

## BILL ANALYSIS

Senate Research Center  
83R3049 EES-D

S.B. 219  
By: Huffman; Nichols  
State Affairs  
3/25/2013  
As Filed

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

The purpose of this bill is to enact the recommendations of the Sunset Advisory Commission regarding the Texas Ethics Commission (TEC). TEC administers and enforces the state's campaign finance and ethics laws that govern the conduct of state officers and employees, candidates for and holders of state and local offices, political committees, political parties, and lobbyists.

The Sunset Commission did not address continuation of TEC because it is not subject to abolishment under the Sunset Act. However, the Sunset Commission recommended changes to better focus and otherwise improve operations.

TEC is established in Section 24a (Texas Ethics Commission), Article III (Legislative Department) of the Texas Constitution and is governed by Chapter 571 (Texas Ethic Commission), Government Code. TEC has jurisdiction to administer and/or enforce several laws, including Title 15 (Regulating Political Funds and Campaigns), Election Code; and Chapters 305 (Registration of Lobbyists) and 572 (Personal Financial Disclosure, Standards of Conduct, and Conflict of Interest), Government Code.

Enforcement of disclosure laws works in such a way that even innocent mistakes may result in candidates or officeholders being portrayed as ethics violators, with a stigmatizing impact that is out of proportion to the seriousness of the mistake. One result is a heightened potential and temptation to use disclosure less for illumination than for political opportunism. Further, enforcement procedures different from those of many regulatory agencies may also affect the role and effectiveness of TEC.

TEC lacks an efficient and modern reporting system for filers and administers disclosure provisions under laws containing outdated, inefficient, or unclear requirements.

S.B. 219:

- revises TEC's enforcement process to better distinguish between minor infractions and major violations by creating three broad categories of violations according to their seriousness so that not all cases stigmatize filers as "ethics violators";
- authorizes TEC to develop penalty guidelines to assist staff in proposing fines based on the level of violation;
- restructures TEC's hearings procedures by eliminating commissioner involvement in the preliminary review of a complaint and limiting commissioner involvement in the preliminary hearing to two commissioners;
- requires contested case hearings to be subject to appeal under the substantial evidence rule rather than the requirement of a new trial;
- requires personal financial statements to be submitted electronically;
- removes the prohibition on posting reports of major party candidates and committees whose opponents have not yet filed;
- modifies statutory filing provisions to streamline TEC's campaign finance filing processes;
- delineates additional requirements for persons having to register as a lobbyist;
- clarifies that a lobby registrant does not lose any protection under the lobby law if reporting a portion of a joint expenditure made by a non-registrant;

- adds categories to the lobby law provision related to reporting lump sum expenditures for certain events; and
- provides an exception from the legislative advertising disclaimer for material distributed by a legislator on the floor of the House or Senate.

As proposed, S.B. 219 amends current law relating to ethics of public servants, including the functions and duties of the Texas Ethics Commission; the regulation of political contributions, political advertising, lobbying, and conduct of public servants; and the reporting of political contributions and expenditures and personal financial information; and provides civil and criminal penalties.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Ethics Commission in SECTION 1.01 (Section 571.033, Government Code), SECTION 2.09 (Section 571.1213, Government Code), SECTION 2.19 (Section 571.12421, Government Code), SECTION 2.21 (Section 571.1244, Government Code), SECTION 2.23 (Section 571.1251, Government Code), and SECTION 2.41 of this bill.

Rulemaking authority previously granted to the Texas Ethics Commission is restricted in SECTION 5.05 (Section 305.0064, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. NOTIFICATION PROCEDURES OF TEXAS ETHICS COMMISSION

SECTION 1.01. Amends Subchapter A, Chapter 571, Government Code, by adding Section 571.033, as follows:

Sec. 571.033. NOTIFICATION PROCEDURES. Requires the Texas Ethics Commission (TEC) to adopt rules prescribing how TEC will notify any person or provide any notice required by this subtitle, Chapter 305 (Registration of Lobbyists), or Title 15 (Regulating Political Funds and Campaigns), Election Code.

#### ARTICLE 2. INQUIRY PROCEDURES AND HEARINGS AND ENFORCEMENT ACTIVITIES OF TEXAS ETHICS COMMISSION

SECTION 2.01. Amends Section 571.002(2), Government Code, to redefine "complainant."

SECTION 2.02. Amends Section 571.027(a), Government Code, as follows:

(a) Prohibits a member of TEC from participating in a TEC proceeding relating to any of certain actions if the member is the subject of the action, including an inquiry, rather than a sworn complaint, filed with TEC. Makes nonsubstantive changes.

SECTION 2.03. Amends Sections 571.069(b) and (f), Government Code, as follows:

(b) Authorizes TEC to, by a vote of at least six TEC members, undertake, rather than initiate, a preliminary review as provided by Section 571.124 or perform a complete audit of a statement or report under certain circumstances.

(f) Prohibits this section from being construed as limiting or affecting TEC's authority to, on the filing of a motion or receipt of an inquiry, rather than a sworn complaint, review or investigate the sufficiency of a statement or report.

SECTION 2.04. Amends Section 571.073, Government Code, as follows:

Sec. 571.073. REPORT. Requires TEC, on or before December 31 of each even-numbered year, to report to the governor and legislature. Requires that the report include certain information, including a summary of TEC activities in the preceding two years,

including: the number of inquiries, rather than sworn complaints, filed with TEC, and the number of inquiries, rather than sworn complaints, resolved by TEC through an agreed decision, rather than through an order. Makes conforming changes.

SECTION 2.05. Amends Section 571.076, Government Code, as follows:

Sec. 571.076. CONTRACT FOR ADMINISTRATION. Authorizes TEC to contract with persons to administer and carry out this chapter and rules, standards, orders, and decisions adopted under this chapter, excluding any enforcement authority. Makes nonsubstantive changes.

SECTION 2.06. Amends the heading to Subchapter E, Chapter 571, Government Code, to read as follows:

#### SUBCHAPTER E. INQUIRY PROCEDURES AND HEARINGS

SECTION 2.07. Amends Section 571.121, Government Code, to read as follows:

Sec. 571.121. GENERAL POWERS. (a) Authorizes TEC to hold hearings, on its own motion adopted by an affirmative vote of at least six TEC members or on an inquiry, rather than a sworn complaint, and render decisions on inquiries or reports of violations as provided by this chapter; and agree to the settlement of issues. Makes a conforming change.

(b) Makes a conforming change.

SECTION 2.08. Amends Section 571.1211, Government Code, to delete the existing definitions of "Category One violation" and "Category Two violation," and to make nonsubstantive changes.

SECTION 2.09. Amends Subchapter E, Chapter 571, Government Code, by adding Section 571.1213, as follows:

Sec. 571.1213. CATEGORIZATION OF VIOLATIONS. (a) Requires TEC staff to categorize, in ascending order of seriousness, each violation of law alleged in an inquiry or on a motion of TEC as:

- (1) a technical, clerical, or de minimis violation;
- (2) an administrative or filing violation; or
- (3) a more serious violation.

(b) Requires TEC to adopt rules defining what violations of law are included in each category of violation.

SECTION 2.10. Amends Subchapter E, Chapter 571, Government Code, by adding Section 571.1214, as follows:

Sec. 571.1214. RESOLUTION OF VIOLATIONS. (a) Requires TEC staff and TEC to resolve an inquiry or motion in the form corresponding to the most serious category of violation alleged in the inquiry or motion as provided in this section.

(b) Requires an inquiry or motion alleging a technical, clerical, or de minimis violation to be resolved in a letter of acknowledgment.

(c) Requires an inquiry or motion alleging an administrative or filing violation to be resolved in a notice of administrative or filing error.

(d) Requires an inquiry or motion alleging a more serious violation to be resolved in a notice of violation.

