2.0

Fiscal Analysis

The bill would require the State Commission on Judicial Conduct (SCJC) staff to notify, brief, and provide details regarding each filed complaint to Commission members. The bill would require commission staff to prepare and file with each member of the Commission a report detailing the investigation of the complaint and recommendations for Commission action regarding the complaint within 120 days of a complaint being filed. The bill would require the Commission to determine any action to be taken regarding the complaint within 90 days of the commission staff filing the report.

The bill would provide that the staff may request an extension of not more than 270 days from the date the

complaint was filed with the agency if extenuating circumstances prevent them from providing an investigation report and recommendation to the Commission before the 120th day following the date the complaint was filed.

The bill would provide that the executive director may request that the chairperson grant an additional 120 days beyond the 270 for the Commission and commission staff to complete the investigation report and recommendations and finalize the complaint. If the chairperson were to grant additional time, the bill would require SCJC to timely inform the legislature of the extension without disclosing any confidential information about the complaint.

The bill would provide that, on notice by any law enforcement agency investigating an action for which a complaint has been filed with SCJC, SCJC may place the complaint file on hold and decline any further investigation that would jeopardize the law enforcement agency's investigation. Under the bill's provisions, SCJC may continue an investigation that would not jeopardize a law enforcement investigation.

The bill would require that, not later than September 1 of each year, the commission staff to prepare and submit to the legislature a report of the total number of complaints SCJC failed to finalize not later than the 270th day following the date the complaint was filed with the agency and the total number of those complaints that the agency declined to further investigate because of a law enforcement agency investigation.

The bill would also require SCJC to prepare a report for the 88th Legislature regarding any statutory changes that would improve the commission's effectiveness, efficiency, and transparency in filing, investigating, and processing any complaint filed with the commission.

The bill would take effect September 1, 2022 and would apply only to complaints filed with SCJC on or after the bill's effective date.

Methodology

Costs reflected in the table above are based on information provided by SCJC.

According to SCJC, the agency does not currently have the responsibility of creating and presenting reports to the Commission. To implement the bill's provisions, agency staff would be required to track cases that are filed on a weekly, or in some cases daily, basis and thereafter timely transfer the cases to the appropriate legal staff member to conduct a preliminary investigation within the 120 day deadline in order to make a recommendation to the Commission.

Based on information provided by SCJC, it is assumed that 2.0 additional staff attorneys would be needed to implement the bill's provisions. Salary costs for these positions would total \$150,000 each year of the 2022-23 biennium and in subsequent years. Operating and payroll related benefit costs would total \$52,355 each year of the 2022-23 biennium and in subsequent years.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 242 Comm On Judicial Conduct

LBB Staff: JMc, SLE, MW, BH

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 10, 2021

TO: Honorable Joan Huffman, Chair, Senate Committee on Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4344 by Jetton (Relating to the dismissal of a complaint filed with the State Commission on Judicial Conduct.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code to require the State Commission on Judicial Conduct (SCJC) to dismiss a complaint on the first Monday after 365 days from the date the complaint was received by the Commission, unless the Commission has commenced an informal hearing or initiation formal proceedings related to a complaint. In addition, the bill would allow the executive director to recommend and a chairperson to approve an extension of up to 120 days for complaint disposition due to extenuating circumstances.

The bill would take effect September 1, 2021 and apply only to a complaint filed with SCJC on or after the effective date.

Based on information provided by the SCJC, this analysis assumes that duties and responsibilities associated with implementing the provisions of the bill could be accomplished utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 242 Comm On Judicial Conduct

LBB Staff: JMc, SLE, BH, MW

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 10, 2021

TO: Honorable Jeff Leach, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4344 by Jetton (relating to the dismissal of a complaint filed with the State Commission on Judicial Conduct.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code to require the State Commission on Judicial Conduct (SCJC) to dismiss a complaint on the first Monday after 455 days from the date the complaint was received by the Commission, unless the Commission has commenced an informal hearing or initiation formal proceedings related to a complaint. In addition, the bill would allow the executive director to recommend and a chairperson to approve an extension of up to 120 days for complaint disposition due to extenuating circumstances.

The bill would take effect September 1, 2021 and apply only to a complaint filed with SCJC on or after the effective date.

Based on information provided by the SCJC, this analysis assumes that duties and responsibilities associated with implementing the provisions of the bill could be accomplished utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 242 Comm On Judicial Conduct

LBB Staff: JMc, SLE, BH, MW

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 5, 2021

TO: Honorable Jeff Leach, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4344 by Jetton (Relating to the procedures of the State Commission on Judicial Conduct.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code to require the State Commission on Judicial Conduct (SCJC) to dismiss a complaint on the first Monday after 455 days from the date the complaint was received by the Commission, unless the Commission has commenced an informal hearing or initiation formal proceedings related to a complaint. In addition, the bill would allow the executive director to recommend and a chairperson to approve an extension of up to 120 days for complaint disposition due to extenuating circumstances.

Based on information provided by the SCJC, this analysis assumes that duties and responsibilities associated with implementing the provisions of the bill could be accomplished utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 242 Comm On Judicial Conduct

LBB Staff: JMc, SLE, MW, BH