LOCAL GOVERNMENT CODE

TITLE 5. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES

SUBTITLE B. COUNTY OFFICERS AND EMPLOYEES

CHAPTER 161. COUNTY ETHICS COMMISSION IN CERTAIN COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 161.001. APPLICABILITY OF CHAPTER. This chapter applies only to:

(1) a county that:

(A) contains a municipality that has a population of 500,000 or more;

(B) is located on the international border; and

(C) before September 1, 2009, had a county ethics board appointed by the commissioners court;

(2) a county that:

(A) has a population of 425,000 or more;

(B) is adjacent to a county with a population of 3.3 million or more; and

(C) contains a portion of the San Jacinto River; and

(3) a county that has a population of less than 50,000 that is adjacent to a county with a population of more than 3.3 million.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 75, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1070 (H.B. 1495), Sec. 4, eff. June 14, 2019.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 137, eff. September 1, 2023.

Sec. 161.002. DEFINITIONS. In this chapter:

(1) "Commission" means a county ethics commission created under this chapter.

(2) "Commission staff" means county employees assigned to provide administrative support to the commission.

(3) "Communicates directly with" has the meaning assigned by Section 305.002, Government Code.

(4) "County affiliate" means a person described and determined by order of the commissioners court on recommendation of the commission. As determined by the commissioners court, the term includes:

(A) any person whose goods and services are purchased under the terms of a purchase order or contractual agreement with the county; and

(B) as determined by the county, any other persons doing business with the county.

(5) "County employee" means a person employed by the county or a county officer and includes a person employed in the judicial branch of the county government who is not subject to the Code of Judicial Conduct. The term does not include a county officer.

(6) "County office" means a position held by a county officer.

(7) "County officer" means a county judge, county commissioner, county attorney, sheriff, county tax assessor-collector, county clerk, district clerk, county treasurer, county auditor, county purchasing agent, and constable.

(8) "County public servant" means a person elected, selected, appointed, employed, or otherwise designated as one of the following, even if the person has not yet qualified for or assumed the duties of office:

(A) a county officer or county employee;

(B) a person appointed by the commissioners court or a county officer to a position on one of the following, whether the position is compensated or not:

(i) an authority, board, bureau, commission, committee, council, department, district, division, or office of the county; or

(ii) a multi-jurisdictional board;

(C) an attorney at law or notary public when

participating in the performance of a governmental function;

(D) a candidate for nomination or election to an elected county office; or

(E) a person who is performing a governmental function under a claim of right although the person is not legally qualified or authorized to do so.

(9) "Lobbyist" means a person who, for compensation in excess of an amount established by the commission, communicates directly with a county officer or county employee to influence official action. The term does not include an attorney who communicates directly with a county officer or county employee to the extent that such communication relates to the attorney's representation of a party in a civil or criminal proceeding.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.003. CONFLICT WITH CIVIL SERVICE AGREEMENT. (a) This chapter may not be construed to affect:

(1) the terms of an agreement authorized by Chapter 174 between the county and county employees; or

(2) any provision of a civil service statute applicable to a county employee.

(b) If an agreement authorized by Chapter 174 or a civil service statute applicable to a county employee conflicts with this chapter or an ethics code adopted or enforced under this chapter, the agreement or civil service statute prevails.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

SUBCHAPTER B. CREATION OF COMMISSION; APPOINTMENT OF COMMISSION MEMBERS

Sec. 161.051. CREATION OF COMMISSION BY ORDER. (a) The commissioners court of a county, by an order adopted by a majority of the court's full membership, may create a county ethics commission.

(b) A copy of an order adopted under this section shall be

placed in the minutes of the court's proceedings. The copy of the order is public information.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.052. CREATION OF COMMISSION BY ELECTION. (a) A county ethics commission may be created by approval of the system by a majority of the qualified voters of the county voting at an election called for that purpose.

(b) The commissioners court by order may call an election on the question of the creation of a county ethics commission.

(c) The commissioners court shall hold the election called under this section on the first authorized uniform election date prescribed by Chapter 41, Election Code, that allows sufficient time for publication of the notice required by Subsection (d) and for compliance with any other requirements established by law.

