

**TEXAS ETHICS COMMISSION**  
**CHAPTER 571, GOVERNMENT CODE**  
**TEXAS ETHICS COMMISSION**



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**CHAPTER 571, GOVERNMENT CODE**

**TEXAS ETHICS COMMISSION**

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**GOVERNMENT CODE**

**TITLE 5. OPEN GOVERNMENT; ETHICS**

**SUBTITLE B. ETHICS**

**CHAPTER 571. TEXAS ETHICS COMMISSION**

**SUBCHAPTER A. GENERAL PROVISIONS**

**Sec. 571.001. PURPOSE.** It is the policy of the legislature to protect the constitutional privilege of free suffrage by regulating elections and prohibiting undue influence while also protecting the constitutional right of the governed to apply to their government for the redress of grievances. This chapter is intended to achieve those purposes and shall be construed to achieve the following objectives:

- (1) to control and reduce the cost of elections;
- (2) to eliminate opportunities for undue influence over elections and governmental actions;
- (3) to disclose fully information related to expenditures and contributions for elections and for petitioning the government;
- (4) to enhance the potential for individual participation in electoral and governmental processes; and
- (5) to ensure the public's confidence and trust in its government.

**Sec. 571.002. DEFINITIONS.** In this chapter:

- (1) "Commission" means the Texas Ethics Commission.
- (2) "Complainant" means an individual who files a sworn complaint with the commission.
- (2-a) "Executive director" means the executive director of the commission.
- (3) "Political party" includes only a political party required to hold a primary election under Section 172.001, Election Code.
- (4) "Respondent" means a person who is alleged to have committed a violation of a rule adopted by or a law administered and enforced by the commission.

**SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**

**Sec. 571.021. TEXAS ETHICS COMMISSION.** This chapter applies to the Texas Ethics Commission created under Article III, Section 24a, of the Texas Constitution.

**Sec. 571.022. SUNSET PROVISION.** The commission is subject to review under Chapter 325 (Texas Sunset Act), but is not abolished under that chapter. The commission shall be reviewed during the periods in which state agencies abolished in 2013 and every 12th year after that year are reviewed.

**Sec. 571.0221. DISCRIMINATION PROHIBITED.** Appointments to the commission shall be made without regard to the race, color, disability, sex, age, national origin, or religion of the appointees.

**Sec. 571.023. PRESIDING OFFICER.** The members of the commission shall elect annually the presiding officer of the commission.

**Sec. 571.0231. RESTRICTION ON COMMISSION MEMBERSHIP.** A person may not be a member of the commission if the person is required to register as a lobbyist under Chapter 305.

**Sec. 571.0232. GROUNDS FOR REMOVAL.**

(a) It is a ground for removal from the commission that a member:

(1) does not have at the time of taking office the qualifications required by Section 24a, Article III, Texas Constitution;

(2) does not maintain during service on the commission the qualifications required by Section 24a, Article III, Texas Constitution;

(3) is ineligible for membership under Section 571.0231;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

**Sec. 571.024. EXPENSES.** A member of the commission is entitled to travel expenses incurred in performing official duties and to a per diem equal to the maximum amount allowed on January 1 of that year for federal employees per diem for federal income tax purposes, subject to the same limitations for members of state boards and commissions in the General Appropriations Act.

**Sec. 571.025. MEETINGS.** The commission shall meet at least once each calendar quarter and at other times at the call of the presiding officer.

**Sec. 571.026. QUORUM; VOTE REQUIRED.**

(a) A majority of the membership of the commission constitutes a quorum.

(b) A vacancy on the commission may not be considered in determining the membership of the commission for the purpose of a quorum.

(c) An action or recommendation of the commission requiring a vote of the commission is not valid unless:

- (1) the action or recommendation is approved by a record vote taken at a meeting of the commission with a quorum present; and
- (2) except as otherwise provided by this chapter, the action or recommendation receives an affirmative vote of a majority of the membership of the commission.

**Sec. 571.027. PROHIBITED PARTICIPATION.**

(a) A member of the commission may not participate in a commission proceeding relating to any of the following actions if the member is the subject of the action:

- (1) a formal investigation by the commission;
- (2) a sworn complaint filed with the commission; or
- (3) a motion adopted by vote of at least six members of the commission.

(b) A member of the commission may not participate in or vote on any matter before the commission if the matter concerns the member directly or an individual related to the member within the second degree by affinity or consanguinity.

**Sec. 571.0271. COMMISSION MEMBER TRAINING.**

(a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) the legislation that created the commission;
- (2) the programs operated by the commission;
- (3) the role and functions of the commission;
- (4) the rules of the commission, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the commission;
- (6) the results of the most recent formal audit of the commission;
- (7) the requirements of:
  - (A) the open meetings law, Chapter 551;
  - (B) the public information law, Chapter 552;
  - (C) the administrative procedure law, Chapter 2001; and
  - (D) other laws relating to public officials, including conflict-of-interest laws; and
- (8) any applicable ethics policies adopted by the commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

**Sec. 571.028. PROHIBITED CANDIDACY.** A member of the commission may not be a candidate for an elective public office for 12 months after the date on which the member ends service on the commission.

**Sec. 571.029. STAFF.**

(a) The commission may employ staff, including an executive director and a general counsel, necessary to administer the commission's functions.

(b) The commission may not employ a person and an employee of the commission may not continue in employment with the commission if the person at the time of employment or while employed by the commission is:

(1) an officer of a political party, a political subdivision, or a political committee;

(2) a person required to be registered under Chapter 305;

(3) a candidate or campaign treasurer subject to Title 15, Election Code; or

(4) a member of the legislature.

**Sec. 571.030. SEPARATION OF RESPONSIBILITIES.** The commission shall develop and implement policies that clearly separate the policy-making responsibilities of the commission and the management responsibilities of the executive director and the staff of the commission.

**Sec. 571.0301. INFORMATION TO MEMBERS AND EMPLOYEES.** The executive director or the executive director's designee shall provide to members and employees of the commission, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

**Sec. 571.0302. EQUAL EMPLOYMENT POLICY.**

(a) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the commission to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the commission's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must:

(1) be updated annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and

(3) be filed with the governor's office.

**Sec. 571.031. RECORDS.** Except as provided by Sections 571.139(a) and 571.140, Chapter 552 applies to all records of the commission.



**Sec. 571.032. MAILING OF NOTICES, DECISIONS, AND REPORTS.**

(a) Except as provided by Subsection (b), each written notice, decision, and report required to be sent under this chapter shall be sent by registered or certified mail, restricted delivery, return receipt requested.