SECTION 2.11. Amends Section 571.122, Government Code, as amended by Chapters 604 (H.B. 677) and 1166 (H.B. 3218), Acts of the 81st Legislature, Regular Session, 2009, as follows:

Sec. 571.122. New heading: FILING OF INQUIRY; CONTENTS. (a) Authorizes an individual to file with TEC an inquiry, rather than a sworn complaint, alleging that a person subject to a law administered and enforced by TEC has violated a rule adopted by or a law administered and enforced by TEC. Requires an inquiry to be filed on a form prescribed by TEC. Requires TEC to make the inquiry form available on the Internet. Requires the form prescribed by TEC to require the complainant to provide certain information for both the complainant and the respondent. Makes conforming changes.

(b)-(b-1) Makes conforming changes.

(b-2) Redesignates existing Subsection (b-1) as Subsection (b-2) and makes conforming changes.

(c)-(e) Makes conforming changes.

SECTION 2.12. Amends Section 571.1221, Government Code, as follows:

Sec. 571.1221. New heading: DISMISSAL OF INQUIRY FILED AT DIRECTION OR URGING OF NONRESIDENT. Requires TEC, at any stage of a proceeding under this subchapter, to dismiss the inquiry, rather than complaint, if TEC determines that the inquiry was filed at the direction or urging of a person who is not a resident of this state. Makes a conforming change.

SECTION 2.13. Amend Section 571.1222, Government Code, as follows:

Sec. 571.1222. New heading: DISMISSAL OF INQUIRY CHALLENGING CERTAIN INFORMATION IN POLITICAL REPORT. Requires TEC, at any stage of a proceeding under this subchapter, to dismiss an inquiry, rather than a complaint to the extent the inquiry alleges that a report required under Chapter 254 (Political Reporting), Election Code, contains the improper name or address of a person from whom a political contribution was received if the name or address in the report is the same as the name or address that appears on the check for the political contribution. Makes a conforming change.

SECTION 2.14. Amends Section 571.123, Government Code, as follows:

Sec. 571.123. New heading: PROCESSING OF INQUIRY. (a) Requires TEC to determine whether an inquiry, rather than a sworn complaint, filed with TEC complies with the form requirements of Section 571.122.

(a-1) Redesignates existing Subsection (b) as Subsection (a-1). Requires TEC, after an inquiry, rather than a complaint, is filed, to immediately attempt to contact and notify the respondent of the inquiry. Deletes existing text requiring TEC to notify the respondent of the complaint by telephone or electronic mail.

(b) Creates this subsection from existing text. Requires TEC, not later than the fifth business day after the date an inquiry is filed, to notify, rather than send written notice to, the complainant and the respondent as to:

(1) whether the inquiry complies with the form requirements of Section 571.122; and

(2) if the respondent is a candidate or officeholder, the procedure by which the respondent may designate an agent with whom TEC staff may

discuss the inquiry, rather than state the procedure by which the respondent is authorized to designate an agent with whom TEC staff is authorized to discuss the complaint.

Makes conforming and nonsubstantive changes. Deletes existing Subdivision (3) requiring the written notice to the complainant and the respondent to, if applicable, include the information required by Section 571.124(e) (relating to information required to be included in the notice if the executive director of TEC (executive director) determines that TEC has jurisdiction).

(c) Requires TEC, if TEC determines that the inquiry does not comply with the form requirements, to return, rather than send, the inquiry to the complainant with a statement explaining how the inquiry fails to comply and a copy of the rules for filing inquiries, rather than sworn complaints. Requires TEC to provide, rather than send, a copy of the rejected inquiry to the respondent with the statement explaining how the inquiry fails to comply. Authorizes the complainant to resubmit the inquiry not later than the 21st day after the date the complainant is notified under Subsection (b), rather than the 21st day after the date the notice under Subsection (b) is mailed. Requires TEC, if TEC determines that the inquiry is not resubmitted within the 21-day period, to:

(1) dismiss the inquiry; and

(2) not later than the fifth business day after the date of the dismissal, notify, rather than send written notice to, the complainant and the respondent of the dismissal and the grounds for dismissal.

Makes conforming and nonsubstantive changes.

(d) Requires TEC, if TEC determines that an inquiry is resubmitted under Subsection (c) within the 21-day period but is not in proper form, to return the inquiry to the complainant as provided in Subsection (c), rather than send the notice required under Subsection (c), and authorizes the complainant to resubmit the inquiry under that subsection. Makes conforming changes.

(e) Requires TEC, if TEC determines that an inquiry returned to the complainant under Subsection (c) or (d) is resubmitted within the 21-day period and that the inquiry complies with the form requirements, to notify the complainant and respondent under Subsection (b). Makes conforming changes.

SECTION 2.15. Amends Section 571.1231(b), Government Code, to authorize a respondent to an inquiry, rather than a complaint, filed against the respondent to, by writing submitted to TEC, designate an agent with whom TEC staff is authorized to communicate regarding the inquiry.

SECTION 2.16. Amends Section 571.124, Government Code, as follows:

Sec. 571.124. PRELIMINARY REVIEW: INITIATION. (a) Requires TEC staff to promptly conduct a preliminary review on receipt of a written inquiry, rather than complaint, that is in compliance with the form requirements of Section 571.122.

(b) Authorizes TEC staff, rather than TEC, on a motion adopted by an affirmative vote of at least six TEC members, without an inquiry, to undertake, rather than initiate, a preliminary review of the matter that is the subject of the motion. Makes a conforming change.

(c) Requires the executive director of TEC (executive director) to determine in writing whether TEC has jurisdiction over the violation of law alleged in an inquiry, rather than a sworn complaint, processed under Section 571.123.

(e) Requires the notification, rather than notice, under Section 571.123(b), if the executive director determines that TEC has jurisdiction, to include certain information, including a statement of whether the inquiry, rather than complaint, will be processed as a technical, clerical, or de minimis violation, an administrative or filing violation, or a more serious violation, rather than processed as a Category One violation or a Category Two violation, subject to reconsideration as provided for by Section 571.1212. Makes conforming changes.

Deletes existing text requiring the notice under Section 571.123(b), if the executive director determines that TEC has jurisdiction, to include a statement of whether the complaint will be processed as a Category One violation or a Category Two violation, subject to reconsideration as provided for by Section 571.1212 (Categorization of Violations).

(f) Requires the executive director, if the executive director determines that TEC does not have jurisdiction over the violation alleged in the inquiry, to:

(1) dismiss the inquiry; and

(2) not later than the fifth business day after the date of the dismissal, notify the complainant and the respondent of the dismissal and the grounds for the dismissal, rather than send to the complainant and the respondent written notice of the dismissal and the grounds for the dismissal.

Makes conforming changes.

SECTION 2.17. Amends Sections 571.1241(a) and (c), Government Code, as follows:

(a) Authorizes the complainant to request that TEC review the determination, if the executive director of TEC (executive director) determines that TEC does not have jurisdiction over the violation alleged in the inquiry, rather than complaint.

(c) Requires TEC, not later than the fifth business day after the date of TEC's determination under this section, to notify, rather than send written notice to, the complainant and the respondent as to whether TEC has jurisdiction over the violation alleged in the inquiry, rather than complaint. Requires the notification to include the items listed in Section 571.124(e) (relating to information required to be included in the notice if the executive director of TEC (executive director) determines that TEC has jurisdiction) if TEC determines that TEC has jurisdiction. Makes nonsubstantive and conforming changes.

SECTION 2.18. Amends Section 571.1242, Government Code, as follows:

Sec. 571.1242. PRELIMINARY REVIEW: RESPONSE BY RESPONDENT. (a) Provides that if the alleged violation is a technical, clerical, or de minimis violation, rather than a Category One violation:

(1) the respondent is required to respond to the notification, rather than the notice, required by Section 571.123(b) not later than the 10th business day after the date the respondent is notified, rather than the 10th business day after the respondent receives the notice; and

(2) TEC is required, if the matter is not resolved by agreement between TEC and the respondent before the 30th business day after the date the respondent is notified under Section 571.123(b), to set the matter for a preliminary review hearing.

