

By: Schofield

H.B. No. 3543

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the establishment of the Public Integrity
3 Prosecutions Committee and the Office of Public Integrity
4 Prosecutions for the prosecution of offenses against public
5 administration, including ethics offenses, offenses involving
6 insurance fraud, and offenses involving motor fuels tax and to the
7 appointment of committee members and the appointment and
8 compensation of the prosecutor.

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

10 SECTION 1. The Government Code is amended by adding Chapter
11 47, to read as follows:

12 CHAPTER 47. PUBLIC INTEGRITY PROSECUTIONS COMMITTEE AND OFFICE OF

13 PUBLIC INTEGRITY PROSECUTIONS

14 SUBCHAPTER A. PUBLIC INTEGRITY PROSECUTIONS COMMITTEE

15 Sec. 47.001 DEFINITIONS. In this subchapter,

16 (1) "Committee" means the Public Integrity
17 Prosecutions Committee established under this subchapter.

18 (2) "Office" means the Office of Public Integrity
19 Prosecutions established under Subchapter B.

20 (3) "Public Integrity Prosecutor" means the chief
21 prosecutor of the Office of Public Integrity Prosecutions.

22 Sec. 47.002 ESTABLISHMENT OF COMMITTEE; DUTIES. (a) The
23 Public Integrity Prosecutions Committee is established.

24 (b) The chief justice of the supreme court shall appoint the

1 committee, to consist of not fewer than 30 members, from a list of
2 at least 60 attorneys with prosecution experience in the state
3 submitted by the Texas District and County Attorneys Association or
4 its successor. The chief justice shall appoint the committee in a
5 manner that ensures that each administrative judicial region is
6 represented.

7 (c) The members of the committee serve at the pleasure of
8 the chief justice.

9 (d) The committee shall select a presiding officer from
10 among its members and the committee meets at the call of the
11 presiding officer.

12 (e) The chief justice shall ensure that there are at least
13 30 active members of the committee at any time when the term of the
14 public integrity prosecutor is about to expire, a vacancy has
15 occurred or is about to occur, or the committee is considering or
16 may consider removing the public integrity prosecutor under Sec.
17 47.004.

18 Sec. 47.003. RECOMMENDATION AND APPOINTMENT OF PUBLIC
19 INTEGRITY PROSECUTOR. (a) The committee shall establish a
20 subcommittee from among its members to recommend candidates for the
21 position of public integrity prosecutor. Persons recommended under
22 this section must be licensed to practice law in this state.

23 (b) The committee shall appoint a person recommended under
24 Subsection (a) as the public integrity prosecutor.

25 (c) The public integrity prosecutor serves in the position
26 for a six-year term. At the end of said term, the committee shall
27 appoint a person for the next six-year term, following the

1 procedure in Sec 47.002 and this section. No person shall be
2 eligible to reappointed more than once or to serve more than twelve
3 years as public integrity prosecutor. Upon the end of a term, if the
4 public integrity prosecutor has not been reappointed, he ceases to
5 be public integrity prosecutor and does not hold over in office
6 until a successor is qualified. The position will be considered
7 vacant until a successor is qualified in the manner set out in
8 Section 47.002 and this section.

9 (d) When a vacancy for the position exists, the committee
10 shall appoint a public integrity prosecutor in the manner set out in
11 Section 47.002 and this section.

12 Sec. 47.004 REMOVAL. The committee may remove the public
13 integrity prosecutor for good cause shown, by a vote of sixty
14 percent of the members of the committee who are then still serving
15 on the committee. Upon removal, the committee shall appoint a new
16 public integrity prosecutor in the manner set out in this section.

17 SUBCHAPTER B. OFFICE OF PUBLIC INTEGRITY PROSECUTIONS

18 Sec. 47.051 DEFINITIONS. In this subchapter,

19 (1) "Offense" means a prohibited act for which state
20 law imposes a criminal or civil penalty.

21 (2) "Office" means the Office of Public Integrity
22 Prosecutions established under this subchapter.

