

By: Taylor of Collin

S.B. No. 19

A BILL TO BE ENTITLED

AN ACT

relating to the ethics of public officers and related requirements;
creating criminal offenses.

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

ARTICLE 1. ANTI-CORRUPTION

SECTION 1.01. Article 42.01, Code of Criminal Procedure, is
amended by adding Section 12 to read as follows:

Sec. 12. In addition to the information described by
Section 1, the judgment should reflect affirmative findings entered
pursuant to Article 42.0199.

SECTION 1.02. Chapter 42, Code of Criminal Procedure, is
amended by adding Article 42.0199 to read as follows:

Art. 42.0199. FINDING REGARDING OFFENSE RELATED TO
PERFORMANCE OF PUBLIC SERVICE. (a) In the trial of an offense
described by Section 802.004, Government Code, the judge shall make
an affirmative finding of fact and enter the affirmative finding in
the judgment in the case if the judge determines that the offense
committed was related to the defendant's performance of public
service as a member of a public retirement system.

(b) A judge that makes the affirmative finding described by
this article shall make the determination and enter the order
required by Section 802.004(k), Government Code.

SECTION 1.03. Subchapter A, Chapter 802, Government Code,
is amended by adding Section 802.004 to read as follows:

1 Sec. 802.004. CERTAIN EMPLOYEES AND ANNUITANTS INELIGIBLE
2 FOR RETIREMENT ANNUITY; RESUMPTION OR RESTORATION OF ELIGIBILITY.

3 (a) This section applies only to a person who is a member or an
4 annuitant of a public retirement system and holds or has held an
5 elective office included in the coverage of that public retirement
6 system.

7 (b) To the extent ordered by a court under Subsection (k), a
8 person is not eligible to receive a full service retirement annuity
9 from a public retirement system if the person is finally convicted
10 of an offense that is related to the person's performance of public
11 service arising from the person's official duties as an elected
12 officer while a member of the retirement system and is a felony.

13 (c) To the extent ordered by a court under Subsection (k),
14 the public retirement system shall suspend making full annuity
15 payments to a person who is not eligible to receive a full service
16 retirement annuity under Subsection (b) on receipt by the
17 retirement system of notice and terms of the person's conviction.

18 (d) The public retirement system shall resume making full
19 annuity payments if the person made ineligible for a full annuity
20 under Subsection (b):

21 (1) is subsequently found to be not guilty of the
22 offense; or

23 (2) meets the requirements for innocence under Section
24 103.001(a)(2), Civil Practice and Remedies Code.

25 (e) The public retirement system as applicable shall:

26 (1) for a person whose full annuity payments are
27 resumed under Subsection (d), reimburse the person for any portion

1 of the annuity payments withheld during a period of suspension; or
2 (2) restore the full eligibility of a person convicted
3 of an offense described by Subsection (b) to receive a service
4 retirement annuity, including the restoration of all service
5 credits accrued by the person before the conviction, if the person
6 satisfies the condition under Subsection (d)(1) or (2).

7 (f) Except as provided by Subsection (g), a person convicted
8 of an offense described by Subsection (b) whose eligibility for a
9 service retirement annuity is not fully restored under Subsection
10 (e)(2) is eligible to accrue service credit toward a service
11 retirement annuity from a public retirement system if the person:

12 (1) was placed on community supervision for the
13 offense for which the person was convicted and:

14 (A) successfully completed the period of
15 community supervision; and

16 (B) received a discharge and dismissal under
17 Section 20, Article 42.12, Code of Criminal Procedure; or

18 (2) was sentenced to serve a term of confinement in a
19 penal institution for the offense for which the person was
20 convicted and completely discharged the person's sentence,
21 including any term of confinement and any period of parole or other
22 form of conditional release.

23 (g) In determining a person's eligibility for retirement
24 benefits under Subsection (f), a public retirement system may
25 include only those service credits that were:

26 (1) accrued by the person before the person's
27 conviction for an offense described by Subsection (b) and remaining

1 after conviction of the offense; or

2 (2) earned after fulfilling the requirements under
3 Subsection (f).