Deletes existing text requiring TEC, if the alleged violation is a Category One violation, to set the matter for a preliminary review hearing to be held at the next TEC meeting for which notice has not yet been posted if the matter is not resolved by agreement between TEC and the respondent before the 30th business day after the date the respondent receives the notice under Section 571.123(b). Makes conforming changes.

(b) Provides that if the alleged violation is an administrative or filing violation or a more serious, rather than a Category Two violation:

(1) the respondent is required to respond to the notification required by Section 571.123(b) not later than the 25th business day after the date the respondent is notified under Section 571.123(b); and

(2) TEC is required, if the matter is not resolved by agreement between TEC and the respondent before the 75th business day after the date the respondent is notified under Section 571.123(b), to set the matter for a preliminary review hearing.

Deletes existing text requiring TEC, if the alleged violation is a Category Two violation, to set the matter for a preliminary review hearing to be held at the next TEC meeting for which notice has not yet been posted if the matter is not resolved by agreement between TEC and the respondent before the 75th business day after the date the respondent receives the notice under Section 571.123(b). Makes conforming changes.

(c) Provides that a respondent's failure to timely respond as required by Subsection (a)(1) or (b)(1) is a violation, rather than a Category One violation.

(d) Requires the response required to the notification under Section 571.123(b), rather than required by Subsection (a) or (b), to include any challenge the respondent seeks to raise to TEC's exercise of jurisdiction. Authorizes the respondent, in addition, to:

(1) acknowledge the occurrence or commission of a violation;

(2) deny the allegations contained in the inquiry, rather than complaint, and provide evidence supporting the denial; or

(3) agree to enter into a letter of acknowledgment, rather than an assurance of voluntary compliance, or other agreed decision, rather than an order, which is authorized to include an agreement to immediately cease and desist.

Deletes existing Subsection (e) requiring TEC, if TEC sets the matter for a preliminary review hearing, to promptly send to the complainant and the respondent written notice of the date, time, and place of the preliminary review hearing.

SECTION 2.19. Amends Subchapter E, Chapter 571, Government Code, by adding Section 571.12421, as follows:

Sec. 571.12421. PRELIMINARY REVIEW: PROCEDURE. (a) Requires TEC to adopt procedures by rule for the conduct of:

(1) a preliminary review of an inquiry or motion that alleges a technical, clerical, or de minimis violation;

(2) a preliminary review of an inquiry or motion that alleges an administrative or filing violation; and

(3) a preliminary review of an inquiry or motion that alleges a more serious violation.

(b) Requires TEC staff to conduct a preliminary review of the inquiry or motion according to the procedure for the most serious category of violation alleged in the inquiry or motion if an inquiry or motion alleges violations of different categories.

(c) Requires TEC staff, if, in the course of conducting a preliminary review, TEC staff determines that the violation alleged in the inquiry or motion was initially categorized incorrectly, to continue conducting the preliminary review according to the procedure for the correct category of violation.

(d) Authorizes TEC staff to conduct a single preliminary review of the alleged violations or conduct a separate preliminary review for each violation if an inquiry or motion alleges more than one violation.

SECTION 2.20. Amends Subchapter E, Chapter 571, Government Code, by adding Section 571.12431, as follows:

Sec. 571.12431. PRELIMINARY REVIEW: RESOLUTION. (a) Requires TEC staff, after conducting a preliminary review of an inquiry or motion, to propose a resolution of the inquiry or motion to the respondent in the form corresponding to the category of violation alleged in the inquiry or motion or, if the inquiry or motion alleges multiple violations, in the form corresponding to the most serious category of violation.

(b) Requires TEC staff, except as provided by other law or TEC rule, if the respondent accepts the resolution, to submit to TEC for approval the letter of acknowledgment, notice of administrative or filing error, or notice of violation in which the resolution was proposed to the respondent.

(c) Requires TEC to set the inquiry or motion for a preliminary review hearing if the respondent rejects the resolution.

SECTION 2.21. Amends Section 571.1244, Government Code, as follows:

Sec. 571.1244. New heading: PRELIMINARY REVIEW AND PRELIMINARY REVIEW HEARING PROCEDURES. (a) Creates this subsection from existing text. Makes no further changes to this subsection.

(b) Requires TEC by rule to adopt procedures for TEC's review of a letter of acknowledgment, a notice of administrative or filing error, or a notice of violation submitted to TEC under Section 571.12431(b) or 571.126(f).

(c) Requires TEC by rule to adopt procedures for the disposition of an inquiry or motion if the respondent does not respond to a resolution of the inquiry or motion proposed to the respondent under Section 571.12431 or 571.126.

SECTION 2.22. Amends Section 571.125, Government Code, as follows:

Sec. 571.125. PRELIMINARY REVIEW HEARING: PROCEDURE. (a) Requires a panel of two members of TEC (panel), rather than TEC, to conduct a preliminary review hearing if:

(1) following the preliminary review, the respondent does not agree to the resolution of the inquiry or motion proposed by TEC staff; or

(2) the respondent in writing requests a hearing.



Deletes existing text requiring TEC to conduct a preliminary review hearing if following the preliminary review, TEC and the respondent cannot agree to the disposition of the complaint or motion.

(b) Requires TEC to notify, rather than to provide written notice to, the complainant, if any, and the respondent of the date, time, and place the panel will conduct the preliminary review hearing. Makes a conforming change.

(c) Authorizes TEC to submit to the complainant and the respondent written questions and require those questions to be answered under oath within a reasonable time at or after the time TEC notifies the complainant, if any, and the respondent, rather than provides notice, of a preliminary review hearing.

(d) Provides that during a preliminary review hearing, the panel:

(1) is authorized to consider all submitted evidence related to the inquiry, rather than the complaint, or to the subject matter of a motion under Section 571.124(b);

(2) is authorized to review any documents or material related to the inquiry or to the motion; and

(3) is required to determine whether there is credible evidence that provides cause for the panel to conclude that a violation within the jurisdiction of TEC has occurred.

Makes conforming changes.

(e) Authorizes the respondent to appear before the panel with the assistance of counsel, if desired by the respondent, and present any relevant evidence, including a written statement during a preliminary review hearing. Makes a conforming change.

SECTION 2.23. Amends Subchapter E, Chapter 571, Government Code, by adding Section 571.1251, as follows:

Sec. 571.1251. SELECTION OF PANEL TO CONDUCT PRELIMINARY REVIEW HEARING. Requires TEC to adopt rules for the selection of members of TEC to serve on panels to conduct preliminary review hearings. Requires that the rules ensure that a panel is composed of two members of TEC, and that each member of the panel is a member of a different political party.

SECTION 2.24. Amends Section 571.126, Government Code, as follows:

Sec. 571.126. PRELIMINARY REVIEW HEARING: RESOLUTION. (a) Requires the panel, rather than TEC, except as provided in Subsection (e), as soon as practicable after the completion of a preliminary review hearing, to, by vote, issue a decision stating:

(1) whether there is credible evidence for the panel to determine that a violation within the jurisdiction of TEC has occurred and whether the violation is a technical, clerical, or de minimis violation, an administrative or filing violation, or a more serious violation; or

(2) that there is insufficient evidence for the panel to determine whether a violation within the jurisdiction of TEC has occurred.

Makes nonsubstantive and conforming changes.

(b) Requires the panel, if the panel determines that there is credible evidence for the panel to determine that a violation within the jurisdiction of TEC has occurred, to prepare a

resolution of the inquiry or motion to propose to the respondent to the extent possible. Requires TEC, not later than the fifth business day after the date the panel prepares the resolution, to provide the complainant, if any, and the respondent a copy of the decision stating the panel's determination and the panel's proposed resolution of the inquiry or motion in the appropriate form. Requires the panel, if the panel is unsuccessful in preparing a resolution or the respondent rejects the resolution, rather than resolving and settling the complaint or motion, to:

(1) order a formal hearing to be held in accordance with Sections 571.127, 571.129 (Formal Hearing: Standard of Evidence), 571.130 (Formal Hearing: Subpoenas and Witnesses), 571.131 (Formal Hearing: Procedure) and 571.132 (Formal Hearing: Resolution), rather than 571.129, 571.130, 571.131 and 571.132; and

(2) not later than the fifth business day after, as applicable, the date the panel determines that there is credible evidence to determine that a violation has occurred or the date the respondent rejects a resolution prepared by the panel, provide the complainant, if any, and the respondent with:

- (A) a copy of the decision;
- (B) notice of the date, time, and place of the formal hearing;
- (C) a statement of the nature of the alleged violation;
- (D) a description of the evidence of the alleged violation;
- (E) a copy of the inquiry or motion;
- (F) a copy of TEC's rules of procedure; and
- (G) a statement of the rights of the respondent.