23 (3) "Public Integrity Prosecutor" means the chief
24 prosecutor of the Office of Public Integrity Prosecutions.

25 (4) "Prosecute" means represent the state to impose a
26 criminal or civil penalty.

27 Sec. 47.052. ESTABLISHMENT OF THE OFFICE OF PUBLIC

1 INTEGRITY PROSECUTIONS; FUNDING. (a) The Office of Public
2 Integrity Prosecutions is established, and operates under the
3 direction and supervision of the public integrity prosecutor.

4 (b) The office shall have such duties as are set out in this
5 subchapter and elsewhere in law.

6 (c) The office shall receive funds for personnel costs and
7 expenses:

8 (1) as specified in the General Appropriations Act;
9 and

10 (2) from any and all funds appropriated to the
11 Judiciary Section, Comptroller's Department, for purposes of the
12 Public Integrity Unit, Travis County.

13 Sec. 47.053 STAFF. (a) The public integrity prosecutor
14 shall employ attorneys and employ or retain licensed investigators
15 and other personnel necessary to perform the duties of the office.

16 (b) The public integrity prosecutor and any attorney
17 employed by the office may not:

18 (1) engage in the private practice of criminal law; or
19 (2) accept anything of value not authorized by law for
20 services rendered under this subchapter.

21 Sec. 47.054 COMPENSATION. The public integrity prosecutor
22 shall be compensated by the Judiciary Section, Comptroller's
23 Department, at the rate and on the payment schedule of the Travis
24 County district attorney.

25 Sec. 47.055 OFFENSES AGAINST PUBLIC ADMINISTRATION. For
26 the purposes of this subchapter, the following are offenses against
27 public administration:

1 (1) an offense under Title 8, Penal Code, committed by
2 a state officer or a state employee in connection with the powers
3 and duties of the state office or state employment;

4 (2) an offense under Chapter 301, 302, 305, 571, 572,
5 or 2004;

6 (3) an offense under Chapter 573 committed by a state
7 officer in connection with the powers and duties of the state
8 office; and

9 (4) an offense under Title 15, Election Code,
10 committed in connection with:

11 (A) a campaign for or the holding of state
12 office; or

13 (B) an election on a proposed constitutional
14 amendment.

15 Sec. 47.056. OFFENSES INVOLVING INSURANCE FRAUD. For the
16 purposes of this subchapter, the following are offenses involving
17 insurance fraud:

18 (1) an offense under Chapter 35, Penal Code, including
19 an offense under that chapter that involves workers' compensation
20 insurance under Title 5, Labor Code; or

21 (2) a fraudulent insurance act as defined by Section
22 701.001, Insurance Code, including an act that involves workers'
23 compensation insurance under Title 5, Labor Code.

24 Sec. 47.057. OFFENSES INVOLVING MOTOR FUELS TAX. For
25 purposes of this subchapter, an offense involving motor fuels tax
26 means a felony offense under Section 162.403, Tax Code.

27 Sec. 47.058. AUTHORITY TO PROSECUTE. (a) In any district

1 or county court of appropriate jurisdiction and venue, the office,
2 under the direction of the public integrity prosecutor, has the
3 authority to prosecute a person for an offense against public
4 administration, an offense involving insurance fraud, or an offense
5 involving motor fuels tax.

6 (b) The Judiciary Section, Comptroller's Department shall
7 provide funds for use by the office to pay costs incurred as a
8 result of the prosecution of an offense under this subchapter.

9 (c) The supreme court may adopt rules governing the
10 operations of the office.

11 Sec. 47.059 COOPERATION OF STATE AGENCIES AND LOCAL LAW
12 ENFORCEMENT AGENCIES AND PROSECUTORS. (a) To the extent allowed by
13 law, a state agency or local law enforcement agency, or a district
14 attorney, criminal district attorney, or county attorney, shall
15 cooperate with the office prosecuting an offense against public
16 administration, an offense involving insurance fraud, or an offense
17 involving motor fuels tax by providing information requested by the
18 office as necessary to carry out the purposes of this subchapter.

