

SUBJECT: Appeal of a final decision by the Texas Ethics Commission

COMMITTEE: Elections — committee substitute recommended

VOTE: 7 ayes — Berman, Bohac, England, Anchia, Burnam, Farias, Howard
0 nays

WITNESSES: For — (*Registered, but did not testify:* John Courage, True Courage Action Network)

Against — None

On — Natalia Luna Ashley, Texas Ethics Commission

BACKGROUND: Under Government Code, sec. 571.133, the Texas Ethics Commission (TEC) is authorized to conduct formal hearings on and decide complaints. A “person” may appeal a final decision of the TEC to a district court in Travis County or in the county where the respondent to a complaint resides. The petition for appeal must be filed not later than 30 business days after the date that a party received the decision.

DIGEST: CSHB 1290 would amend Government Code, sec. 571.133 to specify that the complainant, if any, the respondent, or the party's agent, rather than "a person," could file a petition to appeal a final decision made by the TEC.

The bill would take effect September 1, 2007.

SUPPORTERS SAY: CSHB 1290 would clarify that a complainant, if any, a respondent, or the party's agent, rather than broader designation of "a person," could file an appeal of a final decision of TEC in district court of Travis County or in the county where the respondent resides. The bill would reflect a recommendation found in TEC's "Recommendations for Statutory Changes" dated January 2007. Without clarification, current law could be interpreted that any person could file a petition to appeal, even if the person were not involved in the complaint. This could become a growing concern as the number of complaints increases.

OPPONENTS
SAY:

CSHB 1290 could lead to frivolous appeals of TEC's decisions by opening the appeals process to complainants or their agents. Complainants frequently file charges with TEC, not so much on the merits but as a matter of campaign discord or political harassment. By specifying that complainants could appeal to district court, the bill would make the process more public than necessary and more expensive for respondents. Allowing only respondents to appeal TEC decisions would be a better approach and would allow swift administrative remedies for ethics-related complaints .

NOTES:

The committee substitute would allow a party's agent, in addition to the complainant and respondent, to file a petition to appeal a final TEC decision.