Deletes existing text requiring TEC, if TEC determines that there is credible evidence for TEC to determine that a violation has occurred, to resolve and settle the complaint or motion to the extent possible. Deletes existing text requiring TEC, if TEC successfully resolves and settles the complaint or motion, not later than the fifth business day after the date of the final resolution of the complaint or motion, to send to the complainant, if any, and the respondent a copy of the decision stating TEC's determination and written notice of the resolution and the terms of the resolution. Deletes existing text requiring TEC, if TEC is unsuccessful in resolving and settling the complaint or motion, to, not later than the fifth business day after the date of the decision, send to the complainant, if any, and the respondent written notice of the date, time, and place of the formal hearing and a copy of the complaint or motion.

(c) Provides that, if the panel determines that there is credible evidence for the panel to determine that a violation within the jurisdiction of TEC has not occurred:

(1) the panel is required to dismiss the inquiry, rather than the complaint, or motion; and

(2) TEC is required to, not later than the fifth business day after the date of the dismissal, provide, rather than send to, the complainant, if any, and the respondent with a copy of the decision stating the panel's determination, rather than TEC's determination, and notice, rather than written notice, of the dismissal and the grounds for dismissal.

Makes conforming and nonsubstantive changes.

(d) Authorizes the panel, if the panel, rather than TEC, determines that there is insufficient credible evidence for the panel to determine that a violation within the jurisdiction of TEC has occurred, to dismiss the inquiry or motion or promptly order, rather than conduct, a formal hearing to be held under Sections 571.127, 571.129, 571.130, 571.131 and 571.132, rather than 571.129, 571.130, 571.131 and 571.132. Requires TEC, not later than the fifth business day after the date of the panel's determination under this subsection, to provide the complainant, if any, and the respondent with a copy of the decision stating the panel's determination and notice of the grounds for the determination. Makes conforming and nonsubstantive changes.

(e) Requires the panel to order a formal hearing to be held under Sections 571.127, 571.129, 571.130, 571.131 and 571.132 if, because of a tie vote, the panel cannot issue a decision under Subsection (a). Requires TEC, not later than the fifth business day after the date of the vote, to notify the complainant, if any, and the respondent of the date, time, and place of the hearing.

(f) Requires the panel, except as provided by other law or TEC rule, if the respondent accepts the resolution in Subsection (b), to submit to TEC for approval the letter of acknowledgment, notice of administrative or filing error, or notice of violation in which the resolution was proposed to the respondent.

SECTION 2.25. Amends Subchapter E, Chapter 571, Government Code, by adding Section 571.127, as follows:

Sec. 571.127. FORMAL HEARING: CONDUCT. Authorizes TEC to conduct a formal hearing under this subchapter or to delegate to the State Office of Administrative Hearings (SOAH) the responsibility of conducting a formal hearing under this subchapter.

SECTION 2.26. Amends Sections 571.132(a) and (c), Government Code, as follows:

(a) Requires TEC, not later than the 30th business day after the date SOAH issues a proposal for decision, to convene a meeting and by motion is required to issue:

(1) a final decision stating the resolution of the formal hearing in the form corresponding to the category of violation alleged in the inquiry or motion that was the subject of the hearing; and

(2) a written report stating in detail TEC's findings of fact, conclusions of law, and recommendation of criminal referral or imposition of a civil penalty, if any.

(c) Requires TEC, not later than the fifth business day after the date TEC issues the final decision and written report, to:

(1) provide, rather than send, a copy of the decision and report to the complainant, if any, and to the respondent; and

(2) make a copy of the decision and report available to the public during reasonable business hours.

SECTION 2.27. Amends Section 571.133, Government Code, as follows:

Sec. 571.133. APPEAL OF FINAL DECISION. (a) Authorizes a respondent who has exhausted all administrative remedies under this subchapter and who is aggrieved by a final decision of TEC to seek judicial review of the decision by pursuing an appeal.

(b) Redesignates existing Subsection (a) as Subsection (b) and makes no further changes.

(c) Redesignates existing Subsection (b) as Subsection (c) and makes no further changes.

(d) Redesignates existing Subsection (c) as Subsection (d) and makes no further changes.

(e) Requires that judicial review under this section be conducted in the manner provided for judicial review of a contested case under Chapter 2001 (Administrative Procedure), Government Code, and provides that it is governed by the substantial evidence rule.

Deletes existing Subsection (d) providing that an appeal brought under this section is not limited to questions of law, and the substantial evidence rule does not apply. Deletes existing text requiring the action to be determined by trial de novo. Deletes existing text requiring the reviewing court to try all issues of fact and law in the manner applicable to other civil suits in this state but may not admit in evidence the fact of prior action by TEC or the nature of that action, except to the limited extent necessary to show compliance with statutory provisions that vest jurisdiction in the court. Deletes existing text entitling a party, on demand, to a jury determination of any issue of fact on which a jury determination is available in other civil suits in this state.

SECTION 2.28. Amends Section 571.134, Government Code, as follows:

Sec. 571.134. DELAY OF REFERRAL. Requires TEC, if an alleged violation involves an election in which the alleged violator is a candidate, a candidate's campaign treasurer, or the campaign treasurer of a political committee supporting or opposing a candidate and the inquiry, rather than the complaint, is filed within 60 days before the date of the election, to delay referral until the day after election day, the day after runoff election day if an ensuing runoff involving the alleged violator is held, or the day after general election day if the election involved in the violation is a primary election and the alleged violator is involved in the succeeding general election.

SECTION 2.29. Amends Section 571.135(b), Government Code, as follows:

(b) Requires that the plain-language materials described in this section include:

(1) a description of:

(A) TEC's responsibilities;

(B) the types of conduct that constitute a violation of a law within the jurisdiction of TEC;

(C) the types of sanctions TEC is authorized to impose;

(D) TEC's policies and procedures relating to inquiry, rather than the complaint, investigation and resolution; and

(E) the duties of a person filing an inquiry with TEC; and

(2) a diagram showing the basic steps in TEC's procedures relating to inquiry investigation and resolution.

Makes conforming changes.

SECTION 2.30. Amends Section 571.1351, Government Code, as follows:

Sec. 571.1351. New heading: STATUS OF INQUIRY. (a) Requires TEC to keep an information file about each inquiry, rather than each sworn or other complaint, filed with TEC. Requires that the file include certain information. Makes conforming changes.

(b)-(c) Makes conforming changes.

SECTION 2.31. Amends Section 571.136, Government Code, to authorize TEC to, on its own motion or on the reasonable request of a respondent, extend any deadline for action relating to an inquiry, rather than a sworn complaint, motion, preliminary review hearing, or formal hearing.

SECTION 2.32. Amends Section 571.137(a), Government Code, to authorize TEC, in connection with a formal hearing authorized by this chapter, to subpoena and examine witnesses and documents that directly relate to an inquiry, rather than a sworn complaint.

SECTION 2.33. Amends Section 571.139, Government Code, as follows:

Sec. 571.139. APPLICABILITY OF OTHER ACTS. (a) Provides that, except as provided by Section 571.140(b), Chapter 552 (Public Information) does not apply to documents or any additional evidence relating to the processing, preliminary review, preliminary review hearing, or resolution of an inquiry or motion, rather than a sworn complaint or motion.