(d) In addition to the notice required by Chapter 4, Election Code, the commissioners court must publish in a newspaper of general circulation in the county, and on the home page of the county's Internet website, a substantial copy of the order calling the election. The first newspaper publication must be made on or before the 15th day before the date of the election and continue once a week for two consecutive weeks, and the notice on the county's Internet website shall remain on the home page each day beginning not later than the 16th day before the election and ending on the date of the election.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.053. BALLOT. The commissioners court shall order the ballot at the election to be printed to provide for voting for or against the proposition: "Creation of a county ethics commission."

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.054. RESULT OF ELECTION. If the proposition is

approved, the commissioners court shall declare the result and by order create the county ethics commission. A copy of the order creating the commission shall be placed in the minutes of the court's proceedings.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.055. APPOINTMENT OF COMMISSION. (a) The commission is composed of:

(1) five members, each of whom is appointed by the county judge or a county commissioner; and

(2) five members appointed by the commissioners court, with one member appointed from a list of nominees submitted by each of the following entities:

(A) the county civil service commission;

(B) a bar association in the county;

(C) the sheriff's civil service commission;

(D) a dispute resolution center in the county that is affiliated with a council of governments; and

(E) a human resources management association in the county.

(a-1) The commissioners court shall designate the entities described by Subsections (a)(2)(B), (D), and (E) that may submit nominees for membership on the commission. If a designated entity does not wish to submit nominees, the commissioners court shall select a similar entity that has experience with grievance or mediation structures or processes.

(b) Not later than the 60th day after the date of the order creating the commission as provided in Section 161.051 or Section 161.054:

(1) the county judge and each county commissioner shall each appoint one member of the commission; and

(2) each entity described by Subsection (a)(2) or alternate entity designated under Subsection (a-1) shall deliver to the commissioners court the entity's nominees for membership on the commission.

(c) The commissioners court shall set the date for the first

meeting of the initial members. The first meeting must be set not earlier than the 60th day after the date of the order creating the commission and not later than the 90th day after the date of that order.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.056. ELIGIBILITY. (a) To be eligible for appointment to the commission, a person must:

(1) be at least 18 years old;

(2) be a property taxpayer in the county; and

(3) have resided in the county for the two years immediately preceding the date on which the person's term will begin.

(b) A person is not eligible for appointment to the commission if the person is:

(1) an elected officer;

(2) a county employee;

(3) a county affiliate;

(4) a person employed as a lobbyist;

(5) a person convicted of a misdemeanor involving moral turpitude or a felony; or

(6) a person who is delinquent in payment of local, state, or federal taxes.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.057. TERMS. (a) Members of the commission serve terms of two years. Members appointed as provided by Section 161.055(a)(1) serve terms beginning on February 1 of each odd-numbered year. Members appointed as provided by Section 161.055(a)(2) serve terms beginning on February 1 of each even-numbered year.

(b) A member may serve more than one term.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 1, eff. September 1, 2011.

Sec. 161.058. VACANCIES. (a) A vacancy on the commission shall be filled for the remainder of the unexpired term as follows:

(1) if the vacancy involves a member appointed by the county judge or a county commissioner, the vacancy is filled, except as provided by Subsection (b), by appointment of that officer or the officer's successor in office; or

(2) if the vacancy involves a member appointed under Section 161.055(a)(2), the vacancy is filled as provided by that section for an appointment to a full term.

(b) If the county judge or county commissioner, as applicable, does not fill the vacancy before the 60th day after the date the position becomes vacant, the commission may fill the vacancy by a majority vote of the remaining members.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.059. MEETINGS. (a) The commission shall meet on a regular basis.

(b) The commission is a governmental body for purposes of Chapter 551, Government Code.

(c) Except as otherwise provided by this chapter, a majority of the commission constitutes a quorum.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.0591. CHAIR.

(a) The position of chair is selected from the commission members by a majority vote of the commission members. The chair serves a term of six months.

(b) The member serving as chair may not vote on a matter before the commission except to break a tie vote.

(c) A commission member may decline to serve as chair.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 2, eff. September 1, 2011.