(b) After written notice under Section 571.123(b) regarding the filing of a sworn complaint has been sent to a person in the manner required by Subsection (a), the commission may send the person any additional notices regarding the complaint by regular mail unless the person has notified the commission to send all notices regarding the complaint by registered or certified mail, restricted delivery, return receipt requested.

**SUBCHAPTER C. GENERAL POWERS AND DUTIES**

**Sec. 571.061. LAWS ADMINISTERED AND ENFORCED BY COMMISSION.**

(a) The commission shall administer and enforce:

- (1) Chapters 302, 303, 305, 572, and 2004;
- (2) Subchapter C, Chapter 159, Local Government Code, in connection with a county judicial officer, as defined by Section 159.051, Local Government Code, who elects to file a financial statement with the commission;
- (3) Title 15, Election Code; and
- (4) Sections 2152.064 and 2155.003.

(b) The commission shall perform any other powers or duties given to the commission under a law listed in Subsection (a).

**Sec. 571.062. RULES.** (a) The commission, on the affirmative vote of at least six members of the commission, may adopt rules to administer this chapter or any other law administered and enforced by the commission.

(b) Chapter 2001, relating to rules and rulemaking, applies to the commission to the extent consistent with this chapter.

**Sec. 571.063. RULES CONCERNING GIFTS TO REGULATORY AGENCY OFFICERS AND EMPLOYEES.**

(a) The commission shall require each regulatory agency in the executive branch to develop rules limiting the acceptance of gifts or other benefits from persons appearing before or regulated by the agency. The rules must be at least as restrictive as the rules of the commission.

(b) The commission shall provide for the submission of those rules to the commission for approval.

**Sec. 571.0631. RULES CONCERNING TECHNICAL AND CLERICAL VIOLATIONS.** The commission shall adopt rules prescribing procedures for investigating and resolving technical and clerical violations of laws within the commission's jurisdiction. For registrations and reports filed under Chapter 305, the commission shall consider clerical violations to include obvious typographical errors. A registrant filing a registration or report under Chapter 305 may correct obvious typographical errors without penalty by filing either a corrected registration or report or an updated or amended registration or report.

**Sec. 571.064. REPORTING AND REGISTRATION THRESHOLDS.**

(a) If a law administered and enforced by the commission authorizes the commission to determine dollar amounts as reporting or registration thresholds, the commission shall set those thresholds in amounts that are reasonable, are in the public interest, and further the purposes of the reporting or registration law involved.

(b) If a law administered and enforced by the commission sets dollar amounts or categories of amounts as reporting thresholds or if the commission sets those amounts, the commission annually shall adjust those thresholds upward to the nearest multiple of \$10 in accordance with the percentage increase for the previous year in the Consumer Price Index for Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor.

**Sec. 571.0645. FILING DEADLINE FOR ELECTRONIC REPORTS.** The commission shall by rule establish that the deadline for any report filed electronically with the commission is midnight on the last day for filing the report under the law requiring the filing of the report.

**Sec. 571.065. FORMS.**

(a) The commission shall prescribe forms for statements and reports required to be filed with the commission.

(b) The commission shall provide for the distribution of the forms.

**Sec. 571.066. ELECTRONIC DATA BASE.**

(a) The Department of Information Resources shall study the implementation of the most appropriate electronic data base to enhance the commission's abilities to administer this chapter.

(b) The commission shall:

(1) establish an electronic data base composed of statements and reports filed with the commission;

(2) provide the public with access to that data;

(3) establish a system to provide access by electronic data transmittal processes to that data;

(4) set and charge a fee for electronic access to the data base in an amount reasonable and necessary to cover the costs of access; and

(5) ensure that entries entered on multiple reports may be electronically cross-referenced in the data base.

**Sec. 571.067. COMPUTER SOFTWARE.** The commission may develop computer software to facilitate the discharge of its statutory duties.

**Sec. 571.0671. REQUIREMENTS FOR ELECTRONIC FILING SOFTWARE.**

(a) Computer software provided or approved by the commission for use under Section 254.036(b), Election Code, or Section 302.013 or 305.0064 must:

(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 the commission;

(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 commission specifications for a standard file format or export information from the report to a variety of computer software applications that meet commission specifications for a standard file format without the need to reenter information.

(b) Before determining the specifications for computer software developed, purchased, or licensed for use under Section 254.036, Election Code, or Section 302.013 or 305.0064, the commission shall conduct at least one public hearing to discuss the specifications. For at least 10 days following the hearing, the commission shall accept public comments concerning the software specifications.

(c) The commission may provide software for use under Section 254.036(b), Election Code, or Section 302.013 or 305.0064 by making the software available on the Internet. If the commission makes the software available on the Internet, the commission 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 may charge a fee for providing the software on storage media. A fee under this subsection may not exceed the cost to the commission of providing the software.

(d) Electronic report or financial statement data saved in a commission temporary storage location for later retrieval and editing before the report or financial statement is filed is confidential and may not be disclosed. After the report or financial statement is filed with the commission, the information disclosed in the filed report or financial statement is public information to the extent provided by the law requiring the filing of the report or financial statement.

**Sec. 571.0672. PROPOSITION OF TECHNOLOGICAL SOLUTIONS.** The commission shall develop and implement a policy requiring the executive director and commission employees to research and propose appropriate technological solutions to improve the commission's ability to perform its functions. The technological solutions must:

(1) ensure that the public is able to easily find information about the commission on the Internet;

(2) ensure that persons who want to use the commission's services are able to:

(A) interact with the commission through the Internet; and

(B) access any service that can be provided effectively through the Internet; and

(3) be cost-effective and developed through the commission's planning processes.

**Sec. 571.068. ACCOUNT NUMBERS.** The commission shall assign an account number to each person required to file a statement or report with the commission under a law administered and enforced by the commission.

**Sec. 571.069. REVIEW OF STATEMENTS AND REPORTS; AUDITS.**

(a) The commission shall review for facial compliance randomly selected statements and reports filed with the commission and may review any available documents. The commission shall return for resubmission with corrections or additional documentation a statement or report that does not, in the opinion of the commission, comply with the law requiring the statement or report. A statement or report returned for resubmission is considered to have been filed on the date the statement or report was originally filed if:

(1) the statement or report is resubmitted to the commission not later than the seventh business day after the date the person filing the statement or report receives the returned statement or report; and

(2) the resubmitted statement or report complies with law.

(b) The commission may by a vote of at least six commission members initiate a preliminary review as provided by Section 571.124 or perform a complete audit of a statement or report:

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

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

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

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

(1) was previously public information; or

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

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

(e) The commission may not audit a statement or report filed before January 1, 1992, under a law administered and enforced before that date by the secretary of state.

