

By: Huffman

S.B. No. 10

A BILL TO BE ENTITLED

AN ACT

relating to the investigation and prosecution of offenses against public administration, including ethics offenses, and offenses involving insurance fraud or the imposition of the motor fuels tax.

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

SECTION 1. Chapter 402, Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. PUBLIC INTEGRITY UNIT

Sec. 402.101. DEFINITIONS. In this subchapter:

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

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

(3) "Prosecuting attorney" means a district attorney, criminal district attorney, or county attorney.

Sec. 402.102. OFFENSES AGAINST PUBLIC ADMINISTRATION. For purposes of this subchapter, the following are offenses against public administration:

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

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

(3) an offense under Chapter 573 committed by a state

1 officer in connection with the powers and duties of the state
2 office; and

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

5 (A) a campaign for or the holding of state
6 office; or

7 (B) an election on a proposed constitutional
8 amendment.

9 Sec. 402.103. OFFENSES INVOLVING INSURANCE FRAUD. For
10 purposes of this subchapter, the following are offenses involving
11 insurance fraud:

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

15 (2) a fraudulent insurance act as defined by Section
16 701.001, Insurance Code, including an act that involves workers'
17 compensation insurance under Title 5, Labor Code.

18 Sec. 402.104. OFFENSES INVOLVING MOTOR FUELS TAX. For
19 purposes of this subchapter, an offense involving motor fuels tax
20 means a felony offense under Section 162.403, Tax Code.

21 Sec. 402.105. PUBLIC INTEGRITY UNIT. (a) The office of
22 the attorney general shall establish and support a public integrity
23 unit consisting of:

24 (1) the attorneys and staff employed by the attorney
25 general to investigate and support prosecution of offenses
26 described by this subchapter; and

27 (2) one commissioned officer of the Texas Rangers

1 division of the Department of Public Safety to assist with each
2 investigation by the attorney general and verify the resulting
3 findings.

4 (b) The prosecuting attorney described by Subsection
5 402.107(a) serves as part of the public integrity unit from the
6 date a presiding judge selects that office under this
7 subchapter until:

8 (1) the date that the investigation for an offense
9 under this subchapter officially ceases; or

10 (2) the date any potential prosecution of an offense
11 under this subchapter is fully adjudicated.

12 Sec. 402.106. INVESTIGATION AND PROSECUTION ASSISTANCE BY
13 PUBLIC INTEGRITY UNIT. (a) Upon receiving a formal or informal
14 complaint for an offense under this subchapter or on request of a
15 county or district attorney, the public integrity unit has the
16 authority to perform an initial investigation into whether a person
17 has committed:

18 (1) an offense against public administration;

19 (2) an offense involving insurance fraud; or

20 (3) an offense involving motor fuels tax.

21 (b) while performing an initial investigation under
22 Subsection (a), one commissioned officer of the Texas Rangers
23 division of the Department of Public Safety shall provide
24 assistance to and verify the findings made by the public integrity
25 unit.

26 (c) If an initial investigation by the public integrity unit
27 demonstrates a reasonable suspicion that:

1 (1) an offense under Subsection (a)(1) occurred, the
2 matter shall be referred to the appropriate presiding judge of the
3 administrative judicial region containing the county where a person
4 accused of that offense resides; or

5 (2) an offense under Subsection (a)(2) or (a)(3)
6 occurred, the matter shall be referred to the appropriate venue
7 described in Chapter 13, Code of Criminal Procedure.

8 (d) the public integrity unit shall, on request of the
9 prosecuting attorney described in Section 402.107(a) of this
10 subchapter, assist in the investigation of an offense under this
11 subchapter.

12 (e) If assisting in a prosecution as provided by Subsection
13 (c)(1), the public integrity unit may exercise the powers as
14 necessary to accomplish the assistance, and the prosecuting
15 attorney described by Subsection 402.107(a) retains the authority
16 to represent the state in the district an inferior courts in the
17 prosecution of the offense.

