

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 677
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State Affairs
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Committee Report (Substituted)

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.

C.S.H.B. 677 amends current law relating to violations of laws administered and enforced by the Texas Ethics Commission 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 prescribing procedures for investigating and resolving technical and clerical violations of laws within TEC's jurisdiction. Requires TEC, for registrations and reports filed under Chapter 305 (Registration of Lobbyists), to consider clerical violations to include obvious typographical errors. Authorizes a registrant filing a registration or report under Chapter 305 to correct obvious typographical errors without penalty by filing either a corrected registration or report or an updated or amended registration or report.

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

(b-1) Requires an individual, to be eligible to file a sworn complaint with TEC, to be a resident of this state or own real property in this state. 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;

(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; or

(3) a property tax bill, notice of appraised value, or other government document that shows the name of the complainant, shows the address of real property in this state, and identifies the complainant as the owner of the real property.

SECTION 3. 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.

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

SECTION 4. Makes application of Section 571.122, as amended by this Act, and Section 571.142, Government Code, as added by this Act, prospective.

SECTION 5. Effective date: September 1, 2009.