

TEXAS ETHICS COMMISSION

Self-Evaluation Report



Sunset Advisory Commission

August 2011

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Self-Evaluation Report**

**For The
Sunset Advisory Commission**

**David A. Reisman
Executive Director**

August 2011

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Reports Not Applicable

Annual report published by agency from FY 2006-2010 – see Attachment 8 (Biennial Report)

Internal or external newsletter published by agency from FY 2009-2010 – not applicable

Studies that agency is required to do by legislation or riders – not applicable

Legislative or interagency studies relating to the agency that are being performed during current interim -
not applicable

Recent studies on the agency or any of its functions conducted by outside management consultants or
academic institutions – not applicable

Agency's current internal audit plan – not applicable/not required

Internal audit reports from FY 2007-2011 completed by or in progress at the agency – not applicable/not
required

TEXAS ETHICS COMMISSION Self-Evaluation Report

I. Agency Contact Information

A. Please fill in the following chart.

Texas Ethics Commission Exhibit 1: Agency Contacts				
	Name	Address	Telephone & Fax Numbers	E-mail Address
Agency Head	David A. Reisman	201 E. 14th Street, 10th Fl, Austin, TX 78703	(w) 512-463-5800 (f) 512-463-5777	David.Reisman@ ethics.state.tx.us
Agency's Sunset Liaison	David A. Reisman	201 E. 14th Street, 10th Fl, Austin, TX 78703	(w) 512-463-5800 (f) 512-463-5777	<u>David.Reisman@ ethics.state.tx.us</u>
Alternate:	Natalia Luna Ashley, General Counsel	Same	Same	<u>Natalia.Ashley@ ethics.state.tx.us</u>

II. Key Functions and Performance

Provide the following information about the overall operations of your agency. More detailed information about individual programs will be requested in a later section.

A. Provide an overview of your agency's mission, objectives, and key functions.

Agency Mission:

The mission of the Texas Ethics Commission (Commission) is to promote public confidence in electoral and governmental processes.

The Commission has both constitutional and statutory duties. The Commission was created effective January 1, 1992, by a voter approved constitutional amendment. This amendment added Section 24a to Article III, Legislative Department, of the Texas Constitution. The article establishes an eight-member Commission, with four members appointed by the Governor, and two each by the Lieutenant Governor and the Speaker of the Texas House of Representatives. Appointees are selected from lists submitted by the Texas Senate and the Texas House of Representatives. These lists represent individuals from each political party required by law to hold a primary. Accordingly, equal numbers from each major political party are represented on the Commission. Furthermore, by constitutional provision, the members hold staggered four-year terms and annually elect a presiding officer.

Statutory authority for the Commission is outlined in Chapter 571 of the Texas Government Code. The Commission is subject to review, but not abolishment, under Chapter 325 (Texas Sunset Act). The Commission was subject to review in 2003, and is scheduled for review in 2013.

Key Functions and Objectives of the Agency:

The Commission serves several main functions. One of which, as set forth in the Constitution, is to recommend the salary of members of the legislature and the lieutenant governor subject to the approval by the voters at the subsequent general election for state and county officers. The Commission is required to set the per diem for members of the legislature and the lieutenant governor.

Additionally, statutorily, the Commission is responsible for administering the following laws: (1) Chapter 572, Government Code, regarding personal financial disclosure and conduct of state officers and employees; (2) Chapter 302, Government Code, concerning the election of the Speaker of the Texas House of Representatives; (3) Chapter 303, Government Code, concerning the Governor for a Day and Speaker's Reunion Day ceremonies; (4) Chapter 305, Government Code, relating to lobbyist registration and activities; (5) Title 15, Election Code, governing political contributions and expenditures and political advertising; (6) Chapter 2004, Government Code, concerning representation before state agencies; (7) Chapter 159, Local Government Code, concerning judges of statutory county courts or probate courts who elect to file a financial statement with the Commission; and (8) Sections 2152.064 and 2155.003 of the Government Code concerning conflict of interest provisions applying to the Texas Facilities Commission and the Comptroller's Office.

In administering the laws stated above, the Commission serves a wide and diverse population that includes:

1. Registered lobbyists
2. Elected and appointed public officials
3. Political committees registered in Texas and out-of-state committees that are active in Texas
4. State government and agency employees
5. Candidates for office in all political subdivisions
6. All political subdivisions (county, city, school districts, water districts, etc.) in Texas
7. General public

A general breakdown of the numbers of the population served, other than the general public at large, include:

Political Subdivisions - 4,835 (Estimate Number of Campaign Finance Filers 60,000+)
Lobbyists - 1,700
State Officers - 2,500
State Employees - 310,000

The Commission also serves to receive and make available for public review and inspection disclosure reports that are required by the above stated laws; serves as a resource for interpretation of these laws (by issuing advisory opinions); has rulemaking authority with respect to these laws; processes sworn complaints filed in connection with these laws; and provides training for state employees and officeholders for compliance with these laws. Additionally, the Commission may issue advisory opinions about Chapters 36 and 39, Penal Code, concerning bribery, corrupt influence, and abuse of office.

In addition to all of the above, the Commission is also the public's resource for information required to be disclosed in reports filed by public officials, candidates for public office, and persons attempting to influence public officials, and the main resource for assistance in understanding the laws administered by the Commission. The Commission is the civil enforcement authority for the laws under its jurisdiction.

Furthermore, the Commission is a resource to state agencies for ethics training for state employees. However, in the FY 2012-13 appropriations bill, the Legislature eliminated the Commission's funding, approximately \$30,000, for training for state agencies. The Commission however will still attempt to provide training materials and on-line training resources to state agencies.

B. Do your key functions continue to serve a clear and ongoing objective? Explain why each of these functions is still needed. What harm would come from no longer performing these functions?

Yes, the key functions continue to serve a clear and ongoing objective.

One critical function is providing the public with access to documents and reports filed pursuant to the laws that the commission administers. Access to the disclosure reports assists in giving the public a view into contributions and expenditures of candidates and officeholders and clients and financial activities of lobbyists. Personal financial reports allow the public to view the financial interests of state officials to monitor whether there are potential financial conflict of interest issues.

Also critical are the administering and enforcement of the laws under the Commission's jurisdiction. The administration and enforcement of laws regarding campaign finance, lobbying, conflict of interest, and other important areas are critical to the public's confidence of the governmental processes. The enforcement function gives the public confidence in the accuracy of the reports filed with the commission.

While the commission has not recently recommended a change to the salary of members of the legislature, the administration of this function gives the public confidence of a third party that monitors and makes decisions on the level of the salary with the public's approval.

C. What evidence can your agency provide to show your overall effectiveness and efficiency in meeting your objectives?

1. Customer satisfaction survey results (see Attachment 1).
2. An increase of sworn complaints filed with the commission (shows increased public involvement and confidence in commission operations) (see Attachment 2).
3. A relatively high compliance rate for reports filed timely (see Attachment 3).
4. An increase in collection rate for imposed fines.
5. A decrease in press articles referencing the commission's lack of enforcement powers.
6. Small percentage of operating budget in total operations. Shows efficiency that the commission is achieving results with a low operating cost to the state (see Attachment 4).

D. Does your agency's enabling law continue to correctly reflect your mission, objectives, and approach to performing your functions? Have you recommended changes to the Legislature in the past to improve your agency's operations? If so, explain. Were the changes adopted?

Yes, the Commission's enabling law continues to correctly reflect our mission.

Through its "Legislative Recommendations" as part of its Biennial Report required pursuant to Government Code § 571.073(3), the Commission has made numerous recommendations to the legislature over the past several biennia. (Please see recommendations in Attachment 5). Not all recommendations were adopted. Some recommendations were adopted in whole, and others in part.

E. Do any of your agency's functions overlap or duplicate those of another state or federal agency? Explain if, and why, each of your key functions is most appropriately placed within your agency. How do you ensure against duplication with other related agencies?

No, the Commission's functions do not overlap or duplicate the functions of another state or federal agency.

F. In general, how do other states carry out similar functions?

Most jurisdictions in the United States have some type of agency charged with the duty to administer ethics laws. In fact, staff is not aware of any jurisdiction that does not have such an agency. Some states split that duty, so that one agency is charged with administering ethics laws and another agency is charged with administering campaign finance laws. Some jurisdictions have ethics or campaign finance commissions at the county or city level.