(f) This section may not be construed as limiting or affecting the commission's authority to, on the filing of a motion or receipt of a sworn complaint, review or investigate the sufficiency of a statement or report.

**Sec. 571.070. MANUAL.** The commission shall adopt by rule and publish a manual that establishes uniform methods of accounting and reporting for use by persons required to file statements and reports with the commission and that includes a digest of each advisory opinion issued by the commission under Subchapter D.

**Sec. 571.071. TRAINING; GUIDELINES.**

(a) The commission shall:

(1) provide training by January of each odd-numbered year for members and members-elect of the legislature concerning compliance with the laws administered and enforced by the commission; and

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

(b) The commission may disseminate, through pamphlets and seminars, explanations and compliance guidelines concerning any law administered and enforced by the commission.

(c) The commission may provide a seminar for persons required to register under Chapter 305 that addresses issues involving lobbying, political contributions and expenditures, and other issues as determined by the commission. The commission may charge a fee for attending the seminar in an amount necessary to cover the costs associated with the seminar.

**Sec. 571.072. PUBLIC ACCESS.**

(a) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on issues under the general jurisdiction of the commission.

(b) The commission shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability may be provided reasonable access to commission proceedings.

**Sec. 571.073. REPORT.** On or before December 31 of each even-numbered year, the commission shall report to the governor and legislature. The report must include:

(1) each advisory opinion issued by the commission under Subchapter D in the preceding two years;

(2) a summary of commission activities in the preceding two years, including:

(A) the number of sworn complaints filed with the commission;

(B) the number of sworn complaints dismissed for noncompliance with statutory form requirements;

(C) the number of sworn complaints dismissed for lack of jurisdiction;

(D) the number of sworn complaints dismissed after a finding of no credible evidence of a violation;

(E) the number of sworn complaints dismissed after a finding of a lack of sufficient evidence to determine whether a violation within the jurisdiction of the commission has occurred;

(F) the number of sworn complaints resolved by the commission through an agreed order;

(G) the number of sworn complaints in which the commission issued an order finding a violation and the resulting penalties, if any; and

(H) the number and amount of civil penalties imposed for failure to timely file a statement or report, the number and amount of those civil penalties fully paid, the number and amount of those civil penalties partially paid, and the number and amount of those civil penalties no part of which has been paid, for each of the following category of statements and reports, listed separately:

(i) financial statements required to be filed under Chapter 572;

(ii) political contribution and expenditure reports required to be filed under Section 254.063, 254.093, 254.123, 254.153, or 254.157, Election Code;

(iii) political contribution and expenditure reports required to be filed under Section 254.064(b), 254.124(b), or 254.154(b), Election Code;

(iv) political contribution and expenditure reports required to be filed under Section 254.064(c), 254.124(c), or 254.154(c), Election Code;

(v) political contribution and expenditure reports required to be filed under Section 254.038 or 254.039, Election Code; and

(vi) political contribution and expenditure reports required to be filed under Section 254.0391, Election Code; and

(3) recommendations for any necessary statutory changes.

**Sec. 571.074. GIFTS AND GRANTS.** The commission may accept gifts and grants for the administration of its duties.

**Sec. 571.075. DELEGATION OF AUTHORITY.** The commission by rule may delegate a power conferred on it by this chapter or another law administered by the commission, except:

(1) any power requiring a vote of the commission;

(2) rulemaking authority; or

(3) authority to issue an advisory opinion under Subchapter D.

**Sec. 571.076. CONTRACT FOR ADMINISTRATION.** The commission may contract with persons to administer and carry out this chapter and rules, standards, and orders adopted under this chapter, excluding any enforcement authority.

**Sec. 571.077. STATEMENTS, REGISTRATIONS, AND REPORTS CONSIDERED TO BE VERIFIED.**

(a) A statement, registration, or report that is filed with the commission is considered to be under oath by the person required to file the statement, registration, or report regardless of the absence of or defect in the affidavit of verification, including a signature.

(b) A person required to file a statement, registration, or report with the commission is subject to prosecution under Chapter 37, Penal Code, regardless of the absence of or defect in the affidavit of verification.

(c) This section applies to a statement, registration, or report that is filed with the commission electronically or otherwise.

**Sec. 571.0771. CORRECTED STATEMENTS, REGISTRATIONS, AND REPORTS CONSIDERED TIMELY FILED.**

(a) A statement, registration, or report required that is filed with the commission is not considered to be late for purposes of any applicable civil penalty for late filing of the statement, registration, or report if:

(1) any error or omission in the statement, registration, or report as originally filed was made in good faith; and

(2) not later than the 14th business day after the date the person filing the statement, registration, or report learns that the statement, registration, or report as originally filed is inaccurate or incomplete, the person files:

(A) a corrected or amended statement, registration, or report; and

(B) an affidavit stating that the error or omission in the original statement, registration, or report was made in good faith.

(b) Subsection (a) does not apply to:

(1) a penalty imposed under Section 571.069 or Subchapter E or F; or  
(2) a report required to be filed under Section 254.038, 254.039, 254.064(c), 254.124(c), or 254.154(c), Election Code.

(b-1) Repealed by Acts 2007, 80th Leg., R.S., Ch. 324, Sec. 2, eff. September 1, 2007.

(b-2) Repealed by Acts 2007, 80th Leg., R.S., Ch. 324, Sec. 2, eff. September 1, 2007.

(c) A report required to be filed under Section 254.064(c), 254.124(c), or 254.154(c), Election Code, is not considered to be late for purposes of any applicable civil penalty for late filing of the report if:

(1) the report as originally filed substantially complies with the applicable law, as determined by the commission;

(2) any error or omission in the report as originally filed was made in good faith; and

(3) not later than the 14th business day after the date the person filing the report learns that the report as originally filed is inaccurate or incomplete, the person files:

(A) a corrected or amended report; and

(B) an affidavit stating that the error or omission in the original report was made in good faith.

**Sec. 571.078. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION.**

(a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) Subsection (a)(2) does not apply to a preliminary review or preliminary review hearing under Sections 571.124 through 571.126.

(c) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(d) The commission shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the commission.