4 (h) Except as provided by Subsection (i), a person who is
5 not eligible to receive a full service retirement annuity under
6 Subsection (b) is entitled to request and receive a refund of the
7 person's retirement annuity contributions, not including any
8 interest earned on those contributions. A person who accepts a
9 refund under this subsection terminates the person's membership in
10 the public retirement system.

11 (i) Benefits payable to an alternate payee under Chapter
12 804, including a spouse or dependent child, are not affected by a
13 person's ineligibility to receive a full service retirement annuity
14 under Subsection (b).

15 (j) The governing body of a public retirement system shall
16 adopt rules and procedures to implement this section.

17 (k) A court shall:

18 (1) determine and order as applicable for a person
19 convicted of an offense described by Subsection (b) the amount by
20 which the person's:

21 (A) service retirement annuity payments are to be
22 reduced; or

23 (B) accrued service credits are to be reduced;
24 and

25 (2) notify the affected public retirement system of
26 the terms of a conviction ordered under Subdivision (1).

27 ARTICLE 2. TRANSPARENCY AND DISCLOSURE REQUIREMENTS

SECTION 2.01. Section 572.023, Government Code, is amended by amending Subsection (b) and adding Subsection (e) to read as follows:

(b) The account of financial activity consists of:

(1) a list of all sources of occupational income, identified by employer, or if self-employed, by the nature of the occupation, including identification of a person or other organization from which the individual or a business in which the individual has a substantial interest received a fee as a retainer for a claim on future services in case of need, as distinguished from a fee for services on a matter specified at the time of contracting for or receiving the fee, if professional or occupational services are not actually performed during the reporting period equal to or in excess of the amount of the retainer, and the category of the amount of the fee;

(2) identification by name and the category of the number of shares of stock of any business entity held or acquired, and if sold, the category of the amount of net gain or loss realized from the sale;

(3) a list of all bonds, notes, and other commercial paper held or acquired, and if sold, the category of the amount of net gain or loss realized from the sale;

(4) identification of each source and the category of the amount of income in excess of \$500 derived from each source from interest, dividends, royalties, and rents;

(5) identification of each guarantor of a loan and identification of each person or financial institution to whom a

1 personal note or notes or lease agreement for a total financial
2 liability in excess of \$1,000 existed at any time during the year
3 and the category of the amount of the liability;

4 (6) identification by description of all beneficial
5 interests in real property and business entities held or acquired,
6 and if sold, the category of the amount of the net gain or loss
7 realized from the sale;

8 (7) identification of a person or other organization
9 from which the individual or the individual's spouse or dependent
10 children received a gift of anything of value in excess of \$250 and
11 a description of each gift, except:

12 (A) a gift received from an individual related to
13 the individual at any time within the second degree by
14 consanguinity or affinity, as determined under Subchapter B,
15 Chapter 573;

16 (B) a political contribution that was reported as
17 required by Chapter 254, Election Code; and

18 (C) an expenditure required to be reported by a
19 person required to be registered under Chapter 305;

20 (8) identification of the source and the category of
21 the amount of all income received as beneficiary of a trust, other
22 than a blind trust that complies with Subsection (c), and
23 identification of each trust asset, if known to the beneficiary,
24 from which income was received by the beneficiary in excess of \$500;

25 (9) identification by description and the category of
26 the amount of all assets and liabilities of a corporation, firm,
27 partnership, limited partnership, limited liability partnership,

1 professional corporation, professional association, joint venture,
2 or other business association in which 50 percent or more of the
3 outstanding ownership was held, acquired, or sold;

4 (10) a list of all boards of directors of which the
5 individual is a member and executive positions that the individual
6 holds in corporations, firms, partnerships, limited partnerships,
7 limited liability partnerships, professional corporations,
8 professional associations, joint ventures, or other business
9 associations or proprietorships, stating the name of each
10 corporation, firm, partnership, limited partnership, limited
11 liability partnership, professional corporation, professional
12 association, joint venture, or other business association or
13 proprietorship and the position held;

14 (11) identification of any person providing
15 transportation, meals, or lodging expenses permitted under Section
16 36.07(b), Penal Code, and the amount of those expenses, other than
17 expenditures required to be reported under Chapter 305;