G. What key obstacles impair your agency's ability to achieve its objectives?

No funding for technological advancements, such as upgraded software to improve the quality of electronic filing.

H. Discuss any changes that could impact your agency's key functions in the future (e.g., changes in federal law or outstanding court cases).

Generally, federal law does not impact the Commission's key functions because federal ethics and campaign finance laws apply to a different set of public servants than those regulated by the Commission. Obviously, however, federal constitutional law applies to Texas law, and the federal constitutional provision most often invoked concerning ethics disclosure laws is the First Amendment guarantee of freedom of speech and freedom of association.

I. What are your agency's biggest opportunities for improvement in the future?

Further clarification and tightening of the laws in the areas of campaign finance, lobby and conflict of interest.

J. In the following chart, provide information regarding your agency's key performance measures included in your appropriations bill pattern, including outcome, input, efficiency, and explanatory measures.

Texas Ethics Commission Exhibit 2: Key Performance Measures Fiscal Year 2010			
Key Performance Measures	FY 2010 Target	FY 2010 Actual Performance	FY 2010 % of Annual Target
Number of Reports Logged	27,151	29,269	107.80%
Number of Complaints Processed	410	371	90.49%
Average Days to Provide Opinions	48.00	21.17	44.10%
Average Days to Answer Complaints	4.00	4.04	100.88%
Percent of Opinions Out in 60 Days	75.00%	100.00%	133.33%

III. History and Major Events

Provide a timeline of your agency's history and key events, including:

- X the date your agency was established;**
- X the original purpose and responsibilities of your agency;**
- X major changes in responsibilities or statutory authority;**
- X changes to your policymaking body's name or composition;**
- X significant changes in state/federal legislation, mandates, or funding;**
- X significant state/federal litigation that specifically affects your agency's operations; and**
- X key changes in your agency's organization (e.g., a major reorganization of the agency's divisions or program areas).**

The Commission has been in existence for over eighteen years. Although the core mission and functions of the agency have not changed in this time, both legislative action and advancements in technology have led to significant changes in the way in which we perform and accomplish our duties. Please see a brief historical timeline below:

1991

The 72nd Texas Legislature adopted Senate Joint Resolution No.1, which proposed a constitutional amendment that would create an ethics commission.

The 72nd Legislature also adopted Senate Bill No. 1, which set out the statutory authority and responsibilities of the proposed commission.

On November 5, the Texas electorate adopted the constitutional amendment proposed by Senate Joint Resolution No. 1. This constitutional amendment created the eight-member Ethics Commission.

1992

On January 1, the statutory provisions governing the Commission took effect. Administrative authority in connection with the campaign finance law, the lobby law, and several other disclosure laws was transferred from the Secretary of State to the Ethics Commission.

On January 10, the Commission held its first meeting.

On April 23, the Commission issued its first official advisory opinions. In the fall the Commission held hearings around the state regarding judicial ethics.

1993

The 73rd Legislature passed Senate Bill No. 1067, which amended various provisions of the Penal Code, including several provisions in chapter 36. The amendments to chapter 36 had the effect of modifying a number of Ethics Commission advisory opinions.

1994

The Commission adopted a comprehensive set of rules.

1995

The 74th Legislature passed the Judicial Campaign Fairness Act, which imposed a number of new campaign finance requirements on candidates for most judicial offices.

The 75th Legislature also passed Senate Bill No. 452, which made a number of minor changes to statutes administered by the Commission.

The Commission purchased an imaging system to be used in place of microfilm for archiving Commission records.

1996

The Commission adopted revised rules to administer the lobby law.

1997

The 75th Legislature passed House Bill No. 3206, which contained primarily technical changes to clarify laws administered by the Commission.

1999

The Legislature passed House Bill 2611, which mandated that the Commission develop a system for electronic filing of campaign finance reports.

The Legislature also passed Senate Bill 1726, which required single-county district judges to begin filing campaign finance documents with the Commission.

Beginning in 1999 and continuing into 2000, the Commission held public hearings regarding electronic filing.

2000

In July many candidates, officeholders, and political committees were required to file reports electronically for the first time. The Commission made electronically filed reports available for searching and viewing on the Internet.

2003

The Legislature passed HB 1606 which implemented many of the Sunset Commission recommendations from its 2002 Report.

2004

The Commission implemented electronic filing for lobby registration and the filing of lobby activity reports (required by HB 1606).

2006

The Commission created and released online training presentations and quizzes for state officers and executive branch employees and members of the Legislature and legislative branch employees.

2007

The Legislature adopted HB 3560 which, in part, granted rulemaking authority to the commission to implement conflict of interest provision concerning the Comptroller's office and the Texas Facilities Commission.

2008

Governor approved an Emergency & Deficiency grant to allow funding for two additional attorneys to address the rising number of sworn complaints filed with the commission. The Legislature ultimately adopted maintaining that additional funding.

The Commission created and released “Video Training for Candidate/Officeholder Campaign Finance Reporting,” which is available on the commission’s website or DVD’s are available per request.

2009

The Commission adopted amendments to Ethics Commission Rule § 6.5 relating to the authority of the Commission to adopt rules and Ethics Commission Rule § 8.3 relating to the subject of an advisory opinion.

The Commission adopted Ethics Commission Rule § 20.61 relating to the reporting of purpose of expenditures in campaign finance reports.

The Commission adopted Ethics Commission Rule § 34.1 relating to the regulation of lobbyists and contingent fees.

2010

In January 2010, United States Supreme Court decided *Citizens United v. Federal Election Commission* generally finding that corporations are allowed to make all types of independent campaign expenditures (referred to in Texas law as direct expenditures). Whereby, Texas law had previously prohibited direct expenditures. In April 2010, the Commission adopted Ethics Advisory Opinion No. 489, which found that it could not enforce sections 253.094 or 253.002 of the Election Code to prohibit a corporation or labor organization from making a direct campaign expenditure. In addition, the Commission could not enforce section 253.002 of the Election Code to prohibit a person from making a direct campaign expenditure.

On August 12, 2010, the Commission adopted Ethics Commission Rule § 22.6 relating to the disclosure of direct campaign expenditures.

In October 2010, the Commission adopted Ethics Commission Rule § 12.81 relating to technical, clerical, or *de minimis* violations of sworn complaints.

In December 2010, the Commission implemented its 5% budget reduction plan as mandated by the Legislature.

2011

The Commission implemented an additional 2% budget reduction plan as mandated by the Legislature.

IV. Policymaking Structure

A. Complete the following chart providing information on your policymaking body members.

Texas Ethics Commission Exhibit 3: Policymaking Body			
Member Name	Term/ Appointment Dates/ Appointed by (e.g., Governor, Lt. Governor, Speaker)	Qualification (e.g., public member, industry representative)	City
Wilhelmina Delco	4 yr; Appointed 1/15/98; Speaker	Public Member	Austin
Jim Clancy	4 yr; Appointed 3/12/10; Governor	Public Member	Portland
Jim Graham	4 yr; Appointed 1/23/07; Lt. Governor	Public Member	Dallas
Tom Harrison	4 yr; Appointed 4/16/04, Re-appointed 2/13/08; Governor	Public Member	Roanoke
Bob Long	4 yr; Appointed 5/17/11; Governor	Public Member	Bastrop
Paula M. Mendoza	4 yr; Appointed 1/23/07; Lt. Governor	Public Member	Houston
Tom Ramsay	4 yr; Appointed 3/12/10; Governor	Public Member	Mt. Vernon
Chase Untermeyer	4 Yr; Appointed 1/26/10; Speaker	Public Member	Houston

B. Describe the primary role and responsibilities of your policymaking body.

The governing body of the Commission is responsible for setting policy and for determining the direction of the Commission. The governing body also functions as an adjudicative body in enforcement proceedings. The governing body is authorized to adopt rules to administer the laws under its jurisdiction. The governing body, at its monthly public meeting, considers advisory opinion drafts that the staff has prepared in response to an opinion request, and may vote to adopt the opinion as drafted or to revise it. Also, at its public meeting,

the governing body considers requests for waiver or reduction of late filing penalties. Finally, the governing body renders decisions in sworn complaint proceedings, which are generally held in a closed meeting.

