

By: Thompson

H.B. No. 3178

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to ethics of holders of and candidates for public office,  
3 public employees, and lobbyists; providing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 253.035, Election Code, is amended by  
6 adding Subsection (j) to read as follows:

7 (j) "Personal use" includes the use of contributions to pay  
8 a civil penalty imposed by the commission.

9 SECTION 2. Section 253.041(a), Election Code, is amended to  
10 read as follows:

11 (a) A candidate or officeholder or a specific-purpose  
12 committee for supporting, opposing, or assisting the candidate or  
13 officeholder may not knowingly make or authorize a payment from a  
14 political contribution if the payment is made for personal services  
15 rendered by the candidate, ~~[or]~~ officeholder, or a person related  
16 to [by the spouse or dependent child of] the candidate or  
17 officeholder within the third degree by consanguinity or the second  
18 degree by affinity, as determined under Subchapter B, Chapter 573,  
19 Government Code, to:

20 (1) the candidate, officeholder, or a person related  
21 to the candidate or officeholder within the third degree by  
22 consanguinity or the second degree by affinity, as determined under  
23 Subchapter B, Chapter 573, Government Code; or

24 (2) a business in which a person described by

1 Subdivision (1) [~~the candidate or officeholder~~] has a participating  
2 interest of more than 10 percent, holds a position on the governing  
3 body of the business, or serves as an officer of the business [~~, or~~  
4 (2) the candidate or officeholder or the spouse or  
5 dependent child of the candidate or officeholder].

6 SECTION 3. Section 571.066, Government Code, is amended by  
7 adding Subsections (c) and (d) to read as follows:

8 (c) Not later than December 1, 2009, the commission shall  
9 contract with the Department of Information Resources or a private  
10 entity experienced in Internet website design for a review of the  
11 ease of using and obtaining information from the commission's  
12 website. Not later than June 1, 2010, the entity with which the  
13 commission contracts under this subsection shall deliver a written  
14 report of the results of the entity's review to the commission, the  
15 lieutenant governor, the speaker of the house of representatives,  
16 and the chairs of the standing committees of the senate and house  
17 having jurisdiction over the commission. The report must include  
18 recommendations for increasing the ease of using and obtaining  
19 information from the commission's website. Following receipt of the  
20 report, the commission shall redesign the commission's website to:

21 (1) permit expanded searches across multiple  
22 databases maintained by the commission;

23 (2) increase the ease with which information from  
24 databases maintained by the commission may be downloaded by persons  
25 using the commission's website; and

26 (3) incorporate any other recommendations from the  
27 review under this subsection that the commission determines

1 appropriate.

2 (d) Subsection (c) and this subsection expire September 1,  
3 2011.

4 SECTION 4. The heading to Section 571.069, Government Code,  
5 is amended to read as follows:

6 Sec. 571.069. REVIEW OF STATEMENTS AND REPORTS [~~AND AUDITS~~].

7 SECTION 5. Sections 571.069(b) and (c), Government Code,  
8 are amended to read as follows:

9 (b) The commission may by a vote of at least six commission  
10 members initiate a preliminary review as provided by Section  
11 571.124 in connection with [~~or perform a complete audit of~~] a  
12 statement or report:

13 (1) if, before the 31st day after the date the  
14 statement or report was originally due, the executive director does  
15 not obtain from the person information that permits the executive  
16 director to determine that the statement or report complies with  
17 law;

18 (2) if a statement or report returned for resubmission  
19 is not resubmitted within the time prescribed by Subsection (a); or

20 (3) on an affirmative vote of at least six commission  
21 members that a statement or report resubmitted under Subsection  
22 (a), together with any corrections or additional documentation,  
23 does not, in the opinion of the commission, comply with the law  
24 requiring the statement or report.

25 (c) Any [~~audited~~] statement, report, document, or other  
26 material obtained in conducting a preliminary review is  
27 confidential and may not be disclosed unless the statement, report,

1 document, or other material:

2 (1) was previously public information; or

3 (2) is entered into the record of a formal hearing or a  
4 judicial proceeding.

5 SECTION 6. Subchapter C, Chapter 571, Government Code, is  
6 amended by adding Section 571.0691 to read as follows:

7 Sec. 571.0691. AUDITS. (a) The commission by rule shall  
8 adopt a schedule for regular auditing of statements, reports, or  
9 other documents filed with the commission. The rules shall provide  
10 for more frequent auditing of the categories of statements,  
11 reports, or other documents that the commission determines are most  
12 likely to contain inaccuracies or errors.

13 (b) Any audited statement, report, document, or other  
14 material is confidential and may not be disclosed unless the  
15 statement, report, document, or other material:

16 (1) was previously public information; or

17 (2) is entered into the record of a formal hearing or a  
18 judicial proceeding.

19 (c) The party who is the subject of the audit may waive  
20 confidentiality by sending written notice to the commission.