**Sec. 571.079. POSTING INFORMATION RELATING TO UNPAID PENALTIES ON WEBSITE.**

(a) Not later than the 15th day after the date on which an application for a place on the general primary election ballot or for nomination by convention is required to be filed, the commission shall post on its Internet website:

(1) the name and address of each candidate for an office specified by Section 252.005(1), Election Code, who has failed to pay a civil penalty imposed by the commission for

failure to file with the commission a required report or statement under Chapter 254, Election Code, or Chapter 572; and

(2) for each candidate listed under Subdivision (1), the amount of the penalty imposed and the amount paid, if any.

(b) The commission may not post information under this section that relates to a civil penalty while the penalty is the subject of an administrative or judicial appeal by the candidate against whom the penalty is imposed.

(c) The commission shall remove from the commission's Internet website information posted under this section as soon as practicable after the candidate pays the civil penalty in full.

#### **SUBCHAPTER D. ADVISORY OPINIONS**

##### **Sec. 571.091. OPINION TO BE GIVEN ON REQUEST.**

(a) The commission shall prepare a written opinion answering the request of a person subject to any of the following laws for an opinion about the application of any of these laws to the person in regard to a specified existing or hypothetical factual situation:

(1) Chapter 302;

(2) Chapter 303;

(3) Chapter 305;

(4) Chapter 2004;

(5) Chapter 572;

(6) Subchapter C, Chapter 159, Local Government Code, as provided by Section 571.061(a)(2);

(7) Title 15, Election Code;

(8) Chapter 36, Penal Code;

(9) Chapter 39, Penal Code;

(10) Section 2152.064; or

(11) Section 2155.003.

(b) An opinion request under Subsection (a) must be in writing to the commission.

##### **Sec. 571.092. DEADLINE FOR OPINION; EXTENSION.**

(a) The commission shall issue an advisory opinion not later than the 60th day after the date the commission receives the request.

(b) The commission by vote may extend the time available to issue an opinion by 30 days. The commission may not grant more than two extensions.

##### **Sec. 571.093. PROTECTION OF IDENTITY OF REQUESTOR OR AFFECTED PERSON.**

(a) The commission shall maintain the confidentiality of the name of the person requesting an advisory opinion and shall issue opinions in a form necessary to maintain that confidentiality.

(b) The commission may not issue an opinion that includes the name of any person who may be affected by the opinion.

(c) Subsections (a) and (b) do not apply to a person who requests an opinion and files written notice with the commission waiving the confidentiality of the person's identity.



**Sec. 571.094. OPINION ISSUED ON INITIATIVE OF COMMISSION.** On its own initiative, the commission may issue a written advisory opinion about the application of a law listed in Section 571.091 if a majority of the commission determines that an opinion would be in the public interest or in the interest of any person under the jurisdiction of the commission.

**Sec. 571.095. MAINTENANCE OF OPINIONS; SUMMARY.** The commission shall number and categorize each advisory opinion issued and annually shall compile a summary of its opinions in a single reference document.

**Sec. 571.096. OPINION BY OTHER GOVERNMENTAL ENTITY.**

(a) The authority of the commission to issue an advisory opinion does not affect the authority of the attorney general to issue an opinion as authorized by law.

(b) In issuing an opinion under this subchapter, the commission shall consider the opinions issued by the State Ethics Advisory Commission and the secretary of state that are not overruled by statute or rule of the commission.

(c) The commission shall rely on opinions issued by the attorney general and the courts of this state.

**Sec. 571.097. DEFENSE FOR RELIANCE ON ADVISORY OPINION.** It is a defense to prosecution or to imposition of a civil penalty that the person reasonably relied on a written advisory opinion of the commission relating to the provision of the law the person is alleged to have violated or relating to a fact situation that is substantially similar to the fact situation in which the person is involved.

**Sec. 571.098. CONVERSION OF CONTRIBUTION TO PERSONAL USE.** A person involved in a transaction or activity that the commission concludes in an advisory opinion to be a conversion of a contribution to personal use in violation of Section 253.035, Election Code, is not civilly liable to the state if:

(1) before receiving the opinion, the person reasonably believed the transaction or activity did not constitute a conversion, taking into account prior opinions and rules of the commission; and

(2) on or before the 30th day after the date the opinion is published, the person:

(A) returns to the political fund from which it was removed an amount equal to the amount converted; and

(B) notifies the commission by certified mail that the person has returned the converted contribution as required by this section.

## **SUBCHAPTER E. COMPLAINT PROCEDURES AND HEARINGS**

**Sec. 571.121. GENERAL POWERS.**

(a) The commission may:

(1) hold hearings, on its own motion adopted by an affirmative vote of at least six commission members or on a sworn complaint, and render decisions on complaints or reports of violations as provided by this chapter; and

(2) agree to the settlement of issues.

(b) The commission may not consider a complaint or vote to investigate a matter outside the commission's jurisdiction.

**Sec. 571.1211. DEFINITIONS.** In this subchapter:

(1) "Campaign communication" and "political advertising" have the meanings assigned by Section 251.001, Election Code.

(2) "Category One violation" means a violation of a law within jurisdiction of the commission as to which it is generally not difficult to ascertain whether the violation occurred or did not occur, including:

- (A) the failure by a person required to file a statement or report to:
  - (i) file the required statement or report in a manner that complies with applicable requirements; or
  - (ii) timely file the required statement or report;
- (B) a violation of Section 255.001, Election Code;
- (C) a misrepresentation in political advertising or a campaign communication relating to the office held by a person in violation of Section 255.006, Election Code;
- (D) a failure to include in any written political advertising intended to be seen from a road the right-of-way notice in violation of Section 255.007, Election Code; or
- (E) a failure to timely respond to a written notice under Section 571.123(b).

(3) "Category Two violation" means a violation of a law within the jurisdiction of the commission that is not a Category One violation.

**Sec. 571.1212. CATEGORIZATION OF VIOLATIONS.** An allegation of a violation listed as a Category One violation shall be treated as a Category Two violation if the executive director at any time determines that:

- (1) the allegation arises out of the same set of facts as those that give rise to an allegation of a Category Two violation, and the interests of justice or efficiency require resolution of the allegations together; or
- (2) the facts and law related to a particular allegation or a defense to the allegation present a level of complexity that prevents resolution through the preliminary review procedures for Category One violations prescribed by Section 571.1242(a).

**Sec. 571.122. FILING OF COMPLAINT; CONTENTS.**

(a) An individual may file with the commission a sworn complaint alleging that a person subject to a law administered and enforced by the commission has violated a rule adopted by or a law administered and enforced by the commission. A sworn complaint must be filed on a form prescribed by the commission. The commission shall make the complaint form available on the Internet. The form prescribed by the commission must require the complainant to provide the following information for both the complainant and the respondent:

- (1) the person's name;
- (2) the person's telephone number;
- (3) the person's electronic mail address, if known; and
- (4) the physical address of the person's home or business.