C. How is the chair selected?

The presiding officer is elected annually by the members of the Commission at the Commission's public meeting. (Section 571.023, Government Code.) The election usually occurs at the end of the calendar year.

D. List any special circumstances or unique features about your policymaking body or its responsibilities.

As a result of the appointment provisions in Article III, Section 24a, of the Texas Constitution, the governing body of the Commission is composed of four Democrats and four Republicans. Although the Governor appoints four members, his appointments come from lists of names submitted by each house of the Texas Legislature. The Lieutenant Governor and the Speaker of the House also make their appointments from lists of names submitted by their respective chambers. The law prohibits a member of the governing body of the Commission from being a candidate for an elective public office for 12 months after the date on which the member ends service on the Commission. (Section 571.028, Government Code.)

E. In general, how often does your policymaking body meet? How many times did it meet in FY 2010? In FY 2011?

Generally, the governing body of the Commission meets in a public meeting held every other month on a date selected by the commission at the end of each commission meeting. (The law only requires the Commission to meet at least once each calendar quarter and at other times at the call of the presiding officer. Section 571.025, Government Code.) In fiscal year 2010, the Commission met 6 times. In fiscal year 2011, the Commission met 6 times.

F. What type of training do members of your agency's policymaking body receive?

Commissioners appointed by the Governor are invited to attend a training session for newly appointed board members of state agencies in general. The Commission staff provides ethics training at that training session.

Also, staff prepares a packet of information for all new Commissioners concerning their powers and duties, and invites newly appointed Commissioners to review that packet in the office before their first meeting.

Additionally, all new Commissioners complete the required Open Meeting Act training as required and administered by the Office of the Attorney General.

G. Does your agency have policies that describe the respective roles of the policymaking body and agency staff in running the agency? If so, describe these policies.

The Texas Constitution, Chapter 571 of the Government Code, and Ethics Commission rules provide direction to the governing body and Commission staff concerning their respective powers and duties. The governing body is authorized by law to delegate any of its powers except a power requiring a vote of the Commission, its rulemaking authority, or its authority to issue an advisory opinion. Section 571.075, Government Code. A Commission vote would be necessary in enforcement proceedings, in certain requests for waiver of late filing penalties, to adopt rules, and to issue advisory opinions.

The staff of the Commission is responsible for presenting information to the governing body concerning items under their consideration. Additionally, the staff, under the direction of the executive director, is responsible for the day-to-day operations of the agency, such as handling filings, corresponding with filers concerning their filing responsibilities, responding to requests for information, and responding to inquiries about the laws under the Commission's jurisdiction. Because the law provides guidance in this area, the Commission does not have formal policies that describe the respective roles of the governing body and agency staff in running the agency.

H. What information is regularly presented to your policymaking body to keep them informed of your agency's performance?

1. The Executive Director prepares and provides a "Quarterly Report" that summarizes the fiscal year quarterly status of the agency's budget, personnel, numbers of sworn complaint filings, and key performance measures (see Attachment 6).
2. The Annual Financial Report (see Attachment 7).
3. The Biennial Report to the Legislature (see Attachment 8).
4. The Operating Budget (see Attachment 9).
5. The Legislative Appropriations Request (see Attachment 10).

I. How does your policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of your agency?

At each public meeting, there is an agenda item reserved for communications to the Commission from the public. If the Commission is proposing to adopt rules, the public is invited to comment on the proposal, and the Commission considers all public comments received. Additionally, members of the public may write or telephone Commission members. The Commission may consider those comments, criticisms, or suggestions and direct the staff to perform research or take other action in response to those communications. In response to specific topics, such as judicial ethics and electronic filing, the Commission holds public hearings. Occasionally, the Commission may create hold "workshop" comprised of all or a subcommittee of commissioners to address specific issues. The public may be invited participate in the workshop.

J. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart.

The Commission does not currently use any permanent or ongoing subcommittees or advisory committees to carry out its duties. Occasionally, a subcommittee is appointed by the chair, pursuant to Ethics Commission Rule § 6.25, to address a specific issue(s). There are no subcommittees currently appointed.

V. Funding

A. Provide a brief description of your agency's funding.

In FY2010, the Commission received 98.6% of its funding from General Revenue (GR) with the remaining 1.4% from Appropriated Receipts for fulfilling requests for information. The Commission received \$2,064,324 in GR and \$29,367 in Appropriated Receipts funding. The Commission expended \$1,996,923 on agency missions, returned \$94,317 for the 5% Budget Reduction initiative, and lapsed \$2,451.

B. List all riders that significantly impact your agency's budget.

In the FY 2010-2011 biennium, a rider with the potential to impact the Commission's budget is the Article IX rider Sec. 16.02(b)(4), Judgments and Settlements. The rider requires an agency to pay up to 10 percent of its budget in payment of judgments or settlements prosecuted by or defended by the Attorney General and obtained against the State or a state agency. However, Rider 2, Judgments and Settlements, which was adopted in the Commission's FY 2012-2013 appropriations addresses this issue by requiring such judgments or settlements to be paid out by the Comptroller and not from funds appropriated to the Commission.

Another rider with a significant impact is Rider 3, Contingent Revenue, in the Commission's FY 2012-2013 appropriations. This rider will provide an additional appropriation of \$375,000 for the biennium (\$187,500 per year) to the Commission contingent upon the receipt of lobby registration fees sufficient to generate \$375,000 in fees in excess of the amount contained in the Comptroller's Biennial Revenue Estimate (BRE) for FYs 2012-2013. Lobbyist registration fees were increased by the 82nd Legislature by amounts that the Legislature estimates will be sufficient to warrant the additional funding.

C. Show your agency's expenditures by strategy.

Texas Ethics Commission Exhibit 5: Expenditures by Strategy for Fiscal Year 2010 (Actual)		
Goal/Strategy	Total Amount	Contract Expenditures Included in Total Amount
A.1.1. INFORMATION FILING	\$471,934	\$9,338
A.1.2. ADVISORY OPINIONS	\$167,381	\$604
A.1.3. ENFORCEMENT	\$567,760	\$735
A.2.1. ETHICS EDUCATION PROGRAM	\$32,187	\$585
B.1.1. INDIRECT ADMINISTRATION	\$757,661	\$8,210
GRAND TOTAL:	\$1,996,923	\$19,472

D. Show your agency's objects of expense for each category of expense listed for your agency in the General Appropriations Act FY 2010-2011.

Texas Ethics Commission Exhibit 6: Objects of Expense by Program or Function for Fiscal Year 2010					
Object-of-Expense	Information Filing	Advisory Opinions	Enforcement	Ethics Education	Indirect Administration
Salaries & Wages	\$380,263	\$148,673	\$513,520	\$28,357	\$674,615
Other Personnel Costs	\$20,720	\$2,680	\$21,660	\$1,364	\$41,579
Professional Fees	\$187	\$37	\$168	\$19	\$7,644
Consumable Supplies	\$6,287	\$513	\$1,885	\$505	\$2,182
Utilities	\$0.0	\$720	\$9	\$0.0	\$985
Travel	\$0.0	\$1,326	\$13,969	\$22	\$1,596
Rent - Building	\$2,627	\$0.0	\$0.0	\$0.0	\$240
Rent – Machine & Other	\$9,151	\$566	\$566	\$566	\$566
Other Operating Expense	\$52,699	\$12,865	\$15,982	\$1,354	\$28,254
Total	\$471,934	\$167,381	\$567,760	\$32,187	\$757,661

- E. Show your agency's sources of revenue. Include all local, state, and federal appropriations, all professional and operating fees, and all other sources of revenue collected by the agency, including taxes and fines.**

Texas Ethics Commission Exhibit 7: Sources of Revenue for Fiscal Year 2010 (Actual)	
Source	Amount
GENERAL REVENUE (\$94,317 Returned for 5% Reduction, \$2,451 Lapsed)	\$2,064,324
APPROPRIATED RECEIPTS (Fees for Copies of Records)	\$29,367
TOTAL REVENUE APPROPRIATED TO AGENCY	\$2,093,691

If you receive funds from multiple federal programs, show the types of federal funding sources.