19 (b) A district attorney, criminal district attorney, or
20 county attorney may not interfere with the office's authority to
21 represent the state before a grand jury.

22 (c) Information disclosed under this section is
23 confidential and not subject to disclosure under Chapter 552.

24 Sec 47.060 VENUE. Notwithstanding Chapter 13, Code of
25 Criminal Procedure, or other law, if the defendant is a natural
26 person, venue for prosecution of an offense under this Chapter is
27 the county in which the defendant resides.

1 Sec. 47.061 RESIDENCE. For the purposes of this subchapter,
2 a person resides in the county where that person:

3 (1) claims a residence homestead under Chapter 41,
4 Property Code, if that person is a member of the Texas Legislature,
5 a justice on the supreme court, or judge on the court of criminal
6 appeals;

7 (2) claimed to be a resident before being subject to
8 residency requirements under Article IV, Texas Constitution, if
9 that person is a member of the Executive Department of the State; or

10 (3) otherwise claims residence if no other provision
11 of this subsection applies.

12 Sec. 47.062 VENUE FOR GRAND JURY PROCEEDINGS. Venue for all
13 grand jury proceedings in prosecutions arising under this Chapter
14 shall be in the venue described in Sec. 47.060.

15 SECTION 2. Article 20.03, Code of Criminal Procedure, is
16 amended to read as follows:

17 Art. 20.03. ATTORNEY REPRESENTING STATE ENTITLED TO APPEAR.
18 "The attorney representing the State" means Attorney General,
19 district attorney, criminal district attorney, ~~or~~ county
20 attorney, or public integrity prosecutor under Chapter 47,
21 Government Code. The attorney representing the State is entitled to
22 go before the grand jury and inform them of offenses liable to
23 indictment at any time except when they are discussing the
24 propriety of finding an indictment or voting upon the same.

25 SECTION 3. Sections 301.027(b) and (c), Government Code,
26 are amended to read as follows:

27 (b) If the president of the senate or speaker receives a

1 report or statement of facts as provided by Subsection (a), the
2 president of the senate or speaker shall certify the statement of
3 facts to the office of public integrity prosecutions under Chapter
4 47, [~~Travis County district attorney~~] under the seal of the senate
5 or house of representatives, as appropriate.

6 (c) The public integrity prosecutor [~~Travis County district~~
7 ~~attorney~~] shall bring the matter before the grand jury for action.
8 If the grand jury returns an indictment, the public integrity
9 prosecutor [~~district attorney~~] shall prosecute the indictment.

10 SECTION 4. (a) Not later than January 1, 2016, the chief
11 justice of the supreme court shall appoint the public integrity
12 prosecutions committee under Chapter 47, Government Code, as added
13 by this Act. Not later than March 1, 2016, the public integrity
14 prosecutions committee shall appoint a public integrity
15 prosecutor.

16 (b) Chapter 47, Government Code, as added by this Act,
17 applies only to the prosecution of an offense against public
18 administration or an offense involving insurance fraud or motor
19 fuels tax committed on or after April 1, 2016. For purposes of this
20 section, an offense is committed before April 1, 2016 if any element
21 of the offense occurs before that date.

22 (c) The prosecution of an offense committed before April 1,
23 2016, is covered by the law in effect immediately before the
24 effective date of this Act, and the former law is continued in
25 effect for that purpose, except that a county attorney, district
26 attorney, or criminal district attorney may, on the request of the
27 public integrity prosecutor established under Chapter 47,

1 Government Code, as added by this Act, permit the public integrity
2 prosecutor to assume the prosecution of the offense.

3 (d) On January 1, 2016, appropriations made by the 84th
4 Legislature to the Judiciary Section, Comptroller's Department,
5 for purposes of the Public Integrity Unit, Travis County, are
6 transferred to the Office of Public Integrity Prosecutions
7 established under Chapter 47, Government Code, as added by this
8 Act.

9 SECTION 5. This Act takes effect September 1, 2015.