

BILL ANALYSIS

Senate Research Center
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S.B. 612
By: Birdwell; Whitmire
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

On November 5, 1991, Texas voters approved an amendment that added a new provision, Article III, Section 24a, to the Texas Constitution. The constitutional amendment created the Texas Ethics Commission (TEC). The Texas Constitution provides that the TEC may recommend the salary of members of the legislature, the lieutenant governor, and the speaker of the house of representatives, subject to approval by the voters at the subsequent general election for state and county officers. Also, the commission must set the per diem of members of the legislature and of the lieutenant governor. The legislature is to determine the other powers and duties of the commission.

S.B. 612 seeks to implement several necessary reforms at the TEC. The legislature determines the powers and duties of the TEC, and the intent of S.B. 612 is to provide the TEC with clear direction on how to carry out these duties and to help ensure elected officials and political action committees are in compliance with the laws passed by the legislature, as well as providing a due process standard to protect those against whom a complaint is filed.

PROVISIONS

Filing Errors: Allows for a statement, registration, or report to be corrected or amended within a 14-day period without a late filing penalty regardless of whether the filer or another person has filed a sworn complaint pertaining to the statement.

Jurisdiction: Requires TEC, rather than the executive director, to decide on jurisdiction.

Allows for either the respondent or the complainant to, within 30 days, file a challenge to the jurisdiction of TEC which must be ruled on by TEC within 30 days.

Respondent Ability to Subpoena: Allows respondent, through counsel and in accordance with the rules of civil procedure, to subpoena witnesses to appear at a preliminary review hearing.

Allows respondent, through counsel and in accordance with the Texas Rules of Civil Procedure, to subpoena witnesses to appear at a formal hearing.

Speedy Trial: Requires TEC to finally adjudicate a complaint processed as a category 1 violation within 12 months and a complaint processed as a category 2 violation within 18 months.

As proposed, S.B. 612 amends current law relating to complaints filed with the Texas Ethics Commission.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 571.0771, Government Code, by adding Subsection (d), to provide that Subsection (a) applies to a statement filed under Chapter 572 (Personal Financial

Disclosure, Standards of Conduct, and Conflict of Interest) regardless of whether another person has filed a sworn complaint pertaining to the statement.

SECTION 2. Amends Sections 571.124(c), (e), and (f), Government Code, as follows:

(c) Requires the Texas Ethics Commission (TEC), rather than the executive director, to determine in writing whether TEC has jurisdiction over the violation of law alleged in a sworn complaint processed under Section 571.123

(e) Requires the notice under Section 571.123(b), if TEC determines that the commission has jurisdiction, to include certain statements and information for the respondent. Makes a conforming change.

(f) Requires that TEC, rather than the executive director, if TEC, rather than the executive director, determines that TEC does not have jurisdiction over the violation alleged in the complaint, to:

(1) dismiss the complaint, and;

(2) not later than the fifth business day after the date of dismissal, send to the complainant and the respondent written notice of the dismissal and the grounds for the dismissal.

SECTION 3. Amends the heading to Section 571.1241, Government Code, to read as follows:

Sec. 571.1241. REVIEW OF DETERMINATION OF NO JURISDICTION.

SECTION 4. Amends Sections 571.1241(a) and (b), Government Code, as follows:

(a) Authorizes the complainant or respondent to request that TEC review TEC's determination under Section 571.124 of whether TEC has jurisdiction over the violation alleged in the complaint, rather than authorizing the complainant to request that TEC review the determination, if the executive director determines that TEC does not have jurisdiction over the violation alleged in the complaint. Provides that a request for review under this section must be filed not later than the 30th day after the date the complainant or respondent, rather than complainant, receives the determination. Requires TEC to review the determination made under Section 571.124 (Preliminary Review: Initiation) and determine whether TEC made the correct determination not later than the 30th day after TEC receives the request for review under this subsection. Makes conforming changes.

(b) Makes conforming changes.

SECTION 5. Amends Section 571.125, Government Code, by adding Subsection (f) to authorize counsel for the respondent to subpoena a witness to a preliminary review hearing in the same manner as an attorney may issue a subpoena in a proceeding in a county or district court.

SECTION 6. Amends Section 571.130, Government Code, by adding Subsection (f) to authorize counsel for the respondent to subpoena a witness to a formal hearing in the same manner as an attorney may issue a subpoena in a proceeding in a county or district court.

SECTION 7. Amends Subchapter E, Chapter 571, Government Code, by adding Section 571.1325, as follows:

Sec. 571.1325. TIME FOR FINAL RESOLUTION OF COMPLAINT. (a) Requires TEC to finally resolve a complaint alleging a Category One violation not later than the first anniversary of the date the complaint is filed.

(b) Requires TEC to finally resolve a complaint alleging a Category Two violation not later than 18 months after the date the complaint is filed.

SECTION 8. Makes application of this Act prospective.

SECTION 9. Effective date: September 1, 2017.