Texas Ethics Commission Exhibit 8: Federal Funds for Fiscal Year 2010 (Actual)				
Type of Fund	State/Federal Match Ratio	State Share	Federal Share	Total Funding
NONE		0	0	0
TOTAL		0	0	0

G. If applicable, provide detailed information on fees collected by your agency.

Texas Ethics Commission Exhibit 9: Fee Revenue for Fiscal Year 2010				
Fee Description/ Program/ Statutory Citation	Current Fee/ Statutory maximum	Number of persons or entities paying fee	Fee Revenue	Where Fee Revenue is Deposited (e.g., General Revenue Fund)
Lobbyist Registration Fees / Govt. Code § 305.005(c)(1)	\$100 / 1 Yr	228	\$22,800	General Revenue Fund
Lobbyist Registration Fees / Govt. Code § 305.005(c)(2)	\$50 / 1 Yr	4	\$200	General Revenue Fund
Lobbyist Registration Fees / Govt. Code § 305.005(c)(3)	\$500 / 1 Yr	1,318	\$659,000	General Revenue Fund
Civil Penalties / Late Filing Fines / Election Code § 254.042; Govt. Code §§ 572.033, 305.033, 571.173	\$500 - \$10,000	650	\$268,162	General Revenue Fund
Civil Penalties / Sworn Complaint Fines / Govt. Code § 571.173	Not to exceed \$5,000 or 3X amount, whichever is greater	101	\$56,365	General Revenue Fund
Fees for Copies of Records / OAG Guidelines & Administrative Code § 111.63	Varies	683	\$29,367	Appropriated Receipts Fund (to Agency)

VI. Organization

- A. Provide an organizational chart that includes major programs and divisions, and shows the number of FTEs in each program or division.**
- B. If applicable, fill in the chart below listing field or regional offices.**

Texas Ethics Commission Exhibit 10: FTEs by Location for Fiscal Year 2010			
Headquarters, Region, or Field Office	Location	Number of Budgeted FTEs, FY 2010	Number of Actual FTEs as of August 31, 2010
Headquarters	Austin	37	33
TOTAL		37	33

C. What are your agency's FTE caps for fiscal years 2010-2013?

37.0 for FYs 2010-11 and 36.0 for FYs 2012-13. (See Attachment 11.)

D. How many temporary or contract employees did your agency have as of August 31, 2010?

None.

E. List each of your agency's key programs or functions, along with expenditures and FTEs by program.

Texas Ethics Commission Exhibit 11: List of Program FTEs and Expenditures for Fiscal Year 2010		
Program	FTEs as of August 31, 2010	Actual Expenditures
INFORMATION FILING	11	\$471,934
ADVISORY OPINIONS	2	\$167,381
ENFORCEMENT	9	\$567,760
ETHICS EDUCATION PROGRAM	0	\$32,187
INDIRECT ADMINISTRATION	11	\$757,661
TOTAL	33	\$1,996,923

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Indirect Administration
Location/Division	Headquarters / Administration
Contact Name	Mike McElhaney
Actual Expenditures, FY 2010	\$757,771
Number of FTEs as of August 31, 2010	11

B. What is the objective of this program or function? Describe the major activities performed under this program.

Provides the business and computer services functions that support the other agency programs.

The Administrative Division provides the activities of the Executive Director, accounting, accounts payable/receivable, budgeting, purchasing, travel, payroll, human resources, supply, reception desk/central telephone operations, building and equipment maintenance, risk and safety management, mail services, and inventory control. (See Attachment 12.)

The Computer Services Division maintains the agency's technology infrastructure, programming, the electronic filing system and database, and the agency' website. It also provides technical support to filers who are required to file reports electronically with the Commission, prepares reports in response to open records requests for data from electronically filed reports, and assists staff with computer applications.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The Indirect Administration program does not have performance measures assigned to it by the Legislative Budget Board (LBB). Results of Post Payment Audits conducted by the Texas Comptroller of Public Accounts, audits of the quarterly Performance Measure Reports submitted to the LBB conducted by the State Auditor's Office (SAO), other Audits conducted by the SAO, and audits of the Equal Employment Opportunity functions of our Human Resources department conducted by the Texas Workforce Commission demonstrate the effectiveness of the Indirect Administration functions.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

None.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Indirect Administration program affects all the employees of the Commission.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

None.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

All funding of Indirect Administration is from General Revenue (GR).

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

Most, if not all, state agencies have an Indirect Administration program that performs the same functions for that agency as ours.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

None.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

None.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2010;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

Contracted expenditures in FY 2010 for the Indirect Administration program are:

\$4,310 for services of a Certified Public Accountant to prepare the Annual Financial Report and assist in fiscal year closeout activities; \$3,109 for services of consultants hired through contracts with the Department of Information Resources (DIR) to provide information technology assistance; \$225 for this program's portion of the Employees Assistance Program provided by contract with the Worker's Assistance Program, Inc.; and, \$566 for the program's portion of the annual cost of the lease contract for the Canon copiers. There are no current contracting problems.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

- N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- why the regulation is needed;
 - the scope of, and procedures for, inspections or audits of regulated entities;
 - follow-up activities conducted when non-compliance is identified;
 - sanctions available to the agency to ensure compliance; and
 - procedures for handling consumer/public complaints against regulated entities.

There are no regulatory programs within the Indirect Administration program.

- O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.**

There are no regulatory programs within the Indirect Administration program.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Advisory Opinions
Location/Division	Austin
Contact Name	Natalia Luna Ashley
Actual Expenditures, FY 2010	\$167,381
Number of FTEs as of August 31, 2010	2

Most requests for information are not formal advisory opinion requests. However, the Commission responds to these informal requests as well. Therefore, for the FTEs noted, there is some overlap with the education and enforcement programs which provide information to the public in response to informal requests for information and open records requests. In FY 2009, staff fulfilled approximately 18,827 such requests. In FY 2010, staff fulfilled approximately 24,553 such requests.

B. What is the objective of this program or function? Describe the major activities performed under this program.

The primary objective of the program is to comply with the statutory requirement under chapter 571 of the Government Code to issue advisory opinions to qualified requestors about the application of laws under our jurisdiction.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The advisory opinion process is governed by chapter 571, subchapter D, Government Code and chapter 8, Ethics Commission Rules. Since 1992, the Commission has issued 498 advisory opinions. Performance is measured against the statutory requirement that the Commission issue an advisory opinion within 60 days (up to 120 days if the deadline is extended as allowed by statute). Section 571.092, Government Code.

In FY 2009, the Commission received three advisory opinion requests. The first quarter request was answered in 14 working days. The third quarter request was answered in 21 working days. The fourth quarter request was answered in 55 working days.

In FY 2010, the Commission received seven advisory opinion requests. The first quarter request was answered in 19 working days. The three second quarter requests were answered in an average of 22.67 working days. There were three fourth quarter requests of which two were answered in FY 2010 in an average of 20 working days. Due to the controversial nature of the issue, the third request in that quarter was posted for four consecutive meetings beginning in June 2010. The Commission adopted the opinion December 2010.

The Commission also receives advisory opinion requests that are ultimately not treated as formal advisory opinion requests because the question asked has been addressed by a previous opinion, or can be answered by reference to the plain language of a statute or a Commission rule. There were 10 such requests in FY2009 and 13 such requests in FY2010.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

As noted in the 2001 Self-Evaluation Report, the Commission issued 112 advisory opinions in 1992, and the number has generally decreased each year. More recent requests tend to deal with novel issues about the application of laws within our jurisdiction.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Advisory opinions provide guidance to the requestor regarding specific questions about the applications of laws under the Commission's jurisdiction. An advisory opinion also provides a defense to civil or criminal prosecution to a person who acted in reasonable reliance on an advisory opinion. The issuance of an advisory opinion potentially affects all persons subject to the laws that are the subject of the opinion.

According to the most recent Census of Governments (2007) there are 4,835 political subdivisions in Texas. Elected officials and candidates for elected office in any one of those subdivisions may, depending on the nature of the inquiry, request a formal advisory opinion. Those same individuals may also contact the Commission and make an informal inquiry about the laws under the Commission's jurisdiction, such as the

campaign finance laws that apply to all candidates and officeholders in Texas. Additionally, there are approximately 8,292 persons who file with the Commission.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The program responds to individual requests for advisory opinions. Advisory opinions and requests for advisory opinions are governed by chapter 571, subchapter D, Government Code. When a request is received it is directed to the general counsel who determines whether the requestor is eligible to receive an advisory opinion, as described by section 571.091 of the Government Code and section 8.5 of the Ethics Commission Rules. If the requestor meets the criteria a number is assigned to the request. The opinions are drafted by the general counsel or, at times, by a staff attorney. A draft opinion is presented to the Commission at one of its regular meetings. The opinion may be adopted with an affirmative vote of five Commissioners. Once the Commission has adopted an opinion, the staff sends a copy to the person who requested the opinion. All Ethics Commission advisory opinions are posted on the Commission's Internet site.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The program's funding source is from General Revenue (GR).