18 (12) any corporation, firm, partnership, limited
19 partnership, limited liability partnership, professional
20 corporation, professional association, joint venture, or other
21 business association, excluding a publicly held corporation, in
22 which both the individual and a person registered under Chapter 305
23 have an interest;

24 (13) identification by name and the category of the
25 number of shares of any mutual fund held or acquired, and if sold,
26 the category of the amount of net gain or loss realized from the
27 sale; ~~and~~

(14) identification of each blind trust that complies with Subsection (c), including:

(A) the category of the fair market value of the trust;

(B) the date the trust was created;

(C) the name and address of the trustee; and

(D) a statement signed by the trustee, under penalty of perjury, stating that:

(i) the trustee has not revealed any information to the individual, except information that may be disclosed under Subdivision (8); and

(ii) to the best of the trustee's knowledge, the trust complies with this section; and

(15) if the aggregate cost of goods or services sold under one or more written contracts described by this subdivision exceeds \$10,000 in the year covered by the report, identification of each written contract, including the name of each party to the contract:

(A) for the sale of:

(i) goods in the amount of \$2,500 or more;

or

(ii) services, including professional services as defined by Section 2254.002, consulting services as defined by Section 2254.021, or legal counsel, in the amount of \$5,000 or more;

(B) to which the individual, the individual's spouse, the individual's dependent child, or any business entity of

which the individual, the individual's spouse, or the individual's dependent child has at least a 50 percent ownership interest is a party; and

(C) with:

(i) a governmental entity; or

(ii) a person who contracts with a governmental entity, to fulfill one or more of the person's obligations to the governmental entity under that contract.

(e) In this section, "governmental entity" means the state, a political subdivision of the state, or an agency or department of the state or a political subdivision of the state.

ARTICLE 3. CONFLICTS OF INTEREST

SECTION 3.01. Section 7.103(c), Education Code, is amended to read as follows:

(c) A person who is required to register as a lobbyist under Chapter 305, Government Code, ~~[by virtue of the person's activities for compensation in or on behalf of a profession, business, or association related to the operation of the board,]~~ may not ~~[serve as a member of the board or]~~ act as the general counsel to the board.

SECTION 3.02. Section 141.001(a), Election Code, is amended to read as follows:

(a) To be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, a person must:

(1) be a United States citizen;

(2) be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable;

(3) have not been determined by a final judgment of a court exercising probate jurisdiction to be:

(A) totally mentally incapacitated; or

(B) partially mentally incapacitated without the right to vote;

(4) have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities;

(5) have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:

(A) for a candidate whose name is to appear on a general primary election ballot, the date of the regular filing deadline for a candidate's application for a place on the ballot;

(B) for an independent candidate, the date of the regular filing deadline for a candidate's application for a place on the ballot;

(C) for a write-in candidate, the date of the election at which the candidate's name is written in;

(D) for a party nominee who is nominated by any method other than by primary election, the date the nomination is made; and

(E) for an appointee to an office, the date the appointment is made; ~~and~~

(6) not be required to be registered as a lobbyist under Chapter 305, Government Code; and

(7) satisfy any other eligibility requirements

prescribed by law for the office.

SECTION 3.03. Subchapter C, Chapter 572, Government Code, is amended by adding Sections 572.062, 572.063, and 572.064 to read as follows:

Sec. 572.062. FORMER LEGISLATOR: LOBBYING RESTRICTED; CRIMINAL OFFENSE. (a) In this section, "administrative action," "communicates directly with," "legislation," "member of the executive branch," and "member of the legislative branch" have the meanings assigned by Section 305.002.

(b) Except as provided by Subsection (c), a former member of the legislature may not, before the second anniversary of the date the person ceases to be a member, engage in activities that require registration under Chapter 305.

(c) Subsection (b) does not apply to a former member who does not receive compensation other than reimbursement for actual expenses for communicating directly with a member of the legislative or executive branch to influence legislation or administrative action.