(b) Provides that Chapter 551 (Open Meetings) does not apply to the processing, preliminary review, preliminary review hearing, or resolution of an inquiry, rather than a sworn complaint, or motion, but does apply to a formal hearing held under Sections 571.127, 571.129, 571.130, 571.131 and 571.132, rather than 571.129, 571.130, 571.131 and 571.132.

(c) Provides that Subchapters C (Contested Cases: General Rights and Procedures), D (Contested Cases: Evidence, Witnesses, and Discovery), E (Contested Cases: Testimony of Child), F (Contested Cases: Final Decisions and Orders; Motions for Rehearing), G (Contested Cases: Judicial Review), and H (Court Enforcement), Chapter 2001, apply only to a formal hearing under this subchapter, the resolution of a formal hearing, and the appeal of a final decision, rather than order, of TEC, and only to the extent consistent with this chapter.

SECTION 2.34. Amends Sections 571.140(a), (b), and (b-1), Government Code, as follows:

(a) Provides that, except as provided by Subsection (b) or (b-1) or by Section 571.171 (Initiation and Referral), proceedings at a preliminary review hearing performed by a panel of members of TEC, an inquiry, rather than a sworn complaint, and documents and any additional evidence relating to the processing, preliminary review, preliminary review hearing, or resolution of an inquiry or motion are confidential and are prohibited from being disclosed unless entered into the record of a formal hearing or a judicial proceeding, except that a document or statement that was previously public information remains public information.

(b) Provides that a notice of administrative or filing error or a notice of violation approved by TEC under Section 571.12431(b) or 571.126(f) after the completion of a preliminary review or hearing is not confidential. Provides that a letter of acknowledgment approved by TEC under Section 571.12431(b) or 571.126(f) after the completion of a preliminary review or hearing is confidential.

Deletes existing text providing that an order issued by TEC after the completion of a preliminary review or hearing determining that a violation other than a technical or de minimis violation has occurred is not confidential.

(b-1) Authorizes a TEC employee to, for the purpose of investigating a motion, or inquiry, rather than a sworn complaint, disclose to the complainant, the respondent, or a witness information that is otherwise confidential and relates to the inquiry if:

- (1) the employee makes a good faith determination that the disclosure is necessary to conduct the investigation;
- (2) the employee's determination under Subdivision (1) is objectively reasonable;
- (3) the executive director authorizes the disclosure; and
- (4) the employee discloses only the information necessary to conduct the investigation.

SECTION 2.35. Amends Section 571.141, Government Code, as follows:

Sec. 571.141. New heading: AVAILABILITY OF NOTICES OF ADMINISTRATIVE OR FILING ERROR AND NOTICES OF VIOLATION ON INTERNET. (a) Requires TEC, as soon as practicable following a preliminary review, preliminary review hearing, or formal hearing at which TEC staff, a panel of members of TEC, or TEC determines that a person has committed a violation within TEC's jurisdiction, to make available on the Internet:

- (1) a copy of the notice of administrative or filing error or notice of violation approved or issued by TEC, rather than TEC's order stating the determination; or
- (2) a summary of the notice, rather than TEC's order.

(b) Provides that this section does not apply to a letter of acknowledgment, rather than to a determination of a violation that is technical or de minimis.

SECTION 2.36. Amends Section 571.142, Government Code, as follows:

Sec. 571.142. LIABILITY FOR RESPONDENT'S COSTS. (a) Provides that this section applies only to an inquiry, rather than to a sworn complaint, if:

- (1) Makes a conforming change;
- (2) Makes no changes to this subdivision;and
- (3) the inquiry alleges an administrative or filing violation or a more serious violation, rather than the complaint alleges a violation other than a technical or clerical violation.

Deletes existing text providing that this section applies only to a sworn complaint if the complaint alleges a violation other than a technical or clerical violation.

(b)-(c) Makes a conforming changes.

SECTION 2.37. Amends Section 571.171(b), Government Code, to authorize the executive director of TEC (executive director), on receipt of an inquiry, rather than on receipt of a sworn complaint, to refer the matter to the appropriate prosecuting attorney for criminal prosecution, if the executive director reasonably believes that the person who is the subject of the inquiry has violated Chapter 36 (Bribery and Corrupt Influence) or 39 (Abuse of Influence), Penal Code.

SECTION 2.38. Amends Section 571.173, Government Code, as follows:

Sec. 571.173. CIVIL PENALTY FOR DELAY OR VIOLATION. (a) Creates this subsection from existing text. Authorizes TEC and TEC staff to impose a civil penalty of not more than \$5,000 or triple the amount at issue under a law administered and enforced by TEC, whichever amount is more, for a delay in complying with a TEC order or decision or for a violation of a law administered and enforced by TEC.

(b) Requires TEC to adopt guidelines for TEC and TEC staff to follow when imposing a civil penalty under this section. Requires the guidelines to direct TEC or TEC staff to consider the factors described by Section 571.177.

(c) Requires TEC or TEC staff to impose a civil penalty on a respondent who accepts or is issued a notice of administrative or filing error or a notice of violation under this chapter.

(d) Provides that, when imposing a civil penalty under Subsection (c), TEC is not required to consider any penalties previously proposed to the respondent at an earlier stage of review.

(e) Prohibits TEC or TEC staff from imposing a civil penalty on a respondent who accepts or is issued a letter of acknowledgment under this chapter.

SECTION 2.39. Amends Section 571.176, Government Code, as follows:

Sec. 571.176. New heading: CIVIL PENALTY FOR FRIVOLOUS OR BAD-FAITH INQUIRY. (a) Authorizes TEC to impose a civil penalty of not more than \$10,000 for the filing of a frivolous or bad-faith inquiry, rather than a bad-faith complaint. Defines, in this subsection, "frivolous inquiry."

(b)-(c) Makes conforming changes.

SECTION 2.40. Amends Section 571.177, Government Code, to require that TEC staff, in addition to TEC, consider certain factors in assessing a sanction.

SECTION 2.41. (a) Requires TEC, not later than December 1, 2013, to adopt any rules necessary to implement the changes in law made by this article.

(b) Provides that changes in law made by this article apply only to an inquiry filed with TEC under Section 571.122, Government Code, or a motion adopted by TEC under Section 571.124(b), Government Code, on or after December 1, 2013. Provides that a sworn complaint filed with TEC under Section 571.122, Government Code, or a motion adopted by TEC under Section 571.124(b), Government Code, before that date is governed by the law in effect on the date the complaint is filed or the motion is adopted, and the former law is continued in effect for that purpose.

### ARTICLE 3. PERSONAL FINANCIAL STATEMENTS

SECTION 3.01. Amends Section 571.0671, Government Code, as follows:

Sec. 571.0671. REQUIREMENTS FOR ELECTRONIC FILING SOFTWARE. (a) Requires that computer software provided or approved by TEC for use under Section 254.036(b) (relating to the requirement that each report filed under this chapter be filed by certain means of electronic transfer), Election Code, or Section 572.0291, in addition to Sections 302.013 (Filing of Statement of Contributions, Loans, and Expenditures) or 305.0064 (Electronic Filing of Registrations and Activity Reports):

(1) use a standardized format for the entry of names, addresses, and zip codes;

(2) provide for secure and encoded transmission of data from the computer of a person filing a report to the computers used by TEC;

(3) be capable of being used by a person with basic computing skills;

(4) provide confirmation to a person filing a report that the report was properly received; and

(5) permit a person using a computer to prepare a report or to retrieve information from a report to import information to the report from a variety of computer software applications that meet TEC specifications for a standard file format or export information from the report to a variety of computer software applications that meet TEC specifications for a standard file format without the need to reenter information.

Makes nonsubstantive changes.

(b) Requires TEC, before determining the specifications for computer software developed, purchased, or licensed for use under Section 254.036, Election Code, or Section 302.013, 305.0064, or 572.0291, to conduct at least one public hearing to discuss the specifications. Requires TEC, for at least 10 days following the hearing, to accept public comments concerning the software specifications. Makes a conforming and nonsubstantive change.