Sec. 161.060. REMOVAL OF COMMISSION MEMBER. A member of the commission is a county officer described by Section 87.012(15) and may be removed as provided by Chapter 87 if, after a trial, the jury finds good cause for removal, including:

(1) failure to pay local, state, or federal taxes when due;

(2) violation of the ethics code adopted by the commission;

(3) conviction of a felony or misdemeanor;

(4) excessive absenteeism as determined by the commission; and

(5) official misconduct.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.061. LEGAL REPRESENTATION. The county attorney, or district attorney, or criminal district attorney, as appropriate, with the duty to represent the county in civil matters shall represent the commission in all legal matters.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

SUBCHAPTER C. POWERS

Sec. 161.101. GENERAL POWERS. (a) The commission shall adopt, publish, and enforce an ethics code governing county public servants.

(b) The commission may adopt or use as a guide any ethics law or rule of the United States, this state, or a political subdivision in this state to the extent that the law or rule promotes the purposes of this chapter and serves the needs of the county. For purposes of Section 161.002(9), in determining the applicable amount of compensation of a person who communicates directly with a

county officer or employee to influence official action and engages in such communication as part of the person's regular employment, the commission shall adopt rules that are substantially similar to the rules or interpretations of the Texas Ethics Commission under Chapter 305, Government Code, to calculate the compensation.

(c) The commission may adopt bylaws, rules, forms, policies, or procedures to assist in the administration of the commission's duties under this chapter. The commission may be guided by Robert's Rules of Order to the extent that it does not conflict with the constitution and laws of the United States and this state or conflict with other guidelines adopted by the commission.

(d) The commission shall be assigned staff by the county and provided access to county resources to assist in its duties.

(e) The commission shall develop and implement policies that provide the public with information on the commission and the ethics code.

(f) The commission shall enforce the provisions of the ethics code by issuing appropriate orders or recommendations or by imposing appropriate penalties.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.102. ADVISORY OPINIONS. On the request of any person covered by the ethics code adopted by the commission, the commission may issue a written ethics advisory opinion regarding the application of the ethics code to a specified existing or hypothetical factual situation. The commission may not issue an opinion that includes the name of any person who may be affected by the opinion. The name of the person requesting the opinion shall be deemed confidential.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.103. PUBLIC INTEREST INFORMATION. (a) The commission shall develop plain-language materials as described by this section. The commission shall post the information on the

county's Internet website and make the information otherwise available to the public.

(b) The materials must include:

(1) a description of:

(A) the commission's responsibilities;

(B) the types of conduct that constitute a violation of the ethics code adopted by 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.104. COMMISSION MEMBER EDUCATION AND TRAINING. (a) Not later than the 30th day after the date a person is appointed to the commission, the person must complete training on the following matters:

(1) the legislation that created the commission;

(2) the role and functions of the commission; and

(3) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code; and

(C) other laws relating to public officials, including conflict-of-interest laws.

(b) A member of the commission must complete subsequent

training programs on the following matters:

(1) the ethics code adopted by the commission; and

(2) the procedural rules adopted by the commission.

(c) 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 after the 30th day after the date the person is appointed to the commission unless the person has completed a training program as required by Subsection (a).

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 3, eff. September 1, 2011.

Sec. 161.105. EDUCATION AND TRAINING FOR PERSONS COVERED BY ETHICS CODE. (a) The commission and commission staff shall make available periodic training for persons covered by the ethics code adopted by the commission.

(b) The training program must provide information regarding:

(1) the ethics code;

(2) the role and functions of the commission; and

(3) plain-language materials as further described by Section 161.103.

(c) In addition to the qualifications under Subchapter C, Chapter 262, before submitting a bid, responding to a request for qualifications or proposals, or otherwise contracting with the county, an officer, principal, or other person with the authority to bind the vendor shall complete training on the ethics code.

(d) A lobbyist intending to meet with a person covered by the ethics code shall complete training on the ethics code.

(e) A person covered by the ethics code or a lobbyist or vendor required by this section to complete training must complete the training as determined by the commission.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 4, eff. September 1, 2011.

Sec. 161.106. CERTAIN DISCUSSIONS OF PENDING COMPLAINTS PROHIBITED. Until a sworn complaint alleging a violation of the ethics code is resolved, a member of the commission may not discuss the complaint with a member of the commissioners court.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.107. DISCLOSURE OF CERTAIN CONTRACTS. (a) The commission shall prominently display on the county's Internet website the following regarding contracts for services executed by the county that would require a person to register as a lobbyist under Chapter 305, Government Code:

(1) the execution dates;

(2) the contract duration terms, including any extension options;

(3) the effective dates;

(4) the final amount of money the county paid in the previous fiscal year;

(5) the identity of all parties to the contract;

(6) the identity of all subcontractors in the contract; and

(7) the legislative agenda of the county.