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

Internal -- Although the program's objective as described under section VII(B) is to provide information to the public through the advisory opinion process, there is some overlap with the functions described in the education and enforcement sections of this report. Although the advisory opinion process is a formal process, staff also responds to informal inquiries about the laws under our jurisdiction. The inquiries are largely made by telephone, but also include written inquiries that do not constitute advisory opinion requests. Because certain laws within the Commission's jurisdiction, such as title 15 of the Election Code, affect every candidate for and holder of a public office in Texas, the informal inquiries far exceed the formal advisory opinion requests. However, a response to an informal inquiry does not carry with it the statutory protections that one may receive for reasonable reliance on an advisory opinion that results from a formal advisory opinion request. As noted above, in FY 2009 staff fulfilled approximately 18,827 information requests and approximately 24,553 such requests in FY 2010.

External--The Texas Attorney General has authority to issue advisory opinions in regard to all Texas statutes, including the statutes over which the Commission has advisory opinion jurisdiction. Many of the individuals who are authorized to request an advisory opinion from the Commission, however, are not authorized to request an advisory opinion from the Attorney General.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Internally, there is no duplication between the formal advisory opinion process and the informal provision of information. The formal advisory opinion process is governed by statute and tracked according to that statute. However, staff often refers to the formal advisory opinions to provide guidance to those who make informal inquiries.

Externally, as a practical matter, there has been little duplication of effort. In the 19 years that the Commission has been issuing advisory opinions, very few opinions issued by the Attorney General have addressed issues under the Ethics Commission's advisory opinion jurisdiction.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

According to the most recent Census of Governments (2007), there are 4,835 political subdivisions in Texas. Elected officials and candidates for elected office in any one of those subdivisions may, depending on the nature of the inquiry, request a formal advisory opinion. Those same individuals may also contact the Commission and make an informal inquiry about the laws under the Commission's jurisdiction, such as the campaign finance laws that apply to all candidates and officeholders in Texas. The program does not work with the federal government in carrying out its objectives.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2010;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

There are no contracted expenditures associated with the program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

In their current form, the statutes that govern the advisory opinion process provide a clear and workable method to address inquiries about laws within the Commission's jurisdiction.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

The Commission has issued 498 advisory opinions. As previously noted, this body of opinions helps the Commission staff respond to telephone calls and letters about compliance with the ethics laws, and provides guidance to those subject to the laws under the Commission's jurisdiction.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

The program is not a regulatory program.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Enforcement
Location/Division	Austin
Contact Name	Natalia Luna Ashley
Actual Expenditures, FY 2010	\$567,760
Number of FTEs as of August 31, 2010	9

B. What is the objective of this program or function? Describe the major activities performed under this program.

The objective program is to ensure compliance with the statutes under the Commission's jurisdiction. The Commission has the authority to enforce the laws specified in chapter 571, Government Code:

§ 571.061. Laws Administered and Enforced by Commission

(a) The Commission shall administer and enforce:

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

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

The Commission also has the statutory authority to enforce complaints related to sections 334.025 and 335.055, Local Government Code (dealing with local sports and community venue districts).

Enforcement activities are largely based on a citizen driven sworn complaint process. Although a sworn complaint may be filed alleging a violation of any law within the Commission jurisdiction, as a practical matter most of the complaints filed with the Commission allege violations of the campaign finance laws and political advertising laws. A criminal penalty provision is attached to almost every statute over which the Commission has jurisdiction. However, the Commission does not have criminal enforcement jurisdiction. A criminal enforcement action would be brought through the office of a local prosecutor.

Any individual who is a Texas resident or who owns real property in this state may file a sworn complaint alleging a violation of a law under the Commission's enforcement jurisdiction. The complainant is not entitled to damages and is not a party to the complaint, but is periodically notified of the status of the complaint. Additionally, the Commission may initiate enforcement actions on its own motion by an affirmative vote of at least six Commissioners, and may refer matters to the office of a local prosecutor for possible criminal prosecution.

When a complaint is filed, Commission staff will immediately attempt to contact the respondent by telephone or e-mail to notify the respondent that a complaint has been filed. Commission staff will review the complaint to determine whether it meets the statutory requirements for a sworn complaint filed with the Commission. Within five business days of receiving the complaint, the Commission will notify the complainant and respondent by letter whether the complaint complies with the statutory sworn complaint requirements and whether the complaint has been accepted or rejected.

Once a complaint is accepted Commission staff will begin a preliminary review of the complaint (as described below). If the complaint is not resolved during the preliminary review stage, the law provides for a preliminary review hearing, and a formal hearing. Preliminary review hearings are conducted by the Commission. A formal hearing may, at the Commission's discretion, be conducted by the Commission or the State Office of Administrative Hearings. A final decision of the Commission may be appealed to district court, and the action is determined by trial *de novo*.

The Commission may issue subpoenas in connection with a preliminary review and formal hearing.

Before holding a preliminary review hearing, staff conducts an investigation and preliminary review and presents the results of its investigation to the members of the Commission. At that point, the Commission may dismiss the complaint based on a credible evidence standard provided by statute, or may propose a resolution to the respondent that includes a civil penalty. If the respondent agrees to the proposal and pays the penalty, the complaint is resolved and no further action is required. The vast majority of the Commission's sworn complaints are resolved at this stage. However, the hearings provided by statute have increased in number over the years.

All sworn complaint proceedings, documents, and evidence are confidential and may not be disclosed, except that an order issued by the Commission is not confidential if the Commission finds that a violation occurred and the violation was more than technical or *de minimis*. Also, a formal hearing is not confidential. Although the statute appears to impose the confidentiality requirement on everyone, the Commission issued an ethics advisory opinion in its first year clarifying that the confidentiality provision applies only to members and staff of the Commission. (Ethics Advisory Opinion No. 8 (1992).) Disclosing confidential information is a Class C misdemeanor and may subject a Commission employee to civil liability to the respondent in an amount equal to the greater of \$10,000 or the amount of actual damages incurred by the respondent, including court costs and attorney fees, and result in the termination of the employee.

If the Commission determines that there is credible evidence that a violation occurred, the Commission may impose a civil penalty of not more than \$5,000 or three times the amount at issue, whichever is greater. The Commission's enabling law provides statutory standards for the Commission to consider in determining the amount of the fine. If the Commission finds that the complainant filed a frivolous complaint, the Commission may impose a civil penalty of not more than \$10,000 against the complainant. Additionally, the complainant may be civilly liable in damages in an amount equal to \$10,000 or the amount of actual damages incurred by the respondent, including court costs and attorney's fees. A frivolous complaint is one that is groundless and brought in bad faith, or groundless and brought for purposes of harassment. To date, the Commission has not found any of the complaints filed with the Commission to be frivolous.

In addition to imposing civil penalties, the Commission may deny, suspend, or revoke the registration of a lobbyist if the Commission finds that the lobbyist was convicted of a criminal offense under Chapter 36, Penal Code (bribery and corruption), or Chapter 305, Government Code (the lobby law). Also, the Commission may rescind a lobbyist's registration and prohibit the person from registering as a lobbyist with the Commission for two years after rescission if the person violates certain conflict of interest provisions.

The Commission may notify the appropriate regulatory or supervisory entity if the Commission determines that a respondent violated a law under the Commission's enforcement jurisdiction. The Commission may also issue cease and desist orders, and may issue affirmative orders to require compliance with the laws enforced by the Commission.