(c) Authorizes TEC to provide software for use under Section 254.036(b), Election Code, or Section 302.013, 305.0064, or 572.0291 by making the software available on the Internet. Provides that, if TEC makes the software available on the Internet, TEC is not required to provide the software on computer diskettes, CD-ROMs, or other storage media without charge to persons required to file reports under that section, but is authorized to charge a fee for providing the software on storage media. Prohibits a fee under this subsection from exceeding the cost to TEC of providing the software.

SECTION 3.02. Amends Subchapter B, Chapter 572, Government Code, by adding Section 572.0291, as follows:

Sec. 572.0291. ELECTRONIC FILING REQUIRED. Requires that a financial statement filed with TEC be filed by computer diskette, modem, or other means of electronic transfer, using computer software provided by TEC or computer software that meets TEC specifications for a standard file format.

SECTION 3.03. Amends Subchapter B, Chapter 572, Government Code, by adding Section 572.0292, as follows:

Sec. 572.0292. PREPARATION OF FORMS. Requires TEC to design forms that are authorized to be used for filing a financial statement with an authority other than TEC.

SECTION 3.04. Amends the heading to Section 572.030, Government Code, to read as follows:

Sec. 572.030. NOTIFICATION OF FILING REQUIREMENT.

SECTION 3.05. Amends Sections 572.030(b) and (c), Government Code, as follows:

(b) Requires TEC to notify each individual required to file under this subchapter, rather than mail to each individual required to file under this subchapter a notice, of:

(1)-(2) Makes nonsubstantive changes; and

(3) the manner in which the individual is authorized to electronically file the financial statement and access instructions for filing financial statements on the commission's Internet website. Makes nonsubstantive changes.

Deletes existing text requiring TEC to mail to each individual required to file under this subchapter a notice that describes the manner in which the individual is authorized to obtain the financial statement forms and instructions from TEC's Internet website, states that on request of the individual, TEC will mail to the individual a copy of the financial



statement forms and instructions, and states, if applicable, the fee for mailing the forms and instructions and the manner in which the individual is authorized to pay the fee.

(c) Requires that the notification, rather than the notice, required by Subsection (b) be provided, rather than mailed,:

(1) before the 30th day before the deadline for filing the financial statement under Section 572.026(a) (relating to a state party chair being required to file a financial statement no later than April 30th of each year) or (c) (relating to an individual who is appointed or employed as the executive head of a state agency being required to file a financial statement no later than the 45th date on which the individual assumes the duties of the position), except as otherwise provided by this subsection;

(2) not later than the 15th day after the applicable deadline for filing an application for a place on the ballot or a declaration of write-in candidacy for candidates required to file under Section 572.027(a) (relating to the requirement of an individual who is a partisan or independent candidate for an office as an elected officer to file a financial statement no later than the 40th day after the date of the regular filing deadline for an application for a place on the ballot in a general primary election), (b) (relating to a candidate who files an application for a place on the ballot being required to file a financial statement no later than 30 days after filing the application and no later than the fifth day before the election), or (c) (relating to a candidate in a special election being required to file a financial statement no later than the fifth day before the election);

(3) not later than the seventh day after the date of appointment for individuals required to file under Section 572.026(b) (relating to the requirement that an individual who is appointed to fill a vacancy in an elective office to file a financial statement no later than the 30th day after the date of appointment or the date of qualification for the office, or if confirmation by the senate is required, before the first committee hearing on the confirmation, whichever is sooner), or if the legislature is in session, sooner if possible; and

(4) not later than the fifth day after the date the certificate of nomination is filed for candidates required to file under Section 572.027(d) (relating to an individual nominated to fill a vacancy in a nomination as a candidate for a position as an elected officer under Chapter 145 (Withdrawal, Death and Ineligibility of Candidate), Election Code, being required to file a financial statement no later than the 15th day after the date certain certificates are filed), rather than 574.027(d) [no such section exists].

SECTION 3.06. Amends Section 572.031(b), Government Code, to require TEC to notify the appropriate prosecuting attorney for the state of the determination, rather than send a written statement of the determination to the appropriate prosecuting attorneys of the state, if TEC determines that an individual has failed to file the statement in compliance with this subchapter.

SECTION 3.07. Amends Sections 572.033(a) and (b), Government Code, as follows:

(a) Requires TEC to notify the individual responsible for filing the statement and the appropriate prosecuting attorney for the state of the determination, rather immediately mail a notice of the determination to the individual responsible for filing the statement and to appropriate attorney for the state, on making a determination that the statement is late.

(b) Requires TEC, if the statement is more than 30 days late, to issue a warning of liability to the individual responsible for the filing. Deletes existing text requiring that the warning be sent by registered mail.

SECTION 3.08. Amends Section 145.004(d), Local Government Code, as follows:

(d) Provides that a financial statement is timely filed if it is properly addressed and placed in the United States Post Office or in the hands of a common or contract carrier not later than the last day for filing the financial statement. Provides that the post office cancellation mark or the receipt mark of a common or contract carrier is prima facie evidence of the date the statement was deposited with the post office or carrier. Authorizes the individual filing the statement to show by competent evidence that the actual date of posting was different from that shown by the mark.

SECTION 3.09. Amends Section 159.004(b), Local Government Code, as follows:

(b) Provides that a financial statement is timely filed if it is properly addressed and placed in the United States Post Office or in the hands of a common or contract carrier not later than the last day for filing the financial statement. Provides that the post office cancellation mark or the receipt mark of a common or contract carrier is prima facie evidence of the date the statement was deposited with the post office or carrier. Authorizes the individual filing the statement to show by competent evidence that the actual date of posting was different from that shown by the mark.

SECTION 3.10. Amends Section 159.053(b), Local Government Code, as follows:

(b) Provides that a financial statement is timely filed if it is properly addressed and placed in the United States Post Office or in the hands of a common or contract carrier not later than the last day for filing the financial statement. Provides that the post office cancellation mark or the receipt mark of a common or contract carrier is prima facie evidence of the date the statement was deposited with the post office or carrier. Authorizes the individual filing the statement to show by competent evidence that the actual date of posting was different from that shown by the mark.

SECTION 3.11. Requires TEC, as soon as practicable after the effective date of this Act, to develop or approve the computer software that a person may use to electronically file a financial statement under Chapter 572 (Personal Financial Disclosure, Standard of Conduct, and Conflict of Interest), Government Code, as provided by the changes in law made by this article.

#### ARTICLE 4. CAMPAIGN FINANCE

SECTION 4.01. Amends the heading to Chapter 252, Election Code, to read as follows:

##### CHAPTER 252. CAMPAIGN TREASURER, LEGISLATIVE CAUCUS CHAIR, AND PRINCIPAL POLITICAL COMMITTEE

SECTION 4.02. Amends Chapter 252, Election Code, by designating Sections 252.001 through 252.015 as Subchapter A and adding a subchapter heading to read as follows:

##### SUBCHAPTER A. CAMPAIGN TREASURER

SECTION 4.03. Amends Section 252.001, Election Code, as follows:

Sec. 252.001. APPOINTMENT OF CAMPAIGN TREASURER REQUIRED. Requires each candidate and each political committee, except as provided in Subchapter C, to appoint a campaign treasurer as provided by this subchapter. Deletes existing text requiring each candidate and each political committee to appoint a campaign treasurer as provided by this chapter.

SECTION 4.04. Amends Chapter 252, Election Code, by adding Subchapters B and C, as follows:

##### SUBCHAPTER B. LEGISLATIVE CAUCUS CHAIR

Sec. 252.051. APPOINTMENT OF LEGISLATIVE CAUCUS CHAIR REQUIRED. Requires each legislative caucus, as defined by Section 253.0341, to appoint a caucus chair as required by this subchapter.

Sec. 252.052. CONTENTS OF APPOINTMENT; AUTHORITY WITH WHOM FILED. (a) Requires that a legislative caucus chair appointment be in writing and include the caucus's full name, the caucus chair's name, the caucus's mailing address, the caucus's telephone number, and the name of the person making the appointment.