(b) A complaint filed under this section must be in writing and under oath and must set forth in simple, concise, and direct statements:

- (1) the name of the complainant;
- (2) the street or mailing address of the complainant;
- (3) the name of each respondent;
- (4) the position or title of each respondent;
- (5) the nature of the alleged violation, including if possible the specific rule or provision of law alleged to have been violated;
- (6) a statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred; and
- (7) all documents or other material available to the complainant that are relevant to the allegation, a list of all documents or other material within the knowledge of the complainant and available to the complainant that are relevant to the allegation but that are not in the possession of the complainant, including the location of the documents, if known, and a list of all documents or other material within the knowledge of the complainant that are unavailable to the complainant and that are relevant to the complaint, including the location of the documents, if known.

Text of subsection as added by Acts 2009, 81st Leg., R.S., Ch. 1166 (H.B. 3218), Sec. 1

(b-1) An individual must be a resident of this state to be eligible to file a sworn complaint with the commission. A copy of one of the following documents must be attached to the complaint:

- (1) the complainant's driver's license or personal identification certificate issued under Chapter 521, Transportation Code, or commercial driver's license issued under Chapter 522, Transportation Code; or
- (2) a utility bill, bank statement, government check, paycheck, or other government document that:
  - (A) shows the name and address of the complainant; and
  - (B) is dated not more than 30 days before the date on which the complaint is filed.

Text of subsection as added by Acts 2009, 81st Leg., R.S., Ch. 604 (H.B. 677), Sec. 2

(b-1) To be eligible to file a sworn complaint with the commission, an individual must be a resident of this state or must own real property in this state. A copy of one of the following documents must be attached to the complaint:

- (1) the complainant's driver's license or personal identification certificate issued under Chapter 521, Transportation Code, or commercial driver's license issued under Chapter 522, Transportation Code;
- (2) a utility bill, bank statement, government check, paycheck, or other government document that:
  - (A) shows the name and address of the complainant; and
  - (B) is dated not more than 30 days before the date on which the complaint is filed; or

(3) a property tax bill, notice of appraised value, or other government document that:

- (A) shows the name of the complainant;
- (B) shows the address of real property in this state; and
- (C) identifies the complainant as the owner of the real property.

(c) The complaint must be accompanied by an affidavit stating that the information contained in the complaint is either correct or that the complainant has good reason to believe and does believe that the violation occurred. If the complaint is based on information and belief, the complaint shall state the source and basis of the information and belief. The complainant may swear to the facts by oath before a notary public or other authorized official.

(d) The complaint must state on its face an allegation that, if true, constitutes a violation of a rule adopted by or a law administered and enforced by the commission.

(e) It is not a valid basis of a complaint to allege that a report required under Chapter 254, 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.

**Sec. 571.1221. DISMISSAL OF COMPLAINT FILED AT DIRECTION OR URGING OF NONRESIDENT.** At any stage of a proceeding under this subchapter, the commission shall dismiss the complaint if the commission determines that the complaint was filed at the direction or urging of a person who is not a resident of this state.

**Sec. 571.1222. DISMISSAL OF COMPLAINT CHALLENGING CERTAIN INFORMATION IN POLITICAL REPORT.** At any stage of a proceeding under this subchapter, the commission shall dismiss a complaint to the extent the complaint alleges that a report required under Chapter 254, 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.

**Sec. 571.123. PROCESSING OF COMPLAINT.**

(a) The commission shall determine whether a sworn complaint filed with the commission complies with the form requirements of Section 571.122.

(b) After a complaint is filed, the commission shall immediately attempt to contact and notify the respondent of the complaint by telephone or electronic mail. Not later than the fifth business day after the date a complaint is filed, the commission shall send written notice to the complainant and the respondent. The written notice to the complainant and the respondent must:

(1) state whether the complaint complies with the form requirements of Section 571.122;

(2) if the respondent is a candidate or officeholder, state the procedure by which the respondent may designate an agent with whom commission staff may discuss the complaint; and

(3) if applicable, include the information required by Section 571.124(e).

(c) If the commission determines that the complaint does not comply with the form requirements, the commission shall send the complaint to the complainant with the written notice, a statement explaining how the complaint fails to comply, and a copy of the rules for filing sworn complaints. The commission shall send a copy of the rejected complaint to the

respondent with the written notice and the statement explaining how the complaint fails to comply. The complainant may resubmit the complaint not later than the 21st day after the date the notice under Subsection (b) is mailed. If the commission determines that the complaint is not resubmitted within the 21-day period, the commission shall:

(1) dismiss the complaint; and

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

(d) If the commission determines that a complaint is resubmitted under Subsection (c) within the 21-day period but is not in proper form, the commission shall send the notice required under Subsection (c), and the complainant may resubmit the complaint under that subsection.

(e) If the commission determines that a complaint returned to the complainant under Subsection (c) or (d) is resubmitted within the 21-day period and that the complaint complies with the form requirements, the commission shall send the written notice under Subsection (b).

**Sec. 571.1231. DESIGNATION OF AGENT BY CERTAIN RESPONDENTS.**

(a) This section applies only to a respondent who is a candidate or officeholder.

(b) A respondent to a complaint filed against the respondent may by writing submitted to the commission designate an agent with whom the commission staff may communicate regarding the complaint.

(c) For purposes of this subchapter, including Section 571.140, communications with the respondent's agent designated under this section are considered communications with the respondent.

**Sec. 571.124. PRELIMINARY REVIEW: INITIATION.**

(a) The commission staff shall promptly conduct a preliminary review on receipt of a written complaint that is in compliance with the form requirements of Section 571.122.

(b) On a motion adopted by an affirmative vote of at least six commission members, the commission, without a sworn complaint, may initiate a preliminary review of the matter that is the subject of the motion.

(c) The executive director shall determine in writing whether the commission has jurisdiction over the violation of law alleged in a sworn complaint processed under Section 571.123.

(d) Repealed by Acts 2003, 78th Leg., ch. 249, Sec. 1.33.

(e) If the executive director determines that the commission has jurisdiction, the notice under Section 571.123(b) must include:

(1) a statement that the commission has jurisdiction over the violation of law alleged in the complaint;

(2) 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;

(3) the date by which the respondent is required to respond to the notice;

(4) a copy of the complaint and the rules of procedure of the commission;

(5) a statement of the rights of the respondent;

(6) a statement inviting the respondent to provide to the commission any information relevant to the complaint; and

(7) a statement that a failure to timely respond to the notice will be treated as a separate violation.