(d) A former member who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

Sec. 572.063. CERTAIN REFERRALS FOR LEGAL SERVICES PROHIBITED; CRIMINAL OFFENSE. (a) A member of the legislature or an executive officer elected in a statewide election who is a member of the State Bar of Texas or who is licensed to practice law in another state or a United States territory may not make or receive any referral for legal services for monetary compensation or any other benefit.

1 (b) A person commits an offense if the person violates this
2 section. An offense under this section is a Class B misdemeanor.

3 Sec. 572.064. REPRESENTATION BY LEGISLATORS REGARDING
4 PUBLIC SECURITIES ISSUANCES PROHIBITED; CRIMINAL OFFENSE. (a) A
5 member of the legislature may not for compensation provide bond
6 counsel services for an issuer, as defined by Section 1201.002(1),
7 including by providing contractual services authorized by Section
8 1201.027 to an issuer.

9 (b) A member of the legislature commits an offense if the
10 member violates this section. An offense under this subsection is a
11 Class A misdemeanor.

12 SECTION 3.04. Chapter 601, Government Code, is amended by
13 adding Section 601.011 to read as follows:

14 Sec. 601.011. ELECTED OFFICER MAY NOT BE REGISTERED
15 LOBBYIST. (a) A person may not qualify for a public elective
16 office if the person is required to be registered as a lobbyist
17 under Chapter 305.

18 (b) Subsection (a) does not apply to an office for which the
19 federal or state constitution prescribes exclusive qualification
20 requirements.

21 SECTION 3.05. Section 1201.027, Government Code, is amended
22 by adding Subsection (e) to read as follows:

23 (e) An issuer may not select or contract with a member of the
24 legislature to provide legal services necessary in connection with
25 the issuer's issuance of public securities.

26 ARTICLE 4. TRANSITIONS; EFFECTIVE DATE

27 SECTION 4.01. Section 12, Article 42.01, Code of Criminal

1 Procedure, and Article 42.0199, Code of Criminal Procedure, as
2 added by this Act, apply only to a judgment of conviction entered on
3 or after the effective date of this Act.

4 SECTION 4.02. Section 802.004, Government Code, as added by
5 this Act, applies only to an offense committed on or after the
6 effective date of this Act. An offense committed before the
7 effective date of this Act is governed by the law in effect on the
8 date the offense was committed, and the former law is continued in
9 effect for that purpose. For purposes of this section, an offense
10 was committed before the effective date of this Act if any element
11 of the offense occurred before that date.

12 SECTION 4.03. Section 572.023, Government Code, as amended
13 by this Act, applies only to a financial statement filed under
14 Subchapter B, Chapter 572, Government Code, as amended by this Act,
15 on or after January 1, 2017. A financial statement filed before
16 January 1, 2017, is governed by the law in effect on the date of
17 filing, and the former law is continued in effect for that purpose.

18 SECTION 4.04. Section 572.062, Government Code, as added by
19 this Act, applies only to a member of the legislature who ceases to
20 be a member on or after the effective date of this Act.

21 SECTION 4.05. Section 572.063, Government Code, as added by
22 this Act, applies only to conduct that occurred on or after the
23 effective date of this Act. Conduct that occurred before the
24 effective date of this Act is governed by the law in effect on the
25 date the conduct occurred, and the former law is continued in effect
26 for that purpose.

27 SECTION 4.06. Sections 572.064 and 1201.027(e), Government

1 Code, as added by this Act, apply only to services rendered on or
2 after the effective date of this Act. Services rendered before the
3 effective date of this Act are governed by the law in effect on the
4 date the services were rendered, and the former law is continued in
5 effect for that purpose.

6 SECTION 4.07. The changes in law made by this Act in
7 amending Section 7.103(c), Education Code, and Section 141.001(a),
8 Election Code, and in adding Section 601.011, Government Code,
9 apply only to the eligibility and qualification requirements for a
10 candidate or officer whose term of office will begin on or after the
11 effective date of this Act. The eligibility and qualification
12 requirements for a candidate or officer whose term of office will
13 begin before the effective date of this Act are governed by the law
14 in effect immediately before the effective date of this Act, and the
15 former law is continued in effect for that purpose.

16 SECTION 4.08. This Act takes effect September 1, 2015.