

TEXAS ETHICS COMMISSION

Senate Bill 2403 by Middleton (Shaheen) — Not Enacted

Issue 1 — Cumbersome Laws and Informal Management Practices Result in a Disclosure System that Limits TEC's Efficiency and Burdens the Regulated Community.

Recommendation 1.1, Not Adopted — The House Appropriations and Senate Finance committees should consider providing TEC additional guidance regarding the use of unexpended funds for IT improvements. (Change in appropriation)

Recommendation 1.2, Not Adopted — Require TEC to adjust reporting and registration thresholds every 10 years instead of annually, rounding the thresholds to the nearest \$10 if under \$100, \$100 if under \$1,000, and nearest \$1,000 for all above \$10,000 to make the limits more practical to remember and report. This recommendation would also exempt lobby compensation categories from the adjustment.

Recommendation 1.3, Not Adopted — Align monthly reporting periods and deadlines.

Recommendation 1.4, Not Adopted — Align the itemization thresholds for electronic and non-electronic contributions.

Recommendation 1.5, Not Adopted — Eliminate double counting of political expenditures made using credit cards.

Recommendation 1.6, Not Adopted — Remove prescriptive mailing requirements from statute.

Recommendation 1.7, Not Adopted — Remove the electronic filing exemption for campaign finance reports.

Recommendation 1.8, Adopted — Direct TEC to develop a comprehensive plan for short- and long-term improvements to the agency's IT resources. (Management action – nonstatutory)

Recommendation 1.9, Adopted — Direct TEC to improve its EFS contract monitoring practices. (Management action – nonstatutory)

Recommendation 1.10, Adopted — Direct TEC to ensure key contract management staff receive appropriate training. (Management action – nonstatutory)

Recommendation 1.11, Adopted — Direct TEC to offer trainings to help filers navigate their disclosure requirements. (Management action – nonstatutory)

Recommendation 1.12, Adopted — Direct TEC to coordinate helpline guidance among its divisions. (Management action – nonstatutory)

Issue 2 — TEC’s Regulatory Tools and Practices Hinder Its Compliance Efforts and Prevent the Agency from Prioritizing Serious Violations of State Ethics Laws.

Recommendation 2.1, Not Adopted — Require TEC to categorize violations of law within its jurisdiction according to seriousness.

Recommendation 2.2, Not Adopted — Restructure TEC’s audit function to better differentiate between facial compliance reviews and complete audits.

Recommendation 2.3, Not Adopted — Require TEC to prioritize complaint investigations based on risk to full and accurate disclosure.

Recommendation 2.4, Not Adopted — Authorize TEC to increase penalties for filers who repeatedly file reports late.

Recommendation 2.5, Not Adopted — Require TEC to develop a penalty matrix.

Recommendation 2.6, Not Adopted — Require filers to provide supporting records and documentation upon request by TEC.

Recommendation 2.7, Adopted — Direct TEC to collect and use data to improve its compliance efforts. (Management action – nonstatutory)

Issue 3 — TEC’s Sworn Complaint Process Fails to Promote Efficiency and Weakens the Commission’s Role in Enforcing Disclosure Laws.

Recommendation 3.1, Not Adopted — Restructure the preliminary review hearing to involve only a subset of commission members.

Recommendation 3.2, Not Adopted — Clearly authorize TEC to send formal hearings to SOAH.

Recommendation 3.3, Not Adopted — Require judicial review of commission decisions to be based on the substantial evidence rule.

Recommendation 3.4, Not Adopted — Require TEC to implement discovery control plans.

Issue 4 — TEC’s Statute and Processes Do Not Reflect Some Standard Elements of Sunset Reviews.

Recommendation 4.1, Not Adopted — Amend TEC’s Sunset review date to 2037.

Recommendation 4.2, Not Adopted — Update the standard across-the-board requirement related to commission member training.

Recommendation 4.3, Adopted — Direct TEC to adopt a rule review plan. (Management action – nonstatutory)

New Recommendations Added by the Sunset Commission

Customer service funding, Adopted — Appropriate TEC additional funding for a new attorney position to support the agency’s ability to provide timely customer service through its dedicated legal helpline. (Passed in SB 1, the General Appropriations Act)

Plain language training materials, Adopted — Direct TEC to provide any in-person trainings and online webinars, as well as any guides and instructions on its website, EFS help guide, and other training materials in plain language to the extent practicable. As part of this recommendation, TEC should consider tailoring some training material toward first-time and less sophisticated filers. TEC should also develop a plain language guide for members of the public about engaging with policymakers and government officials. This guide should be published prominently on TEC’s website and include information on when an individual or group would be required to register as a lobbyist or political committee; any restrictions on giving gifts to policymakers; and information relevant to first-time candidates for office and first-time or volunteer campaign treasurers. When providing guidance over TEC’s helpline, TEC staff should include a clear, plain language warning about potential accruing penalties that may be applied when a filer corrects a report. (Management action – nonstatutory)

8-day pre-election report penalties, Not Adopted — Amend Section 254.042, Texas Election Code, to specify that if an 8-day pre-election report is determined to be late, the filer is liable to the state for a civil penalty of \$500 for the first day the report is late and \$100 for each day thereafter through election day that the report is late.

Semiannual report penalties, Not Adopted — Exclude the first semiannual report due after an election from accruing daily late penalties under Section 254.042(b), Texas Election Code.

Waiving late penalties, Not Adopted — Require TEC to waive late penalties if TEC cannot produce a record of the late notice sent to the filer.

Revision of “substantial compliance” definition, Adopted — Direct TEC to consider revising its rules related to the definition of “substantial compliance.” (Management action – nonstatutory)

Revision of “principal purpose” definition, Adopted — Direct TEC to consider revising its rules related to the definition of “principal purpose.” (Management action – nonstatutory)

Delinquent penalties list, Adopted — Direct TEC to display the agency’s list of delinquent penalties prominently on its website and include more detailed information on the amount and status of unpaid penalties. Specifically, the list should identify unpaid penalties resulting from late-filed reports and from publicly available sworn complaint orders. TEC should provide: (1) the filer’s name; (2) the filer’s status when the penalty was incurred; (3) the date and penalty amount of each violation; (4) which penalties have been referred to the Office of the Attorney General for collections; (5) whether the Office of the Attorney General accepted the referral, if known; and (6) any other information TEC deems relevant, so long as it is not confidential. (Management action – nonstatutory)

Provisions Added by the Legislature

No provisions were added by the Legislature.