(f) If the executive director determines that the commission does not have jurisdiction over the violation alleged in the complaint, the executive director shall:

(1) dismiss the complaint; and

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

**Sec. 571.1241. REVIEW OF EXECUTIVE DIRECTOR'S DETERMINATION OF NO JURISDICTION.**

(a) If the executive director determines that the commission does not have jurisdiction over the violation alleged in the complaint, the complainant may request that the commission review the determination. A request for review under this section must be filed not later than the 30th day after the date the complainant receives the executive director's determination.

(b) The commission may reverse the executive director's determination only on the affirmative vote of at least six members.

(c) Not later than the fifth business day after the date of the commission's determination under this section, the commission shall send written notice to the complainant and the respondent stating whether the commission has jurisdiction over the violation alleged in the complaint. If the commission determines that the commission has jurisdiction, the notice must include the items listed in Section 571.124(e).

**Sec. 571.1242. PRELIMINARY REVIEW: RESPONSE BY RESPONDENT.**

(a) If the alleged violation is a Category One violation:

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

(2) if the matter is not resolved by agreement between the commission and the respondent before the 30th business day after the date the respondent receives the notice under Section 571.123(b), the commission shall set the matter for a preliminary review hearing to be held at the next commission meeting for which notice has not yet been posted.

(b) If the alleged violation is a Category Two violation:

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

(2) if the matter is not resolved by agreement between the commission and the respondent before the 75th business day after the date the respondent receives the notice under Section 571.123(b), the commission shall set the matter for a preliminary review hearing to be held at the next commission meeting for which notice has not yet been posted.

(c) A respondent's failure to timely respond as required by Subsection (a)(1) or (b)(1) is a Category One violation.

(d) The response required by Subsection (a) or (b) must include any challenge the respondent seeks to raise to the commission's exercise of jurisdiction. In addition, the respondent may:

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

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

(3) agree to enter into an assurance of voluntary compliance or other agreed order, which may include an agreement to immediately cease and desist.

(e) If the commission sets the matter for a preliminary review hearing, the commission shall promptly send to the complainant and the respondent written notice of the date, time, and place of the preliminary review hearing.

**Sec. 571.1243. PRELIMINARY REVIEW: WRITTEN QUESTIONS.** During a preliminary review, the commission staff may submit to the complainant or respondent written questions reasonably intended to lead to the discovery of matters relevant to the investigation.

**Sec. 571.1244. PRELIMINARY REVIEW AND PRELIMINARY REVIEW PROCEDURES.** The commission shall adopt procedures for the conduct of preliminary reviews and preliminary review hearings. The procedures must include:

(1) a reasonable time for responding to questions submitted by the commission and commission staff and subpoenas issued by the commission; and

(2) the tolling or extension of otherwise applicable deadlines where:

(A) the commission issues a subpoena and the commission's meeting schedule makes it impossible both to provide a reasonable time for response and to comply with the otherwise applicable deadlines; or

(B) the commission determines that, despite commission staff's diligence and the reasonable cooperation of the respondent, a matter is too complex to resolve within the otherwise applicable deadlines without compromising either the commission staff's investigation or the rights of the respondent.

**Sec. 571.125. PRELIMINARY REVIEW HEARING: PROCEDURE.**

(a) The commission shall conduct a preliminary review hearing if:

(1) following the preliminary review, the commission and the respondent cannot agree to the disposition of the complaint or motion; or

(2) the respondent in writing requests a hearing.

(b) The commission shall provide written notice to the complainant, if any, and the respondent of the date, time, and place the commission will conduct the preliminary review hearing.

(c) At or after the time the commission provides notice of a preliminary review hearing, the commission may submit to the complainant and the respondent written questions and require those questions to be answered under oath within a reasonable time.

(d) During a preliminary review hearing, the commission:

(1) may consider all submitted evidence related to the complaint or to the subject matter of a motion under Section 571.124(b);

(2) may review any documents or material related to the complaint or to the motion; and

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

(e) During a preliminary review hearing, the respondent may appear before the commission with the assistance of counsel, if desired by the respondent, and present any relevant evidence, including a written statement.

**Sec. 571.126. PRELIMINARY REVIEW HEARING: RESOLUTION.**

(a) As soon as practicable after the completion of a preliminary review hearing, the commission by vote shall issue a decision stating:

(1) whether there is credible evidence for the commission to determine that a violation within the jurisdiction of the commission has occurred and whether the violation is technical or de minimis; or

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

(b) If the commission determines that there is credible evidence for the commission to determine that a violation has occurred, the commission shall resolve and settle the complaint or motion to the extent possible. If the commission 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, the commission shall send to the complainant, if any, and the respondent a copy of the decision stating the commission's determination and written notice of the resolution and the terms of the resolution. If the commission is unsuccessful in resolving and settling the complaint or motion, the commission shall:

(1) order a formal hearing to be held in accordance with Sections 571.129 through 571.132; and

(2) not later than the fifth business day after the date of the decision, send to the complainant, if any, and the respondent:

- (A) a copy of the decision;
- (B) written 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 complaint or motion;
- (F) a copy of the commission's rules of procedure; and
- (G) a statement of the rights of the respondent.

(c) If the commission determines that there is credible evidence for the commission to determine that a violation within the jurisdiction of the commission has not occurred, the commission shall:

(1) dismiss the complaint or motion; and

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

(d) If the commission determines that there is insufficient credible evidence for the commission to determine that a violation within the jurisdiction of the commission has occurred, the commission may dismiss the complaint or motion or promptly conduct a formal hearing under Sections 571.129 through 571.132. Not later than the fifth business day after the date of the commission's determination under this subsection, the commission shall send to the complainant, if any, and the respondent a copy of the decision stating the commission's determination and written notice of the grounds for the determination.



**Sec. 571.129. FORMAL HEARING: STANDARD OF EVIDENCE.** During a formal hearing, the commission shall determine by a preponderance of the evidence whether a violation within the jurisdiction of the commission has occurred.

**Sec. 571.130. FORMAL HEARING: SUBPOENAS AND WITNESSES.**

(a) A subpoena or other request to testify shall be served sufficiently in advance of the scheduled appearance at a formal hearing to allow a reasonable period, as determined by the commission, for the person subpoenaed to prepare for the hearing and to employ counsel if desired.

(b) Except as provided by Section 571.131(a)(1), the commission may order that a person may not, except as specifically authorized by the presiding officer, make public the name of a witness subpoenaed by the commission before the date of that witness's scheduled appearance.

(c) A witness may read a written statement or present a brief oral opening statement at a formal hearing.