(b) In lieu of displaying the items described by Subsections (a)(1)-(6) regarding a contract for services that would require a person to register as a lobbyist under Chapter 305, Government Code, the commission may post on the county's Internet website the contract executed by the county for those services.

(c) Information required to be displayed on a county's Internet website under this section is public information subject to disclosure under Chapter 552, Government Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 1070 (H.B. 1495), Sec. 5, eff. June 14, 2019.

SUBCHAPTER D. COMPLAINT PROCEDURES AND HEARINGS

Sec. 161.151. DEFINITIONS. In this subchapter:

(1) "Category One violation" means a violation of the ethics code adopted by 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 required under the ethics code to:

(i) file the statement or report in a manner that complies with applicable requirements; or

(ii) file the statement or report in a timely manner;

(B) a misrepresentation in a report required under the ethics code; or

(C) a failure to respond in a timely manner to a written notice under Section 161.156(b).

(2) "Category Two violation" means a violation of the ethics code adopted by the commission that is not a Category One violation.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.152. COMPLAINT PROCEDURES AND HEARINGS. The commission shall adopt the complaint procedures and hearings set forth in this subchapter. The commission may adopt additional procedures not in conflict with this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.153. HEARINGS AND SETTLEMENT. (a) The commission may:

(1) hold a hearing on a sworn complaint and render a decision on a complaint or report of a violation as provided by this chapter; and

(2) agree to the settlement of issues.

(b) The commission may not:

(1) consider a complaint or vote to investigate a matter outside the commission's jurisdiction; or

(2) investigate any matter except in response to a sworn complaint.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.154. CATEGORIZATION OF VIOLATIONS. An allegation of a violation listed as a Category One violation shall be treated as a Category Two violation if the commission 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 161.159(a).

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.155. FILING OF COMPLAINT; CONTENTS. (a) An individual may file with the commission a sworn complaint, on a form prescribed by the commission, alleging that a person subject to the ethics code has violated the ethics code. The commission shall make the complaint form available on the county website.

(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 the ethics code 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.

(c) The complaint must be accompanied by an affidavit stating either that the information contained in the complaint is 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 the ethics code.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.1551. STANDING PRELIMINARY REVIEW COMMITTEE. (a) The standing preliminary review committee shall perform the actions prescribed by this subchapter in conducting a preliminary review of each sworn complaint filed with the commission.

(b) The standing preliminary review committee consists of three persons, as follows:

(1) two members of the commission, determined as provided by Subsection (c); and

(2) a review officer selected and retained by the commission.

(c) The initial standing preliminary review committee

consists of one commission member, chosen by lot, from the members of the commission appointed under Section 161.055(a)(1), and one commission member, chosen by lot, from the members appointed under Section 161.055(a)(2).

(d) A commission member serves on the standing preliminary review committee for six months. After the end of a commission member term on the standing preliminary review committee, service on the committee rotates so that each position on the commission serves on the committee, beginning with the initial members of the standing preliminary review committee chosen under Subsection (c) and succeeded by the next member on the list as described below:

(1) for the rotation of members appointed under Section 161.055(a)(1), the order of service is the member appointed by the county judge, followed by the members appointed by the county commissioners in order of precinct number; and

(2) for the rotation of members appointed under Section 161.055(a)(2), the order of service is the order listed by that section.

(e) The review officer must be a practicing attorney or former judge. A commission member may serve as the review officer.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 5, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 75 (S.B. 334), Sec. 1, eff. May 18, 2013.

Sec. 161.156. PROCESSING OF COMPLAINT. (a) The standing preliminary review committee shall determine whether a sworn complaint filed with the commission complies with the form requirements of Section 161.155.

(b) Not later than the 14th day after the date a complaint is filed, the standing preliminary review committee shall send written notice to the complainant and the respondent. The notice must state whether the complaint complies with the form requirements of Section 161.155 and include the information required by Section

161.158(c).