21 SECTION 7. Subchapter C, Chapter 571, Government Code, is  
22 amended by amending Section 571.071 and adding Sections 571.0711  
23 through 571.0714 to read as follows:

24 Sec. 571.071. REQUIRED ETHICS TRAINING[~~, GUIDELINES~~]. (a)  
25 The following persons must complete the ethics training required by  
26 this section:

27 (1) a member or member-elect of the legislature; and

1           (2) the director, executive director, commissioner,  
2 administrator, or other individual appointed to act as the chief  
3 executive or administrative officer of a board, commission, or  
4 other agency in the legislative or executive branch of state  
5 government.

6           (b) The commission shall[+]  
7           [(-)] provide training [by January of each  
8 odd-numbered year] for persons required to complete ethics training  
9 under this section [members and members-elect of the legislature]  
10 concerning compliance with the laws administered and enforced by  
11 the commission.

12           (c) A person required to complete ethics training under this  
13 section must complete three hours of training every two years. A  
14 person must complete the initial training not later than the 90th  
15 day after the date the person is first elected or appointed to or  
16 employed in a position for which ethics training is required. A  
17 person must complete subsequent training not later than the second  
18 anniversary of the date the person completed the most recent ethics  
19 training under this section.

20           (d) Each board, commission, or other agency described by  
21 Subsection (a) shall report to the commission, in accordance with  
22 rules adopted by the commission, the appointment or employment of a  
23 person required to complete ethics training under Subsection  
24 (a)(2).

25           Sec. 571.0711. FAILURE TO COMPLETE REQUIRED ETHICS  
26 TRAINING. (a) A person who does not complete the ethics training  
27 required by Section 571.071 is not eligible to receive a salary or

1 wage payment until the person completes the required training.

2 (b) Not later than the 30th day after the date a person is  
3 required to complete the ethics training under Section 571.071, the  
4 commission shall certify the person's name to the comptroller if  
5 the person did not complete the ethics training. Following receipt  
6 of certification under this subsection, the comptroller may not  
7 issue a warrant or make an electronic transfer representing a  
8 salary or wage payment to the person until the commission certifies  
9 that the person has completed the training.

10 (c) Not later than the 60th day before the date by which a  
11 person is required to complete the ethics training under Section  
12 571.071, the commission shall send a written notice to the person  
13 that states:

14 (1) that the person is required by law to complete the  
15 required amount of ethics training;

16 (2) the date of upcoming ethics training seminars;

17 (3) that the person will not be eligible to receive a  
18 salary or wage payment if the person does not complete the required  
19 training; and

20 (4) the date by which the person must complete the  
21 ethics training.

22 Sec. 571.0712. ETHICS TRAINING FOR STATE EMPLOYEES. The  
23 commission shall~~, and~~

24 ~~(2)~~ provide, in cooperation with state agencies, a  
25 program of ethics training for state employees.

26 Sec. 571.0713. COMPLIANCE GUIDELINES. ~~(b)~~ The commission  
27 may disseminate, through pamphlets and seminars, explanations and

1 compliance guidelines concerning any law administered and enforced  
2 by the commission.

3 Sec. 571.0714. SEMINARS FOR LOBBYISTS. (a) [~~(c)~~] The  
4 commission may provide a seminar for persons required to register  
5 under Chapter 305 that addresses issues involving lobbying,  
6 political contributions and expenditures, and other issues as  
7 determined by the commission.

8 (b) The commission may charge a fee for attending the  
9 seminar in an amount necessary to cover the costs associated with  
10 the seminar.

11 SECTION 8. Section 571.173, Government Code, is amended to  
12 read as follows:

13 Sec. 571.173. CIVIL PENALTY FOR DELAY OR VIOLATION. (a)  
14 The commission may impose a civil penalty of not more than \$5,000 or  
15 triple the amount at issue under a law administered and enforced by  
16 the commission, whichever amount is more, for a delay in complying  
17 with a commission order or for a violation of a law administered and  
18 enforced by the commission.

19 (b) The commission shall:

20 (1) impose a civil penalty in an amount greater than  
21 the usual amount of a civil penalty imposed by the commission if the  
22 person subject to the penalty:

23 (A) has received training under Section 571.071,  
24 571.0712, or 571.0714 relevant to the law the person violated; or

25 (B) has previously been warned by the commission  
26 for engaging in similar conduct; and

27 (2) impose civil penalties in progressively greater

1 amounts against a person who has repeatedly violated a law  
2 administered by the commission.

3 SECTION 9. Sections 571.069(d), (e), and (f), Government  
4 Code, are repealed.

5 SECTION 10. Section 253.035(j), Election Code, as added by  
6 this Act, applies to payment of a civil penalty imposed by the Texas  
7 Ethics Commission regardless of whether the penalty is imposed  
8 before, on, or after September 1, 2009.

9 SECTION 11. A person who on January 1, 2010, holds an office  
10 or employment for which the person is required to complete ethics  
11 training under Section 571.071, Government Code, as amended by this  
12 Act, must complete the ethics training required by that section not  
13 later than April 1, 2010. A person who after January 1, 2010, is  
14 elected or appointed to an office or employed in a position for  
15 which the person is required to complete ethics training under  
16 Section 571.071, Government Code, as amended by this Act, must  
17 complete the ethics training required by that section in compliance  
18 with that section.

19 SECTION 12. This Act takes effect September 1, 2009.