(d) A person whose name is mentioned or who is identified or referred to in testimony or in statements made by a commission member, staff member, or witness and who reasonably believes that the statement tends to adversely affect the person's reputation may:

(1) request to appear personally before the commission to testify in the person's own behalf; or

(2) file a sworn statement of facts relevant to the testimony or statement that the person believes adversely affects the person's reputation.

(e) A witness who testifies at a formal hearing must be sworn.

**Sec. 571.131. FORMAL HEARING: PROCEDURE.**

(a) Not later than the fifth business day before the date of a scheduled formal hearing or on the granting of a motion for discovery by the respondent, the commission shall provide to the complainant, if any, and to the respondent:

(1) a list of proposed witnesses to be called at the hearing;

(2) copies of all documents expected to be introduced as exhibits at the hearing;

and

(3) a brief statement as to the nature of the testimony expected to be given by each witness to be called at the hearing.

(b) The respondent may not be compelled to give evidence or testimony that violates the respondent's right against self-incrimination under the United States Constitution or the Texas Constitution.

(c) The commission shall adopt rules governing discovery, hearings, and related procedures consistent with this chapter and Chapter 2001.

**Sec. 571.132. FORMAL HEARING: RESOLUTION.**

(a) Not later than the 30th business day after the date the State Office of Administrative Hearings issues a proposal for decision, the commission shall convene a meeting and by motion shall issue:

(1) a final decision stating the resolution of the formal hearing; and

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

(b) The motion must be adopted by a vote of at least six members if the final decision is that a violation has occurred or by five members if the final decision is that a violation has not occurred.

(c) Not later than the fifth business day after the date the commission issues the final decision and written report, the commission shall:

(1) 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.

**Sec. 571.133. APPEAL OF FINAL DECISION.**

(a) To appeal a final decision of the commission, the respondent or the respondent's agent may file a petition in a district court in Travis County or in the county in which the respondent resides.

(b) The petition must be filed not later than the 30th business day after the date the respondent received the decision.

(c) Not later than the 30th day after the date on which the petition is filed, the respondent may request that the appeal be transferred to a district court in Travis County or in the county in which the respondent resides, as appropriate. The court in which the appeal is originally filed shall transfer the appeal to a district court in the other county on receipt of the request.

(d) An appeal brought under this section is not limited to questions of law, and the substantial evidence rule does not apply. The action shall be determined by trial de novo. The reviewing court shall 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 the commission or the nature of that action, except to the limited extent necessary to show compliance with statutory provisions that vest jurisdiction in the court. A party is entitled, 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.

**Sec. 571.134. DELAY OF REFERRAL.** 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 complaint is filed within 60 days before the date of the election, the commission shall delay referral until:

(1) the day after election day;

(2) the day after runoff election day if an ensuing runoff involving the alleged violator is held; or

(3) 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.

**Sec. 571.135. PUBLIC INTEREST INFORMATION.**

(a) The commission shall develop plain-language materials as described by this section. The commission shall distribute the materials to the public and appropriate state agencies.

- (b) The materials must include:
  - (1) a description of:
    - (A) the commission's responsibilities;
    - (B) the types of conduct that constitute a violation of a law within the jurisdiction of the commission;
    - (C) the types of sanctions the commission may impose;
    - (D) the commission's policies and procedures relating to complaint investigation and resolution; and
    - (E) the duties of a person filing a complaint with the commission; and
  - (2) a diagram showing the basic steps in the commission's procedures relating to complaint investigation and resolution.
- (c) The commission shall provide the materials described by this section to each complainant and respondent.
- (d) The commission shall adopt a policy to effectively distribute materials as required by this section.

**Sec. 571.1351. STATUS OF COMPLAINT.**

- (a) The commission shall keep an information file about each sworn or other complaint filed with the commission. The file must include:
  - (1) the name of the person who filed the complaint;
  - (2) the date the complaint is received by the commission;
  - (3) the subject matter of the complaint;
  - (4) the name of each person contacted in relation to the complaint;
  - (5) a summary of the results of the review or investigation of the complaint;and
  - (6) an explanation of the reason the file was closed, if the commission closed the file without taking action other than to investigate the complaint.
- (b) The commission shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the commission's policies and procedures relating to complaint investigation and resolution.
- (c) In addition to the notice required by Sections 571.123 through 571.132, the commission, at least quarterly until final disposition of a complaint, shall notify the person who filed the complaint and each person who is a subject of the complaint, if any, of the status of the sworn or other complaint.

**Sec. 571.136. EXTENSION OF DEADLINE.** The commission may, on its own motion or on the reasonable request of a respondent, extend any deadline for action relating to a sworn complaint, motion, preliminary review hearing, or formal hearing.

**Sec. 571.137. SUBPOENA.**

- (a) In connection with a formal hearing, the commission, as authorized by this chapter, may subpoena and examine witnesses and documents that directly relate to a sworn complaint.
  - (a-1) In connection with a preliminary review, the commission, for good cause and as authorized by this chapter, may subpoena documents and witnesses on application by the commission staff and a motion adopted by a vote of at least six members of the commission, for

the purpose of attempting to obtain from the documents or witnesses specifically identified information, if the commission reasonably believes that the specifically identified information:

- (1) is likely to be determinative as to whether the subject of an investigation has violated a law within the jurisdiction of the commission;
- (2) can be determined from the documents or is known by the witnesses; and
- (3) is not reasonably available through a less intrusive means.

(a-2) The commission shall adopt procedures for the issuance of subpoenas under this section.

(a-3) A copy of a subpoena issued under this section must be delivered to the respondent.

(b) At the written request of at least six members of the commission, a peace officer shall serve a subpoena of the commission in the manner prescribed for service of a district court subpoena.

(c) If a person to whom a subpoena is directed refuses to appear, refuses to answer inquiries, or fails or refuses to produce books, records, or other documents that were under the person's control when the demand was made, the commission shall report that fact to a district court in Travis County. The district court shall enforce the subpoena by attachment proceedings for contempt in the same manner as the court enforces a subpoena issued by the court.

(d) A respondent has the right to quash a subpoena as provided by law.

(e) A subpoenaed witness who attends a commission hearing is entitled to the same mileage and per diem payments as a witness who appears before a grand jury. A person who provides subpoenaed documents to the commission is entitled to reimbursement from the commission for the person's reasonable cost of producing the documents.

**Sec. 571.138. STATUS OF COMPLAINANT.** The complainant is not a party to a preliminary review, preliminary review hearing, or formal hearing under this subchapter.

