

By: Davis of Dallas

H.B. No. 2167

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the removal of a state or local officer for refusing or
3 directing others to refuse to enforce state or federal law.

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

5 SECTION 1. Chapter 66, Civil Practice and Remedies Code, is
6 amended by adding Section 66.004 to read as follows:

7 Sec. 66.004. FAILURE TO ENFORCE STATE OR FEDERAL LAW. (a)
8 For purposes of Section 66.001, a person holding an elective or
9 appointive office of this state or of a political subdivision of
10 this state does an act that causes the forfeiture of the person's
11 office if the person:

12 (1) wilfully fails to enforce a state or federal law in
13 the course of the person's official duties;

14 (2) directs others subject to the person's supervision
15 or control as a public official not to enforce a state or federal
16 law; or

17 (3) states orally or in writing that the person does
18 not intend to enforce a state or federal law in the course of the
19 person's official duties.

20 (b) For purposes of this section, "law" includes any rule,
21 regulation, executive order, court order, statute, or
22 constitutional provision.

23 (c) This section does not apply to a law:

24 (1) that has been held to be invalid by a court with

1 jurisdiction over the territory served by the officer; or
2 (2) the validity of which is currently being
3 challenged in a court with jurisdiction over the territory served
4 by the officer.

5 (d) The attorney general or appropriate county or district
6 attorney shall file a petition under Section 66.002 against an
7 officer to which Subsection (a) applies if presented with evidence,
8 including evidence of a statement by the officer, establishing
9 probable cause that the officer engaged in conduct described by
10 Subsection (a). The court in which the petition is filed shall give
11 precedence to proceedings relating to the petition in the same
12 manner as provided for an election contest under Section 23.101,
13 Government Code.

14 (e) If the person against whom an information is filed based
15 on conduct described by Subsection (a) is found guilty as charged,
16 the court shall enter judgment removing the person from office and
17 disqualifying the person from public office for a period of 10
18 years.

19 SECTION 2. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2013.