(b) Requires a legislative caucus to file its caucus chair appointment with the Texas Ethics Commission (TEC).

(c) Requires a legislative caucus to notify TEC in writing of any change in the caucus's mailing address not later than the 10th day after the date on which the change occurs.

#### SUBCHAPTER C. PRINCIPAL POLITICAL COMMITTEE

Sec. 252.101. DESIGNATION OF PRINCIPAL POLITICAL COMMITTEE. (a) Authorizes a candidate required to file a campaign treasurer appointment with TEC or an officeholder of an office for which a candidate is required to file a campaign treasurer appointment with TEC to designate a specific-purpose committee as the principal political committee for the candidate or officeholder with the responsibility of reporting any activity of the candidate or officeholder for which the candidate or officeholder would otherwise be required to file a report under Chapter 254 (Political Reporting).

(b) Provides that a candidate who designates a principal political committee under this subchapter is not required to appoint a campaign treasurer under Subchapter A.

(c) Requires that a designation of a principal political committee be in writing and filed with TEC.

Sec. 252.102. LIMITATION ON DESIGNATION OF AND AS PRINCIPAL POLITICAL COMMITTEE. (a) Authorizes a candidate or officeholder to designate only one specific-purpose committee as the candidate's or officeholder's principal political committee.

(b) Authorizes a specific-purpose committee to be designated as the principal political committee for only one candidate or officeholder.

SECTION 4.05. Amends Sections 254.0311(a), (c), (d), and (g), Election Code, as follows:

(a) Requires a legislative caucus's caucus chair, rather than a legislative caucus, to file a report of contributions and expenditures as required by this section.

(c) Requires the legislative caucus chair, rather than the legislative caucus, to indicate that fact in the report, if no reportable activity occurs during the reporting period.

(d) Requires the legislative caucus's chair, rather than the legislative caucus, to file with TEC two reports for each year.

(g) Requires a legislative caucus's caucus chair, rather than a legislative caucus, to maintain a record of all reportable activity under this section and is required to preserve the record for at least two years beginning on the filing deadline for the report containing the information in the record.

SECTION 4.06. Amends Sections 254.034(a) and (b), Election Code, as follows:

(a) Requires that a determination to accept or refuse a political contribution that is received by a candidate, officeholder, or political committee be made not later than the date the candidate, officeholder, or political committee files a report under this chapter for the reporting period during which the contribution is received or the deadline for filing a report for the reporting period during which the contribution is received, whichever occurs first, rather than not later than the end of the reporting period during which the contribution is received.

(b) Provides that if the determination to accept or refuse a political contribution is not made before the time required by Subsection (a), for purposes of this chapter, the contribution is considered to have been accepted on the date the candidate, officeholder, or political committee files a report under this chapter for the reporting period during which the contribution is received or the deadline for filing a report for the reporting period during which the contribution is received, whichever occurs first, rather than being considered to have been accepted on the last day of that reporting period.

SECTION 4.07. Amends Section 254.036, Election Code, by amending Subsections (c) and (c-1) and adding Subsections (d) and (d-1), as follows:

(c) Authorizes a candidate, officeholder, or political committee that is required to file reports with TEC to file reports that comply with Subsection (a) (relating to a report filed under this section being required to in a format prescribed by TEC) if:

(1) the candidate, officeholder, or campaign treasurer of the committee files with TEC an affidavit stating that the candidate, officeholder, or committee, an agent of the candidate, officeholder, or committee, or a person with whom the candidate, officeholder, or committee contracts does not use computer equipment to keep the current records of political contributions, political expenditures, or persons making political contributions to the candidate, officeholder, or committee; and

(2) the candidate, officeholder, or committee has never accepted, rather than does not accept, political contributions that in the aggregate exceeded \$20,000 or made political expenditures that in the aggregate exceeded \$20,000. Makes conforming and nonsubstantive changes.

(c-1) Requires the affidavit to include a statement that the candidate, officeholder, or political committee understands that the candidate, officeholder, or committee is required file reports as required by Subsection (b) (relating to the requirement that each report filed under this chapter with TEC be filed by certain electronic means, except as provided by Subsection (c) or (e) (relating to certain candidates for office or specific-purpose committee being authorized to file certain reports)) if the candidate or officeholder, or committee ever exceeds \$20,000 in political contributions or political expenditures in a calendar year.

(d) Authorizes a legislative caucus to file reports that comply with Subsection (a) if:

(1) the legislative caucus chair files with TEC an affidavit stating that the caucus, an agent of the caucus, or a person with whom the caucus contracts does not use computer equipment to keep the current records of contributions, expenditures, or persons making contributions to the caucus; and

(2) the caucus has never, in a calendar year, accepted contributions that in the aggregate exceeded \$20,000 or made expenditures that in the aggregate exceeded \$20,000.

(d-1) Requires that an affidavit under Subsection (d) be filed with each report filed under Subsection (a). Requires that the affidavit include a statement that the legislative caucus understands that the caucus is required to file reports as required by Subsection (b) if:

- (1) the caucus, a consultant of the caucus, or a person with whom the caucus contracts uses computer equipment for a purpose described by Subsection (d); or
- (2) the caucus ever exceeds \$20,000 in contributions or expenditures in a calendar year.

SECTION 4.08. Amends Section 254.0405(c), Election Code, to provide that a semiannual report that is amended on or after the eighth day after the original report was filed is considered to have been filed on the date on which the original report was filed if the amendment is made before any inquiry, rather than complaint, is filed with regard to the subject of the amendment.

SECTION 4.09. Amends Sections 254.042(a) and (b), Election Code, as follows:

- (a) Requires TEC to determine from any available evidence whether a report required to be filed with TEC under this chapter is late. Requires TEC, on making that determination, to immediately notify, rather than mail a notice of the determination to, the person required to file the report of the determination.
- (b) Requires TEC, if a report is more than 30 days late, to issue a warning of liability to the person required to file the report. Deletes existing text requiring TEC to issue a warning of liability by registered mail to the person required to file the report.

SECTION 4.10. Amends Subchapter C, Chapter 254, Election Code, by adding Section 254.067, as follows:

Sec. 254.067. REPORT NOT REQUIRED. Provides that, if during any reporting period prescribed by this subchapter a candidate designates a specific-purpose committee as the candidate's principal political committee as provided by Section 252.101, the candidate is not required to file a report covering that period if the candidate's principal political committee reports all of the activity that would otherwise be required to be included in the report, including:

- (1) the amount of any political contribution, including any loan, made by the candidate to the principal political committee; and
- (2) the amount of any political expenditure made by the candidate from personal funds and whether the candidate intends to seek reimbursement of the expenditure from the principal political committee.

SECTION 4.11. Amend Section 254.095, Election Code, as follows:

Sec. 254.095. REPORT NOT REQUIRED. (a) Creates this subsection from existing text. Makes no further changes to this subsection.

(b) Provides that, if during any reporting period prescribed by this subchapter an officeholder designates a specific-purpose committee as the officeholder's principal political committee as provided by Section 252.101, the officeholder is not required to file a report covering that period if the officeholder's principal political committee reports all of the activity that would otherwise be required to be included in the report, including:

- (1) the amount of any political contribution, including any loan, made by the officeholder to the principal political committee; and
- (2) the amount of any political expenditure made by the officeholder from personal funds and whether the officeholder intends to seek reimbursement of the expenditure from the principal political committee.

SECTION 4.12. Amends Section 254.157(b), Election Code, as follows:

(b) Provides that a monthly report covers the period beginning the first calendar day of each month and continuing through the last calendar day of that month. Deletes existing text providing that a monthly report covers the period beginning the 26th day of each month and continuing through the 25th day of the following month, except that the period covered by the first report begins January 1 and continues through January 25.