Note that the Commission also imposes administrative penalties on filers who are late in filing reports with the Commission. This process is an administrative function and does not require a sworn complaint to be filed. Rather, the administrative penalty process is initiated by the Disclosure Filings Division with the assistance of the legal staff. The process involves notifying filers that a report is late and that a penalty may be administratively assessed. Both the executive director and members of the Commission have the authority to waive or reduce administrative penalties for reasons specified by rule. A filer who does not pay an administrative penalty is referred to the Office of the Attorney General for collection of the penalty. The late penalty for reports is \$500, except that the penalty for a campaign finance report due eight days before an

election and the first report due after a primary or general election is \$500 for the first day and \$100 a day for each additional day that it is late, up to a \$10,000 maximum.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

There have been 3,260 sworn complaints as of July 25, 2011, filed with the Commission. The chart attached as Exhibit A displays the steady increase in the number of sworn complaint filings since the Commission's inception. Note that in recent years, the number of sworn complaints has increased at a greater rate than in earlier years. The Commission has added additional attorneys to deal with this increase. Statistics related to the receipt and resolution of sworn complaints, including information related to civil penalties, are included in the chart under section O, Exhibit 12, on page 32.

As noted in the other program sections, staff provides information about the laws under the Commission's enforcement authority to persons who contact the Commission. In FY 2009, staff fulfilled approximately 18,827 such requests. In FY 2010, staff fulfilled approximately 24,553 such requests.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

HB 1606 (Wolens), the Commission's 2003 sunset bill, included a number of changes to the sworn complaint process. Among other things, the bill provided that the Commission may resolve certain sworn complaints with an assurance of voluntary compliance (generally, a process that is more informal than proceeding with a sworn complaint through the entire sworn complaint process). The Commission has used that process since 2003. The Commission adopted Ethics Commission § Rule 12.81, effective November 11, 2010, that further developed criteria for determining when a sworn complaint may be considered technical or *de minimis* and establishing protocol for recommending an assurance of voluntary compliance to resolve those complaints. To date, the Commissions has resolved 271 complaints using an assurance of voluntary compliance.

HB 1606 added a provision that provided a penalty for failure to respond to a notice of sworn complaint, provided for the submission of written questions to a complainant or respondent in order to discover information relevant to a complaint, and removed the informal hearing process, which formerly began at the end of the preliminary review process.

In 2009, the legislature added a requirement that, in order to file a sworn complaint with the Commission, a complainant must be a resident of Texas or own real property in Texas. The number of sworn complaints increased from 311 in 2009 to 440 in 2010, an approximate 42% increase, even with that limitation in place.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The program potentially affects every candidate for public office and elected official in the state. There are approximately 4,835 political subdivisions in Texas according to the most recent Census of Governments. Each candidate for and holder of a public office in those subdivisions is within the Commission's sworn complaint jurisdiction.

There are approximately 8,292 persons who file reports with the Commission who are also within the Commission's sworn complaint jurisdiction.

Also, by virtue of title 15 of the Election Code, any person in the state may be subject to the Commission's sworn complaint jurisdiction if the person engages in certain activity, such as publishing a political advertisement or making a direct campaign expenditure, even if the person is not a candidate, officeholder, state officer, or lobbyist.

Since the creation of the Commission, there have been 3,260 sworn complaints filed as of July 25, 2011. The number of sworn complaints filed indicates the direct effect on certain persons. It is not possible to determine the number of persons who are aware of the enforcement process and, thus, make efforts to comply with the relevant statutes in order to avoid enforcement actions. The fact that a civil enforcement venue exists may act as a deterrent to potential violators.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The program is administered through the legal division of the Commission under the direction of the general counsel and deputy general counsel, and in accordance with the statutory process set forth in chapter 571, subchapter E, Government Code. A detailed description of that process is found under section VII B. A flow chart of the sworn complaint process is included as Attachment 13.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The program's funding source is from General Revenue (GR).

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

Because most of the statutes under the Commission's civil enforcement authority also have criminal penalties attached to them, a local prosecutor may bring criminal actions related to those statutes.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

There is no duplication or conflict because the civil enforcement authority of the Commission and the criminal enforcement authority of a local prosecutor are separate jurisdictions with no overlap. A criminal and civil prosecution could conceivably be brought for the same conduct but they would be legally separate actions.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The enforcement program does not work with any federal governmental agency or local units of government. However, from time to time, the Federal Bureau of Investigation (FBI) does consult with the Commission's general counsel or staff to determine if there are any public orders against a particular person the FBI may be investigating.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2010;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

There are no contracted expenditures.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Section 571.073 of the Government Code directs that the Commission, on or before December 31 of each even-numbered year, provide a report to the governor and legislature that includes, among other things recommendations for any necessary statutory changes. The recommendations are developed during the period between reports and include recommendations to clarify the intent behind certain statutes and

recommendations for statutes that address new issues that arise under the laws within our jurisdiction. The reports are posted on the Commission's website. (See Attachments E, F, and G).

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Please refer to preceding and following sections.

- N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- why the regulation is needed;
 - the scope of, and procedures for, inspections or audits of regulated entities;
 - follow-up activities conducted when non-compliance is identified;
 - sanctions available to the agency to ensure compliance; and
 - procedures for handling consumer/public complaints against regulated entities.

This is not a regulatory program as described by this question.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Although the program is not a regulatory program as defined by section N, the chart below reflects information related to the enforcement program and sworn complaints filed with the Commission.

Texas Ethics Commission Exhibit 12: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2009 and 2010		
	FY 2009	FY 2010
Total number of regulated persons	n/a	n/a
Total number of regulated entities	n/a	n/a
Response to public inquiries (approximate)	18,827	24,533
Total number of complaints received from the public	274	374
Total number of complaints initiated by agency	0	0
Number of complaints pending from prior years	22	29
Number of complaints found to be non-jurisdictional	33	14
Number of jurisdictional complaints found to be without merit [where there was evidence of no violation or insufficient evidence of a violation],	123	155

Percent of complaint for which notice provided within five business days		
Complaints resulting in disciplinary action:		
Agreed Orders	121	91
Assurance of Voluntary Compliance	44	46
Final Order	3	2
Final Order – Default	12	4
Number of complaints resolved	336	317
Average number of [calendar] days for complaint resolution	148	123
Other [Number of fines]	105	103
Total Amount of Sworn Complaint Fines	\$207,850	\$169,875

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Ethics Education Program
Location/Division	Austin
Contact Name	Natalia Luna Ashley
Actual Expenditures, FY 2010	\$32,187
Number of FTEs as of August 31, 2010	1

B. What is the objective of this program or function? Describe the major activities performed under this program.

The key function of the training program is to assist members of the legislature and state agencies, and the state officers and employees in those agencies, understand their obligations under the laws administered by the Commission.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

In FY 2009, the program provided outreach at 14 conferences or seminars attended by approximately 772 persons. In FY 2010, the program provided outreach at 21 conferences or seminars attended by approximately 1,372 persons.

Additionally, as previously noted, staff provides information and documents about laws within our jurisdiction to persons who contact the Commission. In FY 2009, staff fulfilled approximately 18,827 such requests. In FY 2010, staff fulfilled approximately 24,553 such requests.

The program has also developed ethics online training programs for executive and legislative branch officers and employees, as well as an online video for training candidates and officeholders how to properly file campaign finance reports.

In FY 2010, there were 12,177 visits to the main online ethics training web page and 4,599 visits to the campaign finance training video web page.

The program develops guides and forms to assist the public. The materials are available on the Commission's website, and also available in print upon request.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The functions of the program were included in the Commission's original enabling statute.

Government Code section 571.071 sets out the following requirements in regard to training by the Ethics Commission:

(a) The Commission shall:

(1) provide training by January of each odd-numbered year for members and members-elect of the legislature concerning compliance with the laws administered and enforced by the Commission; and
(2) provide, in cooperation with state agencies, a program of ethics training for state employees.

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

The Commission provides live training to members and members-elect of the legislature. The Commission has developed an online program to provide ethics training to state employees, although live training to employees is also provided when feasible.

The legislature eliminated the appropriations for this program from the most recent budget.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The program serves the individuals who are required to comply with various laws administered by the Commission. See section C for statistics related to this program.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Generally, the Commission provides training at times requested by other agencies or groups. In order to maximize the use of limited resources the Commission prefers to provide training to larger groups. The online training programs are accessible for use by anyone.

Various agency personnel participate in providing direct training to groups.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The program has been funded through General Revenue (GR). Funding for the program was eliminated from the budget by the most recent legislature.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

External - To the Commission's knowledge, no other agency provides a comparable service.