**Sec. 571.139. APPLICABILITY OF OTHER ACTS.**

(a) Except as provided by Section 571.140(b), Chapter 552 does not apply to documents or any additional evidence relating to the processing, preliminary review, preliminary review hearing, or resolution of a sworn complaint or motion.

(b) Chapter 551 does not apply to the processing, preliminary review, preliminary review hearing, or resolution of a sworn complaint or motion, but does apply to a formal hearing held under Sections 571.129 through 571.131.

(c) Subchapters C through H, Chapter 2001, apply only to a formal hearing under this subchapter, the resolution of a formal hearing, and the appeal of a final order of the commission, and only to the extent consistent with this chapter.

**Sec. 571.140. CONFIDENTIALITY; OFFENSE.**

(a) Except as provided by Subsection (b) or (b-1) or by Section 571.171, proceedings at a preliminary review hearing performed by the commission, a sworn complaint, and documents and any additional evidence relating to the processing, preliminary review, preliminary review hearing, or resolution of a sworn complaint or motion are confidential and may not be 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) An order issued by the commission 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) A commission employee may, for the purpose of investigating a sworn complaint or motion, disclose to the complainant, the respondent, or a witness information that is otherwise confidential and relates to the sworn complaint 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.

(c) A person commits an offense if the person discloses information made confidential by this section. An offense under this subsection is a Class C misdemeanor.

(d) In addition to other penalties, a person who discloses information made confidential by this section is civilly liable to the respondent in an amount equal to the greater of \$10,000 or the amount of actual damages incurred by the respondent, including court costs and attorney fees.

(e) The commission shall terminate the employment of a commission employee who violates Subsection (a).

(f) A commission employee who discloses confidential information in compliance with Subsection (b-1) is not subject to Subsections (c), (d), and (e).

**Sec. 571.141. AVAILABILITY OF COMMISSION ORDERS ON INTERNET.**

(a) As soon as practicable following a preliminary review, preliminary review hearing, or formal hearing at which the commission determines that a person has committed a violation within the commission's jurisdiction, the commission shall make available on the Internet:

(1) a copy of the commission's order stating the determination; or

(2) a summary of the commission's order.

(b) This section does not apply to a determination of a violation that is technical or de minimis.

**Sec. 571.142. LIABILITY FOR RESPONDENT'S COSTS.**

(a) This section applies only to a sworn complaint if:

(1) the complaint was filed after the 30th day before the date of an election;

(2) the respondent is a candidate in the election; and

(3) the complaint alleges a violation other than a technical or clerical violation.

(b) If, in disposing of a sworn complaint to which this section applies, the commission determines that a violation within the commission's jurisdiction has not occurred, the complainant is liable for the respondent's reasonable and necessary attorney's fees and other costs incurred in defending against the complaint.

(c) This section does not apply to a sworn complaint regarding a reporting omission required by law.

**SUBCHAPTER F. ENFORCEMENT**

**Sec. 571.171. INITIATION AND REFERRAL.**

(a) On a motion adopted by an affirmative vote of at least six commission members, the commission may initiate civil enforcement actions and refer matters to the appropriate prosecuting attorney for criminal prosecution.

(b) On receipt of a sworn complaint, if the executive director reasonably believes that the person who is the subject of the complaint has violated Chapter 36 or 39, Penal Code, the executive director may refer the matter to the appropriate prosecuting attorney for criminal prosecution.

(c) In making a referral to a prosecuting attorney under this section, the commission or executive director may disclose confidential information.

**Sec. 571.172. ORDER.** The commission may:

- (1) issue and enforce a cease and desist order to stop a violation; and
- (2) issue an affirmative order to require compliance with the laws administered and enforced by the commission.

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

**Sec. 571.1731. WAIVER OR REDUCTION OF LATE FILING PENALTY.**

(a) A person may request the waiver or reduction of a civil penalty under Section 305.033(b) or 572.033(b) of this code or Section 254.042(b), Election Code, by submitting an affidavit to the executive director that states the filer's reasons for requesting a waiver or reduction.

(b) The commission may waive or reduce a civil penalty if the commission finds that a waiver or reduction is in the public interest and in the interest of justice. The commission shall consider the following before acting to waive or reduce a civil penalty:

- (1) the facts and circumstances supporting the person's request for a waiver or reduction;
- (2) the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation, and the amount of the penalty;
- (3) any history of previous violations by the person;
- (4) the demonstrated good faith of the person, including actions taken to rectify the consequences of the violation;
- (5) the penalty necessary to deter future violations; and
- (6) any other matter that justice may require.

(c) After hearing the waiver request, the commission may affirm, reduce, or waive the civil penalty.

**Sec. 571.174. DENIAL, SUSPENSION, OR REVOCATION OF LOBBYIST REGISTRATION.** After a criminal conviction for an offense under Chapter 36 of the Penal

Code or under Chapter 305, the commission may deny, suspend, or revoke the registration of a person required to be registered under Chapter 305.

**Sec. 571.175. NOTIFICATION OF REGULATORY OR SUPERVISORY ENTITY.** The commission may notify the appropriate regulatory or supervisory entity, including any agency, the State Commission on Judicial Conduct, the senate, the house of representatives, or the State Bar of Texas, of a violation of a law administered and enforced by the commission.

**Sec. 571.176. CIVIL PENALTY FOR FRIVOLOUS OR BAD-FAITH COMPLAINT.**

(a) The commission may impose a civil penalty of not more than \$10,000 for the filing of a frivolous or bad-faith complaint. In this subsection, "frivolous complaint" means a complaint that is groundless and brought in bad faith or is groundless and brought for the purpose of harassment.

(b) In addition to other penalties, a person who files a frivolous complaint is civilly liable to the respondent in an amount equal to the greater of \$10,000 or the amount of actual damages incurred by the respondent, including court costs and attorney fees.

(c) A person may file a sworn complaint with the commission, in accordance with Section 571.122, alleging that a complaint relating to that person filed with the commission is frivolous or brought in bad faith. A complaint may be filed under this subsection without regard to whether the complaint alleged to be frivolous or brought in bad faith is pending before the commission or has been resolved. The commission shall act on a complaint made under this subsection as provided by Subchapter E.

**Sec. 571.177. FACTORS CONSIDERED FOR ASSESSMENT OF SANCTION.**

The commission shall consider the following factors in assessing a sanction:

- (1) the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation;
- (2) the history and extent of previous violations;
- (3) the demonstrated good faith of the violator, including actions taken to rectify the consequences of the violation;
- (4) the penalty necessary to deter future violations; and
- (5) any other matters that justice may require.