SECTION 4.13. Amends Section 254.158, Election Code, as follows:

Sec. 254.158. EXCEPTION TO MONTHLY REPORTING SCHEDULE. Provides that, if the campaign treasurer appointment of a general-purpose committee filing monthly reports is filed after January 1 of the year in which monthly reports are filed, the period covered by the first monthly report begins the day the appointment is filed and continues through the last calendar day, rather than the 25th day, of the month in which the appointment is filed unless the appointment is filed the last calendar day of the month, rather than the 25th or a succeeding day of the month. Makes a conforming change.

SECTION 4.14. Makes application of this Article prospective.

SECTION 4.15. (a) Requires each legislative caucus in existence on September 1, 2013, not later than September 15, 2013, to appoint a caucus chair and file a caucus chair appointment with TEC as required by Subchapter B, Chapter 252, Election Code, as added by this Act. Provides that, notwithstanding Section 254.0311, Election Code, as amended by this Act:

(1) not later than October 1, 2013, a legislative caucus is required to file a report under Section 254.0311, Election Code, as that section existed before amendment by this Act, that covers the period beginning July 1, 2013, or the day the caucus is organized, as applicable, and continuing through September 15, 2013; and

(2) not later than January 15, 2014, a legislative caucus chair appointed under this subsection is required to file a report under Section 254.0311, Election Code, as amended by this Act, that covers the period beginning September 15, 2013, and continuing through December 31, 2013.

(b) Provides that a legislative caucus chair appointed under Subsection (a) of this section is not responsible for reporting caucus activity that occurs before September 15, 2013, or maintaining records of caucus activity that occurs before September 15, 2013.

## ARTICLE 5. LOBBYING

SECTION 5.01. Amends Section 305.002, Government Code, by adding Subdivision (2-a), to define "communicates directly with a member of the legislative or executive branch to influence legislation or administrative action."

SECTION 5.02. Amends Section 305.0021(b), Government Code, as follows:

(b) Provides that for purposes of Section 36.02 (Bribery) or 36.10 (Non-Applicable), Penal Code, a person described by Subsection (a)(2)(A) (relating to an expenditure only applying to this chapter in the amount of any joint expenditure that is made on behalf of the registrant by a person who is not a registrant) is not considered to have made an expenditure in accordance with this chapter. Deletes existing text providing that for the purposes of Section 36.02 or 36.10, Penal Code, the amount of a joint expenditure that is attributed to a person who is not a registrant is not an expenditure made and reported in accordance with this chapter.

SECTION 5.03. Amends Section 305.003, Government Code, by adding Subsections (b-3) and (b-4), as follows:

(b-3) Provides that Subsection (a)(2) (relating to a person being required to register under this chapter if the person is retained, employed, receives certain compensation, or reimbursement amounts to communicate directly with a member of the legislative or

executive branch to influence legislation or administrative action) does not require a person to register if the person spends not more than 26 hours for which the person is compensated or reimbursed during the calendar quarter engaging in activity to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action.

(b-4) Provides that, if a person spends more than eight hours in a single day engaging in activity to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action, the person is only considered to have engaged in the activity for eight hours during that day for purposes of Subsection (b-3).

SECTION 5.04. Amends Section 305.0062(a), Government Code, as follows:

(a) Requires that the expenditures be stated in only one of the following categories:

(1)-(6) Makes no changes to these subdivisions;

(7)-(8) Makes nonsubstantive changes;

(9) events to which a legislative committee and the staff of the legislative committee are invited;

(10) state senators and the staff of state senators;

(11) state representatives and the staff of state representatives; and

(12) all invited legislative staff.

SECTION 5.05. Amends Section 305.0064, Government Code, by adding Subsection (c), to prohibit the rules adopted by TEC under Subsection (b) (relating to the adoption of rules by TEC under which a registrant may file paper registrations or report) from allowing a registrant to file a paper registration or report if the registrant has ever used the electronic filing system under Subsection (a) (relating to certain registrations and reports being required to be filed by computer diskette, modem, or other means of electronic transfer).

SECTION 5.06. Amends Section 305.027, Government Code, by adding Subsection (f), to define "legislative advertising" in this section.

SECTION 5.07. Amends Section 305.028(g), Government Code, to authorize TEC to receive inquiries, rather than complaints, regarding a violation of this section.

SECTION 5.08. Amends Sections 305.033(a) and (c), Government Code, as follows:

(a) Requires TEC, on making a determination that a required registration or report is late, to immediately notify the person responsible for the filing and the appropriate attorney for the state of the determination. Deletes existing text requiring TEC, on making a determination that a required registration or report is late, to immediately mail a notice of the determination to the person responsible for the filing, to TEC, and to the appropriate attorney for the state.

(c) Requires TEC, if a registration or report is more than 30 days late, to issue a warning of liability to the person responsible for the filing. Deletes existing text requiring TEC to issue a warning of liability by registered mail to the person responsible for the filing.

SECTION 5.09. Amends Section 305.034(b), Government Code, as follows:

(b) Requires TEC to notify the person involved of this finding, rather than send a written statement of this finding to the person involved whenever TEC determines that a person has failed to file any required form, statement, or report as required by this chapter. Deletes existing text requiring that notice to the person involved be sent by certified mail.

SECTION 5.10. Provides that the amendment by this article to Section 305.0021(b), Government Code, is intended to clarify rather than change existing law.

SECTION 5.11. Provides that Section 305.003, Government Code, as amended by this article, applies only to a registration or registration renewal required to be filed under Chapter 305, Government Code, on or after the effective date of this Act. Provides that a registration or registration renewal required to be filed under Chapter 305, Government Code, before the effective date of this Act is governed by the law in effect on the date the registration or registration renewal is due, and the former law is continued in effect for that purpose.

SECTION 5.12. Provides that Section 305.0062, Government Code, as amended by this article, applies only to a report required to be filed under Section 305.006, Government Code, on or after the effective date of this Act. Provides that a report required to be filed under Section 305.006, Government Code, before the effective date of this Act is governed by the law in effect on the date the report is due, and the former law is continued in effect for that purpose.

## ARTICLE 6. REPEALER

SECTION 6.01. (a) Provides that the following provisions are repealed:

- (1) Repealer: Section 254.036(j) (related to TEC being required to mail certain forms to each person required to file a report with TEC during that reporting period), Election Code;
- (2) Repealers: Sections 254.0401(b) (relating to TEC being required to post certain reports regarding filing deadlines for candidates nominated by primary election or for committees supporting candidates nominated by primary election on an Internet website) and (f) (relating to the requirement that TEC state clearly on the Internet website which reports are provided under Subsection (b) for certain candidates and committees that reports will not be available if the candidate or committee has not filed a report), Election Code;
- (3) Repealer: Section 571.032 (Mailing of Notices, Decisions, and Reports), Government Code;
- (4) Repealer: Section 571.1212 (Categorization of Violations), Government Code;
- (5) Repealer: Section 572.029(c) (relating to the conditions under which a financial statement is to be considered timely, and relating to the individual filing the statement being able to prove date of posting through certain means), Government Code;
- (6) Repealers: Sections 572.030(a) (relating to TEC being required to design forms that are authorized to be used for filing the financial statement under this chapter), (d) (relating to the requirement that TEC mail a copy of the financial statement forms and instructions to an individual not later than the third business day after the due date TEC receives the individual's request for the forms and instructions), and (e) (relating to authorizing TEC to charge a fee, not exceeding a certain reasonable amount, for mailing the financial statement forms and instructions to an individual), Government Code; and
- (7) Repealer: Section 572.034(c) (relating to the provision that it is a defense to a prosecution for failure to file a financial statement if the individual did not receive copies of the financial statement form required by this subchapter to be mailed to the individual), Government Code.

(b) Provides that the repeal of Section 572.034(c), Government Code, applies only to an offense committed on or after the effective date of this Act. Provides that an offense committed before the effective date of this Act is governed by the law in effect on the



date the offense was committed, and the former law is continued in effect for that purpose. Provides that for purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

#### ARTICLE 7. EFFECTIVE DATE

SECTION 7.01. Effective date: September 1, 2013.