(c) If the standing preliminary review committee determines that the complaint does not comply with the form requirements, the committee 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 complainant may resubmit the complaint not later than the 14th day after the date the notice under Subsection (b) is mailed. If the standing preliminary review committee determines that the complaint is not resubmitted within the 14-day period, the committee shall:

(1) dismiss the complaint; and

(2) not later than the 14th 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 standing preliminary review committee determines that a complaint is resubmitted under Subsection (c) within the 14-day period but is not in proper form, the committee shall send the notice required under Subsection (c), and the complainant may resubmit the complaint under that subsection.

(e) If the standing preliminary review committee determines that a complaint returned to the complainant under Subsection (c) or (d) is resubmitted within the 14-day period and that the complaint complies with the form requirements, the committee shall send the written notice under Subsection (b).

(f) If a complaint filed with the commission is within the jurisdiction of the commission but may also be brought under the provisions of a collective bargaining agreement authorized by Chapter 174, a civil service rule under Section 158.0025, or a rule of the sheriff's department, the commission shall defer jurisdiction over the complaint to the sheriff for disposition. The sheriff may return a complaint deferred under this subsection to the commission for additional proceedings as the commission determines appropriate if the sheriff determines that the conduct alleged in the complaint is not within the scope of the collective bargaining agreement, civil service rule, or sheriff's department rule. The sheriff may not return a complaint deferred

under this section if:

(1) the sheriff disciplines the employee under the collective bargaining agreement, civil service rule, or sheriff's department rule for the conduct alleged in the sworn complaint; or

(2) the sheriff determines that the employee did not commit the conduct alleged in the sworn complaint.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 6, eff. September 1, 2011.

Sec. 161.157. RETALIATION AGAINST COUNTY EMPLOYEE REPORTING VIOLATION OF ETHICS CODE PROHIBITED. (a) A county public servant may not suspend or terminate the employment of or take other adverse action against a county employee who in good faith files a complaint or otherwise reports to the commission, commission staff, or another law enforcement authority a violation of the ethics code by a person subject to the ethics code.

(b) A county public servant may not suspend or terminate the employment of or take other adverse action against a county employee who in good faith participates in the complaint processing, preliminary review, hearing, or any other aspect of the investigation and resolution by the commission of an alleged violation of the ethics code by a person subject to the ethics code.

(c) A commission created by a county under this chapter is a part of the "local governmental entity" for purposes of Section 554.002, Government Code.

(d) An ethics code adopted by a commission pursuant to this chapter is a "law" as defined by Section 554.001, Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 7, eff. September 1, 2011.

Sec. 161.158. PRELIMINARY REVIEW: INITIATION. (a) The

standing preliminary review committee shall promptly conduct a preliminary review on receipt of a written complaint that is in compliance with the form requirements of Section 161.155.

(b) The standing preliminary review committee shall determine in writing whether the commission has jurisdiction over the violation of the ethics code provision alleged in a sworn complaint processed under Section 161.156.

(c) If the standing preliminary review committee determines that the commission has jurisdiction, the committee shall issue a notice under Section 161.156(b) that must include:

(1) a statement that the commission has jurisdiction over the violation 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 161.154;

(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.

(d) If the standing preliminary review committee determines that the commission does not have jurisdiction over the violation alleged in the complaint, the committee shall:

(1) dismiss the complaint; and

(2) not later than the 14th 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 8, eff. September 1, 2011.

Sec. 161.159. 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 161.156(b) not later than the 14th day after the date the respondent receives the notice; and

(2) if the matter is not resolved by agreement between the standing preliminary review committee and the respondent before the 30th day after the date the committee receives the respondent's response to the notice given under Section 161.156(b), the committee shall set the matter for a preliminary review hearing to be held at the next committee meeting.

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

(1) the respondent must respond to the notice required by Section 161.156(b) not later than the 14th day after the date the respondent receives the notice under Section 161.156(b); and

(2) if the matter is not resolved by agreement between the standing preliminary review committee and the respondent before the 30th day after the date the committee receives the respondent's response to the notice given under Section 161.156(b), the committee shall set the matter for a preliminary review hearing to be held at the next committee meeting.

(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 standing preliminary review committee sets the matter for a preliminary review hearing, the committee shall promptly send to the complainant and the respondent written notice

of the date, time, and place of the preliminary review hearing.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 9, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 75 (S.B. 334), Sec. 2, eff. May 18, 2013.

