

## **BILL ANALYSIS**

Senate Research Center

H.B. 677  
By: Hartnett (Wentworth)  
State Affairs  
5/21/2009  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In the days preceding an election, a candidate may file a complaint with the Texas Ethics Commission (TEC) alleging wrong-doing by the candidate's opponent. While TEC maintains the confidentiality of the actual facts of the complaint, the complainant is free to comment publicly on the allegations. Complaints, whether real or frivolous, can greatly compromise a candidate's public position, leaving the candidate little opportunity to respond to the allegations.

This bill makes an individual liable for reasonable and necessary attorney's fees and other costs incurred in defending against a complaint filed with TEC within 60 days of an election and reasonable and necessary attorney's fees and costs expended recovering those amounts if TEC determines that a violation has not occurred. In addition, this bill sets out requirements for filing a sworn complaint with TEC.

H.B. 677 relates to violations of laws administered and enforced by TEC and to sworn complaints alleging such violations.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Ethics Commission in SECTION 1 (Section 571.0631, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter C, Chapter 571, Government Code, by adding Section 571.0631, as follows:

Sec. 571.0631. RULES CONCERNING TECHNICAL AND CLERICAL VIOLATIONS. Requires the Texas Ethics Commission (TEC) to adopt rules defining technical and clerical violations of laws within TEC's jurisdiction.

SECTION 2. Amends Section 571.122, Government Code, by adding Subsection (b-1), as follows:

(b-1) Requires that an individual be a resident of this state to be eligible to file a sworn complaint with TEC. Requires that a copy of one of the following documents be attached to the complaint:

(1) the complainant's driver's license or personal identification certificate issued under Chapter 521 (Driver's Licenses and Certificates), Transportation Code, or commercial driver's license issued under Chapter 522 (Commercial Driver's Licenses), Transportation Code; or

(2) a utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the complainant and is dated not more than 30 days before the date on which the complaint is filed.

SECTION 3. Amends Subchapter E, Chapter 571, Government Code, by adding Section 571.1211, as follows:

Sec. 571.1221. DISMISSAL OF COMPLAINT FILED AT DIRECTION OR URGING OF NONRESIDENT. Requires TEC, at any stage of a proceeding under this subchapter, to dismiss the complaint if TEC determines that the complaint was filed at the direction or urging of a person who is not a resident of this state.

SECTION 4. Amends Subchapter E, Chapter 571, Government Code, by adding Section 571.142, as follows:

Sec. 571.142. LIABILITY FOR RESPONDENT'S COSTS. (a) Provides that this section applies only to a sworn complaint if the complaint was filed after the 30th day before the date of an election the respondent is a candidate in the election, and the complaint alleges a violation other than a technical or clerical violation.

(b) Provides that the complainant is liable for the respondent's reasonable and necessary attorney's fees and other costs incurred in defending against the complaint if, in disposing of a sworn complaint to which this section applies, TEC determines that a violation within TEC's jurisdiction has not occurred and that the complaint is groundless and without merit.

(c) Provides that this section does not apply to a sworn complaint regarding a reporting omission required by law.

SECTION 5. Makes application of Section 571.122, as amended by this Act, and Sections 571.1221 and 571.142, Government Code, as added by this Act, prospective.

SECTION 6. Effective date: September 1, 2009.