Internal –As noted in the preceding sections, the agency's other programs also have an education element by virtue of providing information in response to formal and informal requests for information.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Because no other agency provides a comparable service, we believe there is no duplication of effort.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The program may, upon request, provide training to state or local governments or agencies of state or local governments.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2010;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

There are no contracted expenditures.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

When feasible, restore education programs funds that were eliminated.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

The program is not a regulatory program.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Information Filing (Disclosure Filings Section)
Location/Division	Austin
Contact Name	Becky L. Levy
Actual Expenditures, FY 2010	\$471,934
Number of FTEs as of August 31, 2010	9

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Disclosure Filings Section has nine employees. It is headed by a division director (one employee) and includes the areas of report analysis and processing (three employees), data entry and imaging (two employees), and public records assistance (three employees). The section prepares and disseminates information to filers informing them of upcoming filing deadlines, processes all incoming reports and documents, maintains records of all persons or entities required to file reports with the Commission, and disseminates information to the public, by posting information on the commission's website and by providing copies as requested, about persons required to file reports and the reports they file.

The employees in the report analysis and processing area process and maintain information about filers statutorily required to file reports with the Commission. This information is used to determine what types of reports must be filed and to send information to filers about their reporting requirements. The information is stored in the Commission's internal database. Additionally, the report processing area handles all incoming disclosure reports by first determining what reports are required and then by processing the reports as they are received. This area also sends correspondence to filers regarding late or missing reports and processes all mail from these filers, including penalty payments and affidavits requesting waiver or reduction of a penalty. If any of the incoming disclosure reports are filed on paper, as soon as the paper reports are processed they are sent to the data entry and imaging area to be scanned.

All electronically filed reports go through a rendering process to make them viewable through the internal database and on the Commission's website. When reports or documents are filed on paper, the employees in the data entry and imaging area scan these items to create a PDF file that is then viewable in the internal database system and on our website. For all paper reports, the dollar amounts submitted are entered into the database so that they are also available in the internal database system and on our website. The scanned images of reports are also made available on PCs in the Commission's public viewing room. Once paper reports and documents are scanned and verified, an individual file folder is created for each filer and the documents are filed in that filer's individual folder.

The public records assistance area maintains the filing system and provides information about and copies of disclosure reports filed with the Commission. Copies of reports are provided on PCs in the Commission's public viewing room, by email, and by mail for a minimal charge. The public records assistance area also distributes blank reporting forms upon request and collects charges for certain copies as authorized by law.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The key statistic that is reported in the performances measures is the number of reports processed within two business days. Attached are copies of the measures reports for FY 2010 (see Attachment 14) showing the percentage of reports processed within two business days. The reports show that for Quarter 1, 99.98% of the incoming reports were processed within two business days; for Quarter 2, 99.95% of the incoming reports were processed within two business days; and for Quarters 3 and 4, 100% of the incoming reports were processed within two business days.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The basic function of the Information Filing program has been and continues to be to provide information to filers about their filing requirements; to organize and archive filings; and to make filings available to the public. Although the purposes of the program remain unchanged, technology has changed the way in which those purposes are implemented.

With regard to providing information to filers about their filing requirements, an email subscription service is now available to filers. Campaign finance and lobby filers are now able to sign up to receive notices through any email account that they wish to provide. Rather than receiving notices to file in the mail on paper, they will receive these notices by email. The subscription service continues to grow as more and more filers are subscribing to receive notices by email.

With regard to organizing and archiving records, before 1995, microfilm was used to archive records. Beginning in 2000, the Commission used a digital imaging system to scan records. Then, beginning in 2006 and currently, the Commission scans documents and reports and saves the images as PDF files. Also before 1995, all reports filed with the Commission were filed on paper. Between 1995 and 2000, candidates, officeholders, and political committees could choose to use the Ethics Commission software to file campaign finance reports electronically. Since 2000, candidates, officeholders, and political committees are required to file campaign finance reports electronically unless they meet the exemptions. Effective with lobby registrations for 2005, lobbyists are required to file lobby registrations and lobby activities reports electronically unless they meet the exemptions. In 2008, the Commission created software for filers required to file the personal financial statement to download to their computer thus allowing them to create their personal financial statement on their computer and to save it before printing and mailing it to the Commission. Use of electronic filing software has made organizing and archiving records easier since the images are automatically made available through a rendering program.

The Commission continues to increase the information that is posted on our website. In the past, members of the public who were interested in viewing campaign finance and lobby reports were required to come to the Commission's offices or to request that paper copies be mailed to them. Now, both electronically filed reports and reports filed on paper are available for viewing on our website. Also, posted on our website are notices to file for upcoming deadlines, all forms, instructions, and guides related to all filer types that file with the Commission, filing schedules for various filer types, and a monthly calendar listing deadlines. In addition, members of the public can request that reports and documents be sent to them by email.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Information Filing program affects both individuals and entities that are required to file reports and documents with the Commission, and it also affects the general public. The program serves filers by providing software and/or forms necessary to use in filing required reports and documents, by providing telephone advice about filing requirements, and by sending notices to filers regarding their filing deadlines. The program serves the general public by making reports and documents filed with the Commission available on the Internet, through the mail, through email, and in the Commission's offices.

All reports and documents filed with the Commission are available to the public. The Commission does charge for copies of reports; however, reports and documents can be emailed to requestors at no charge. The functions of the Information Filing program will be needed as long as the legislature continues to mandate that reports be filed with the Commission.

The following is a statistical breakdown of the filers, including individuals and entities, affected by this program (as of August 10, 2010):

Non-Judicial Candidate/Officeholder – 504

Judicial Candidate/Officeholder – 769

State Chair Candidate/Officeholder – 4

General-Purpose Political Committee (Semiannual) – 1,240

General-Purpose Political Committee (Monthly) – 327

Specific-Purpose Political Committee – 74

Judicial Specific-Purpose Political Committee – 26

State Chair Specific-Purpose Political Committee – 2

State/County Party Chairs (PTY-CORP) – 544

Legislative Caucus – 17

County Executive Committee – 46

Lobbyists – 1,439

Personal Financial Statement – 3,300 (Note: this number also includes any officeholders required to file a PFS that have already been included in the above totals.)

TOTAL: 8,292

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

This program implements the Commission's duties in connection with required filings. Candidates, lobbyists, political committees, and certain state officers and employees are required to submit periodic filings to the Commission. The Information Filing program sends notices of upcoming deadlines as well as notices regarding missing and late filings. This program is also responsible for making filings available to the public and for archiving filings. (See "Overview of the Notice to File and Late Letter Processes of the Disclosure Filings Section" at Attachment 15.)

The program is administered following statutory guidelines. Statutory requirements include Election Code sections 251.032 (provision of campaign finance forms); 251.033 (notification of campaign finance filing deadlines); 254.040 (preservation of campaign finance filings); 254.0401 (internet availability of electronically filed campaign finance reports); 254.0402 (availability of campaign finance reports for public inspection); 254.042 (notice of late campaign finance reports); Government Code sections 572.030 (forms for personal financial disclosure); 572.031 (notice of late personal financial disclosure statement); 572.032 (public access to personal financial disclosure statements); 305.033 (notice of late lobby report); 305.034 (notice regarding failure to file all required lobby forms); 305.005 (form for lobby registration); and 305.006 (form for lobby activities report).

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

For fiscal year 2010, the Information Filing program expended \$471,934 in general revenue funds.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

No other agency provides a comparable service.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Not applicable.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The Information Filing program works with local governmental entities to provide blank copies of Title 15, Election Code, forms and accompanying instructions, filing guides for filers required to file with local filing authorities, schedules of filing deadlines, and guides explaining a local filing authority's responsibility under Title 15, Election Code.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2010;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

There are no contracted expenditures made through this program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

The Legislature may want to reconsider section 254.0401(b) of the Election Code, which creates a waiting period before certain reports may be posted on the commission website. Basically, before certain reports may be posted, each candidate (and related committee) for the particular office must have filed a report.¹

Repealing or reducing the waiting period would give the public earlier access to information. Candidates often release a report to some members of the press. This results in calls from members of the press who did not receive a copy of the report from the candidate. Also, this results in calls from the public wanting to view a report that is mentioned in a news story but that is not yet posted on the commission website.