Sec. 161.160. 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.161. 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 standing preliminary review committee'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 the standing preliminary review committee'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 committee's investigation or the rights of the respondent.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.162. PRELIMINARY REVIEW HEARING: PROCEDURE. (a) The standing preliminary review committee shall conduct a preliminary review hearing if:

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

(2) the respondent in writing requests a hearing.

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

(c) At or after the time the standing preliminary review committee provides notice of a preliminary review hearing, the committee may submit to the complainant and the respondent written questions and require those questions to be answered under oath within a reasonable time. After receiving answers to any questions submitted to the complainant under this subsection and before the preliminary review hearing, the committee shall provide the respondent both the questions and the answers to the questions submitted by the complainant. This subsection may not be construed to require a person to give evidence that violates the person's right against self-incrimination under the United States Constitution or the Texas Constitution.

(d) On the request of the respondent, the standing preliminary review committee shall request that any information in the possession or control of the complainant, including exculpatory information, that is directly related to the complaint be provided the respondent and the committee.

(e) During a preliminary review hearing, the standing preliminary review committee:

(1) may consider all submitted evidence related to the complaint;

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

(3) shall determine whether there is credible evidence that provides cause for the committee to conclude that a violation

within the jurisdiction of the commission has occurred.

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

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.163. PRELIMINARY REVIEW HEARING: RESOLUTION. (a) As soon as practicable after the completion of a preliminary review hearing, the standing preliminary review committee by vote shall issue a decision stating:

(1) whether there is credible evidence for the committee 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 committee to determine whether a violation within the jurisdiction of the commission has occurred.

(b) If the standing preliminary review committee determines that there is credible evidence for the committee to determine that a violation has occurred, the committee shall resolve and settle the complaint to the extent possible. If the committee successfully resolves and settles the complaint, not later than the 14th day after the date of the final resolution of the complaint, the committee shall send to the complainant and the respondent a copy of the order stating the committee's determination and written notice of the resolution and the terms of the resolution. If the committee is unsuccessful in resolving and settling the complaint, the committee shall:

(1) order a formal hearing to be held in accordance with Sections 161.164-161.167; and

(2) not later than the 14th day after the date of the order, send to the complainant and the respondent:

(A) a copy of the order;

(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;

(F) a copy of the commission's rules of procedure; and

(G) a statement of the rights of the respondent.

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

(1) dismiss the complaint; and

(2) not later than the 10th day after the date of the dismissal, send to the complainant and the respondent a copy of the order stating the committee's determination and written notice of the dismissal and the grounds for dismissal.

(d) If the standing preliminary review committee determines that there is insufficient credible evidence for the committee to determine that a violation within the jurisdiction of the commission has occurred, the commission may dismiss the complaint or order a formal hearing under Sections 161.164-161.167. Not later than the 10th day after the date of the committee's determination under this subsection, the committee shall send to the complainant and the respondent a copy of the decision stating the committee's determination and written notice of the grounds for the determination.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 10, eff. September 1, 2011.

Sec. 161.164. 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.165. 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 161.166(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, subject to the rules of evidence applicable to a contested case under Section 2001.081, Government Code.

(d) A person whose name is mentioned or who is identified or referred to in testimony or in statements made by a commission member, commission 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.166. FORMAL HEARING: PROCEDURE. (a) Not later than the 10th 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 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, Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 11, eff. September 1, 2011.

Sec. 161.167. FORMAL HEARING: RESOLUTION. (a) At the conclusion of the formal hearing or not later than the 40th day after the date of the formal hearing, the commission may 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 the commission's findings of fact, conclusions of law, and recommendation of imposition of a civil penalty, if any.

(b) Six members of the commission are required for a quorum at a formal hearing.

(c) Not later than the 14th 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 and to the respondent; and

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

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 12, eff. September 1, 2011.

Sec. 161.168. 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 161.156 and 161.167, 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 of the status of the sworn complaint.

(d) The commission shall resolve a complaint within three months of its receipt unless it makes a determination that additional time is required to resolve the matter. On a determination that additional time is required, the commission may extend the investigation in three-month increments. Each extension requires separate approval by the commission.

