

## **BILL ANALYSIS**

Senate Research Center

H.B. 4661  
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Jurisprudence  
5/18/2021  
Engrossed

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

Recently, the legislature made a concerted effort to address sexual harassment in the work place. Current law, however, fails to adequately deter or prevent a lobbyist who engages in conduct constituting sexual harassment from continuing to communicate directly with the legislative branch. Currently, the Texas Ethics Commission (TEC) may rescind a lobbyist's registration for conflicts of interest and other offenses under the law, but not for sexual harassment. Legislative rules and policies related to sexual harassment cannot be meaningfully enforced with respect to lobbyists. If an employee of the legislature engages in sexual harassment, they can be terminated. No similar enforcement mechanism exists for a registered lobbyist who harasses an employee, officer, or member of the legislature or a lobbyist charged with, but not yet convicted of, a sexual assault offense. Lobbyists work closely with legislators and legislative staff during session and throughout the interim. It is imperative that members, officers, and employees of the legislature who experience harassment by a lobbyist have an avenue to seek redress.

H.B. 4661 would require lobbyists to complete sexual harassment training following registration with the TEC and every two years thereafter. What's more, it would make sexual harassment of a member, officer, or employee of the legislature by a lobbyist a violation of law within TEC's jurisdiction. The bill would also direct the executive director of TEC to temporarily suspend or restrict the registration of a lobbyist charged with sexual assault, indecent assault, or aggravated sexual assault.

H.B. 4661 amends current law relating to sexual harassment by lobbyists and certain elected or appointed state officers.

### **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 571.1211(3), Government Code, to redefine "Category Two violation" for purposes of Subchapter E (Complaint Procedures and Hearings) to include a violation of Section 572.103.

SECTION 2. Amends Subchapter E, Chapter 571, Government Code, by adding Section 571.1261, as follows:

Sec. 571.1261. EXPEDITED PROCESS FOR SEXUAL HARASSMENT COMPLAINT. (a) Requires the Texas Ethics Commission (TEC), notwithstanding any other law, not later than the 180th day after the date a complaint is filed with TEC alleging a violation of Section 572.103, to complete a preliminary review and, if necessary, conduct a formal hearing regarding the complaint.

(b) Authorizes a formal hearing under this section to be conducted by electronic means.

SECTION 3. Amends Section 571.139(b), Government Code, as follows:

(b) Provides that Chapter 551 (Open Meetings) does not apply to the processing, preliminary review, preliminary review hearing, or resolution of a sworn complaint or motion, or to a formal hearing regarding a complaint alleging a violation of Section 572.103, but does apply to a formal hearing held under Sections 571.129 (Formal Hearing: Standard of Evidence) through 571.131 (Formal Hearing; Procedure).

SECTION 4. Amends Section 571.174, Government Code, as follows:

Sec. 571.174. DENIAL, SUSPENSION, OR REVOCATION OF LOBBYIST REGISTRATION. (a) Creates this subsection from existing text. Authorizes TEC to suspend or revoke the registration of a person required to be registered under Chapter 305 (Registration of Lobbyists) if:

- (1) TEC issues an order finding that the person violated Section 572.103; or
- (2) the person is convicted of an offense under Chapter 36 (Bribery and Corrupt Influence), Penal Code, or Chapter 305.

Deletes text limiting TEC's authority to suspend, or revoke the registration of a person required to be registered under Chapter 305 to after a criminal conviction for an offense under Chapter 36 of the Penal Code or under Chapter 305.

(b) Authorizes the executive director of TEC, if a person required to register under Chapter 305 is charged with an offense under Section 22.011 (Sexual Assault), 22.012 (Indecent Assault), or 22.021 (Aggravated Sexual Assault), Penal Code, after notice and an opportunity for a hearing before TEC, to temporarily suspend or restrict the person's registration for a period not to exceed 90 days.

(c) Authorizes a hearing under Subsection (b) to be held by electronic means.

SECTION 5. Amends Chapter 572, Government Code, by adding Subchapter D, as follows:

#### SUBCHAPTER D. SEXUAL HARASSMENT

Sec. 572.101. DEFINITION. Defines "sexual harassment" for Subchapter D.

Sec. 572.102. SEXUAL HARASSMENT TRAINING REQUIRED. (a) Requires each member of the legislature, official holding an elected statewide executive branch office, or individual elected to the legislature or elected to or appointed to a statewide executive branch office to:

- (1) complete a sexual harassment training program approved by TEC not later than the 60th day after each uniform election date in November; and
- (2) file with TEC written evidence of completing the program on a form prescribed by TEC.

(b) Requires an individual required to register under Chapter 305 to:

- (1) complete:
  - (A) an initial sexual harassment training program approved by TEC not later than the 30th day after the date the individual files an initial registration under Section 305.005 (Registration); and
  - (B) an additional sexual harassment training program approved by TEC not later than each two-year anniversary of the deadline under Paragraph (A); and
- (2) file with TEC written evidence of completing each program on a form prescribed by TEC.

(c) Requires TEC to approve one or more sexual harassment training programs for purposes of Subsections (a) and (b). Authorizes TEC to approve a sexual

harassment training program that is made available by a house of the legislature to members, officers, and employees of that house.

(d) Requires that a sexual harassment training program approved by TEC provide an individual with written evidence of completion of the program on a form prescribed by TEC.

(e) Authorizes a sexual harassment training program approved by TEC to be offered online or in person.

Sec. 572.103. SEXUAL HARASSMENT PROHIBITED. Prohibits each member of the legislature, official holding an elected statewide executive branch office, individual elected to the legislature or elected to or appointed to a statewide executive branch office, or individual required to register under Chapter 305 from intentionally or knowingly engaging in conduct that constitutes sexual harassment.

SECTION 6. (a) Requires TEC, not later than September 1, 2021, to approve at least one sexual harassment training program for purposes of Section 572.102, Government Code, as added by this Act.

(b) Requires an individual who, on September 1, 2021, is registered under Chapter 305, Government Code, to complete the initial training required by Section 572.102(b)(1)(A), Government Code, as added by this Act, not later than October 1, 2021.

SECTION 7. Effective date: upon passage or September 1, 2021.