18 Sec. 402.107. SELECTION OF PROSECUTING ATTORNEY BY
19 PRESIDING JUDGE OF ADMINISTRATIVE JUDICIAL REGION. (a) Upon
20 receipt of an initial investigation under Subsection
21 402.106(c)(1), a presiding judge shall appoint a criminal district
22 attorney, district attorney, or county attorney for counties in
23 which there is not a resident criminal district attorney as
24 provided by Section 21, Article V, Texas Constitution, from any
25 judicial district comprised of a county within the borders of that
26 particular administrative judicial region, unless that county is
27 the county of residence for the person under investigation.

1 (b) Regardless of venue described in Section 402.108, the
2 prosecuting attorney under this subchapter retains the sole
3 authority to represent the state in the district and inferior
4 courts for all offenses under this subchapter and lesser included
5 offenses arising from the same transaction that lead to an initial
6 investigation under Section 402.106(a)(1).

7 (c) Regardless of venue described in Section 402.108, the
8 prosecuting attorney under this subchapter retains the sole
9 discretion to terminate an investigation referred to that office
10 under this subchapter for insufficient evidence or proceed with
11 prosecution.

12 (d) The prosecuting attorney shall notify the public
13 integrity unit of the termination of a case for insufficient
14 evidence or the results of a case's final adjudication.

15 (e) All prosecution arising from the investigation
16 described by Section 402.106(a)(1), including proceedings before a
17 grand jury, shall be at the venue described in Section 402.108.

18 Sec. 402.108. VENUE. Notwithstanding Chapter 13, Code of
19 Criminal Procedure, or other law, if the defendant is a natural
20 person, venue for prosecution of an offense under Subsection
21 402.106(a)(1) is the county in which the defendant resides.

22 Sec. 402.109. RESIDENCE. For the purposes of this
23 subchapter, a person resides in the county where that person:

24 (1) claims a residence homestead under Chapter 41,
25 Property Code, if that person is a member of the Texas Legislature;

26 (2) claimed to be a resident before being subject to
27 residency requirements under Article IV, Texas Constitution, if

1 that person is a member of the Executive Department of the State;

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

5 (4) otherwise claims residence if no other provision
6 of this subsection applies.

7 Sec. 402.110. COOPERATION OF STATE AGENCIES AND LOCAL LAW
8 ENFORCEMENT AGENCIES. (a) To the extent allowed by law, a state
9 agency or local law enforcement agency shall cooperate with the
10 public integrity unit by providing information requested by the
11 unit as necessary to carry out the purposes of this subchapter.

12 (b) Information disclosed under this section is
13 confidential and not subject to disclosure under Chapter 552.

14 SECTION 2. Section 402.009, Government Code, is amended to
15 read as follows:

16 Sec. 402.009. AUTHORITY TO EMPLOY AND COMMISSION PEACE
17 OFFICERS. The attorney general may employ and commission peace
18 officers as investigators for:

19 (1) the limited purpose of assisting the attorney
20 general in carrying out the duties of that office relating to
21 prosecution assistance and crime prevention; or

22 (2) the purpose of investigating offenses under
23 Subchapter D.

24 SECTION 3. (a) Not later than three months after the
25 effective date of this Act, the attorney general shall establish
26 the public integrity unit under Subchapter D, Chapter 402,
27 Government Code, as added by this Act.

1 (b) Subchapter D, Chapter 402, Government Code, as added by
2 this Act, applies only to the prosecution of an offense under
3 Subchapter D, Chapter 402, Government Code committed on or after
4 the date that the attorney general establishes the public integrity
5 unit. For purposes of this section, an offense is committed if any
6 element of the offense occurs before the date described by this
7 Section.

8 (c) The prosecution of an offense committed before the date
9 described in Subsection (b) of this Section, is covered by the law
10 in effect when the offense was committed, and the former law is
11 continued in effect for that purpose.

12 SECTION 4. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2015.