(e) If the commission does not resolve the matter within three months or within an authorized extension, the complaint shall

be deemed to have been dismissed without prejudice.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 13, eff. September 1, 2011.

Sec. 161.169. 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, preliminary review hearing, or formal hearing.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.170. 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.

(b) 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 five 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 provision of the ethics code;

(2) can be determined from the documents or is known by the witnesses; and

(3) is not reasonably available through a less intrusive means.

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

(d) Section 2001.089, Government Code, applies to a subpoena issued under this subchapter. On the request of the

respondent, the commission shall subpoena any information in the possession or control of any person identified in the request, including exculpatory information, that is directly related to the complaint and provide the information to the respondent.

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

(f) At the written request of at least five 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.

(g) 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 the 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.

(h) A respondent has the right to quash a subpoena in a district court in the county as provided by law.

(i) 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.171. STATUS OF COMPLAINANT. The complainant is not a party to a preliminary review, preliminary review hearing, or formal hearing under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.172. APPLICABILITY OF OTHER ACTS. (a) Except as provided by Section 161.173(b), Chapter 552, Government Code, does not apply to documents or any additional evidence relating to the

processing, preliminary review, preliminary review hearing, or resolution of a sworn complaint.

(b) Chapter 551, Government Code, does not apply to the processing, preliminary review, preliminary review hearing, or resolution of a sworn complaint, but does apply to the conduct of a formal hearing under Sections 161.164-161.167. Chapter 551, Government Code, does not apply to the deliberation by the commission regarding a contested complaint following the conclusion of a formal hearing, but does apply to the meeting at which the commission issues a final decision stating the resolution of the final hearing.

(c) Subchapters C-H, Chapter 2001, Government Code, 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 14, eff. September 1, 2011.

Sec. 161.173. CONFIDENTIALITY; OFFENSE. (a) Except as provided by Subsection (b), (c), or (m), proceedings at a preliminary review hearing performed by the standing preliminary review committee, a sworn complaint, and documents and any additional evidence relating to the processing, preliminary review, preliminary review hearing, or resolution of a sworn complaint 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 standing preliminary review committee 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.

(c) Commission staff may, for the purpose of investigating a sworn complaint, 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 commission specifically authorizes the disclosure; and

(4) the employee discloses only the information necessary to conduct the investigation.

(d) A person commits an offense if the person intentionally:

(1) destroys, mutilates, or alters information obtained under this chapter; or

(2) removes information obtained under this chapter without permission as provided by this chapter.

(e) An offense under Subsection (d) is a misdemeanor punishable by:

(1) a fine of not less than $25 or more than $4,000;

(2) confinement in the county jail for not less than three days or more than three months; or

(3) both the fine and confinement.

(f) A person commits an offense if the person distributes information considered confidential under the terms of this chapter.

(g) A person who obtains access to confidential information under this chapter commits an offense if that person knowingly:

(1) uses the confidential information for a purpose other than the purpose for which the information was received or for a purpose unrelated to this chapter, including solicitation of political contributions or solicitation of clients;

(2) permits inspection of the confidential information by a person who is not authorized to inspect the information; or

(3) discloses the confidential information to a person who is not authorized to receive the information.

(h) An offense under Subsection (f) or (g) is a misdemeanor punishable by:

(1) a fine of not more than $1,000;

(2) confinement in the county jail for not more than six months; or

(3) both the fine and confinement.

(i) If conduct that constitutes an offense under this section also constitutes an offense under the Penal Code, including under Section 37.10 or 39.06 of that code, the person may be prosecuted under this section or the Penal Code, as applicable.

(j) A violation under this section constitutes official misconduct.

(k) In addition to other penalties, the respondent may commence a civil action for damages on the respondent's own behalf against any person who is alleged to have disclosed information made confidential by this subchapter. Any action under this chapter must be brought in a district court in the county. The court may award costs and attorney's fees.

(l) A county employee is subject to discipline, including termination of employment, for disclosing confidential information under this chapter.

(m) The commission may disclose confidential information in making a referral to a prosecuting attorney concerning an offense under this section.

(n) A county employee who discloses confidential information in compliance with Subsection (c) or (m) is not subject to Subsections (d)-(l).

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 160 (H.B. 2002), Sec. 15, eff. September 1, 2011.

Sec. 161.174. 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

SUBCHAPTER E. ENFORCEMENT

Sec. 161.201. ORDER. The commission may:

(1) issue and enforce a cease and desist order to stop a violation;

(2) issue an affirmative order to require compliance with the laws administered and enforced by the commission; and

(3) issue an order of public censure with or without a civil penalty imposed under Section 161.202.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.202. CIVIL PENALTY FOR DELAY OR VIOLATION. (a) The commission may impose a civil penalty of not more than $500 for each delay in complying with a commission order.

(b) The commission may impose a civil penalty of not more than $4,000 for a violation of the ethics code adopted by the commission.

(c) A penalty paid under this section shall be deposited to the credit of the general fund of the county.

(d) This section is cumulative of any other available sanctions under this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.203. WAIVER OR REDUCTION OF PENALTY. (a) A person may request the waiver or reduction of a civil penalty by submitting an affidavit to the commission 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.204. 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, or the State Bar of Texas, of a violation of the ethics code adopted by the commission.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.205. CIVIL PENALTY FOR FRIVOLOUS OR BAD-FAITH COMPLAINT. (a) The commission may impose a civil penalty of not more than $4,000 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, the respondent may

commence a civil action on the respondent's own behalf against any person who filed a frivolous complaint against the respondent. Any action under this chapter shall be brought in a district court in the county. The court may award costs and attorney's fees.

(c) A person may file a sworn complaint with the commission, in accordance with Section 161.155, 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 D.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.206. 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.207. APPEALS. (a) A respondent may appeal the decision by filing a petition in a district court in the county within 30 days after the date of the decision.

(b) 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.

(c) If the district court renders judgment for the petitioner, and the petitioner is a county employee, the court may order reinstatement of the county employee, payment of back pay, or other appropriate relief.

(d) If the district court renders judgment for the petitioner, the court may order appropriate relief, including costs and attorney's fees.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.208. DELIVERY OF RECORD TO REVIEWING COURT. (a) After service of the petition on the commission and within the time permitted for filing an answer or within additional time allowed by the court, the commission shall send to the reviewing court the original or a certified copy of the entire record of the proceeding under review.

(b) The record shall be filed with the clerk of the court. The record may be shortened by stipulation of all parties to the review proceedings. The court may assess additional costs against a party who unreasonably refuses to stipulate to limit the record, unless the party pays all costs of record preparation.

(c) The court may require or permit later corrections or additions to the record.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.209. COST OF PREPARING COMMISSION RECORD. (a) The commission may require a party who appeals a final decision under Section 161.207 to pay one-half of the cost of preparation of the

original or a certified copy of the record of the commission proceeding that is required to be sent to the reviewing court.

(b) A charge imposed under this section is a court cost and may be assessed by the court in accordance with the Texas Rules of Civil Procedure.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.210. COLLECTIONS. The county attorney may collect a fine or other penalty imposed by the commission under this chapter in the same manner as provided for the collection of a debt owed to the county.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

SUBCHAPTER F. DISSOLUTION OF COMMISSION

Sec. 161.301. PETITION FOR DISSOLUTION OF COMMISSION. If, after an ethics commission created pursuant to Section 161.052 has been in effect for at least one year, 10 percent of the qualified voters of the county petition the commissioners court to dissolve the commission, the commissioners court shall call an election to determine whether the commission will be dissolved.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.302. DISSOLUTION ELECTION. (a) An election under this subchapter must be held in the manner provided for an election to create a county ethics commission.

(b) The ballot for the election shall be printed to provide for voting for or against the proposition: "Dissolution of the county ethics commission."

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.303. DISSOLUTION OF COMMISSION. If the proposition is approved by a majority of the qualified voters

voting at the election, the commissioners court shall declare the result and by order dissolve the ethics commission. A copy of the order dissolving the commission shall be placed in the minutes of the court's proceedings.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.

Sec. 161.304. SAVING PROVISIONS. The dissolution of a county ethics commission under this subchapter does not affect:

(1) the prior operation of the ethics code adopted by the commission or any prior action taken under it; or

(2) any penalty, forfeiture, or punishment incurred for a violation of the ethics code before the effective date of the dissolution.

Added by Acts 2009, 81st Leg., R.S., Ch. 799 (S.B. 1368), Sec. 1, eff. September 1, 2009.