POSSIBLE OPTIONS

1. Repeal section 254.0401(b) of the Election Code to allow the commission to make reports Internet visible as soon as possible.
2. Amend section 254.0401(b) of the Election Code to reduce the number of days that the commission must wait before posting reports in instances in which a report is not filed by each candidate.

¹ Applies only to reports filed by major party candidates (nominated by or seeking nomination of a political party required to nominate candidates by primary election). Also, regardless of whether each candidate files a report, the commission may make semiannual reports and 30-day before the election reports Internet visible on the 21st day after the deadline, and 8-day before the election reports Internet visible on the 4th day after the deadline.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

This is not a regulatory program as described by this question.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable.

VIII. Statutory Authority and Recent Legislation

A. Fill in the following chart, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact your agency. Do not include general state statutes that apply to all agencies, such as the Public Information Act, the Open Meetings Act, or the Administrative Procedure Act. Provide information on Attorney General opinions from FY 2007 – 2011, or earlier significant Attorney General opinions, that affect your agency's operations.

Texas Ethics Commission Exhibit 13: Statutes/Attorney General Opinions	
Statutes	
Citation/Title	Authority/Impact on Agency (e.g., provides authority to license and regulate nursing home administrators@)
Chapter 571, Government Code	The Commission's enabling statute sets out the Commission's statutory duties and provides a list of the laws the Commission has the authority to administer and enforce.
Title 15, Election Code	Concerns political contributions, expenditures, and political advertising. Administered and enforced by the Commission.

Chapter 302, Government Code	Concerns the election of the Speaker of the House of Representatives. Administered and enforced by the Commission.
Chapter 303, Government Code	Concerns governor for a day and speaker's reunion day ceremonies. Administered and enforced by the Commission.
Chapter 305, Government Code	Concerns lobby registration, reports, and activities. Administered and enforced by the Commission.
Chapter 572, Government Code	Concerns personal financial disclosure of state officer and conduct of state officers and employees. Administered and enforced by the Commission.
Chapter 2004, Government Code	Concerns representation before state agencies. Administered and enforced by the Commission.
Section 2152.064, Government Code	Concerns conflict of interest involving the Texas Facilities Commission. Administered and enforced by the Commission.
Section 2155.003, Government Code	Concerning conflict of interest involving the Office of the Texas Comptroller of Public Accounts. Administered and enforced by the Commission.
Chapter 159, Local Government Code	Concerns judges of statutory county courts or statutory probate courts who elect to file a personal financial statement with the Commission. Administered and enforced by the Commission.
Section 306.005, Government Code	Concerns the use of legislatively produced audio or visual materials in political advertising. Enforced by the Commission.
Chapter 36, Penal Code	Concerns bribery and corrupt influence. The Commission has authority to issue advisory opinions.
Chapter 39, Penal Code	Concerns abuse of office. The Commission has authority to issue advisory opinions.
Attorney General Opinions	
Attorney General Opinion No.	Impact on Agency
N/A	

- B. Provide a summary of recent legislation regarding your agency by filling in the chart below or attaching information already available in an agency-developed format. Briefly summarize the key provisions. For bills that did not pass, briefly explain the key provisions and issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation).**

**Texas Ethics Commission
Exhibit 14: 80th, 81st, and 82nd Legislative Session Summaries**

Legislation Enacted – 80th Legislative Session

A summary of the legislation is attached in Exhibit 14 and is also available on the Texas Ethics Commission website at <http://www.ethics.state.tx.us/whatsnew/leg2007.html>.

Legislation Enacted – 81st Legislative Session

A summary of the legislation is attached in Exhibit 14 and is also available on the Texas Ethics Commission website at <http://www.ethics.state.tx.us/whatsnew/leg2009.html>.

Legislation Enacted – 82nd Legislative Session

A summary of the legislation is attached in Exhibit 14 and is also available on the Texas Ethics Commission website at <http://www.ethics.state.tx.us/whatsnew/leg2011.html>.

Legislation Not Passed – 82nd Legislative Session

Bill Number	Author	Summary of Key Provisions/Reason the Bill Did Not Pass
HB 1616	Representative Geren	Would have required the Commission to dismiss a complaint relating to a campaign finance report if the respondent filed a correction within 14 days after receiving notice of the complaint. Included other provisions, which were added to SB 1 during the special session and, which became effective September 2011.
SB 1443	Senator Zaffirini	A cost savings bill that would have allowed the Commission to send certain notices relating to a sworn complaint by regular mail and in some instances by email instead of by registered or certified mail, restricted delivery, return receipt requested.

Exhibit 14

80th Legislature Legislation

CAMPAIGN FINANCE

HB 89 – General-Purpose Political Committees: Adds Election Code § 254.164.

HB 89 applies to general-purpose political committees, including county executive committees. The bill provides that the Commission may not impose a civil penalty on a general-purpose political committee for a reporting violation if the committee did not exceed certain contribution or expenditure thresholds during a particular reporting period. Specifically, the Commission may not impose a civil penalty for a reporting violation if the report in question shows that the general-purpose political committee: 1) did not accept political contributions totaling \$3,000 or more, 2) did not accept political contributions from a single person totaling \$1,000 or more, or 3) did not make or authorize political expenditures totaling \$3,000 or more during the reporting period covered by the report or during either of the two reporting periods preceding the report.

Effective 09/01/07

HB 1381 – Pre-Election Reports: Amends Election Code §§ 254.064(b) through (e), 254.124(b) through (e), 254.154(b) through (e), and 254.157(a).

HB 1381 applies to candidates and political committees (including those that file with local filing authorities). The bill changes the filing requirement for pre-election reports required to be filed with the Commission and with local filing authorities. The bill requires that a report due 30 days before an election and a report due 8 days before an election (including a runoff election) must be *received* by the appropriate filing authority no later than the report due date. For a general-purpose political committee that files monthly reports, a report covering the month preceding an election in which the committee is involved must be *received* by the appropriate filing authority no later than the report due date. In other words, these pre-election reports are no longer considered timely filed if they are mailed by the due date, but rather must be received by the due date.

Effective 09/01/07

HB 2195 – Filing Deadline: Amends Election Code §§ 254.037, 254.038(c) and Government Code §§ 302.015(b), § 305.010; Adds Government Code § 571.0645.

HB 2195 applies to all reports filed electronically with the Commission. The bill changes the deadline for filing an electronic report from 5 p.m. to midnight on the day the report is due. **Effective 09/01/07**

HB 2492 – Corporate Restrictions: Amends Election Code § 253.091.

HB 2492 adds certain types of corporations organized under the Texas Business Organizations Code to the list of corporations subject to campaign finance restrictions. The bill makes this non-substantive update to reflect the recent codification and reorganization of state corporate laws. **Effective 09/01/07**

HB 2589 – Corrected Reports: Adds Government Code § 571.0771(c); Amends Government Code § 571.0771(a) and (b); Repeals Government Code §§ 571.0771(b-1) and (b-2).

HB 2589 applies to all reports filed with the Commission. It provides that a statement, registration, or report (other than a report due 8 days before an election or a special report near election) is not considered late for purposes of a civil penalty if the filer files an affidavit of good faith and a corrected or amended statement, registration, or report not later than 14 business days after the filer learns of the error or omission. The bill provides that a report due 8 days before an election is not considered late if the Commission determines the report as originally filed substantially complies with the applicable law and the filer files an affidavit of good faith and a corrected report not later than 14 business days after the filer learns of the error or omission. The

bill states that these provisions do not apply to a special report near an election. The bill provides that the Commission may still impose a penalty on corrected reports covered by the bill through the sworn complaint process and through the audit process. **Effective 09/01/07**

HB 3066 – Use of Political Contributions: Adds Election Code § 253.038(a-1); Amends Election Code § 253.038.

HB 3066 applies to candidates, officeholders, and specific-purpose committees for supporting, opposing, or assisting the candidates or officeholders. It prohibits a candidate, officeholder, or specific-purpose committee from using political contributions to rent or purchase real property from a person related to the candidate or officeholder within the second degree of consanguinity or affinity. The individuals within the second degree of consanguinity include the candidate/officeholder's children, parents, grandparents, grandchildren, and siblings. Individuals within the second degree of affinity include the candidate/officeholder's spouse, parents-in-law, children-in-law, and the spouse's grandparents, siblings, and grandchildren. The bill also prohibits a candidate, officeholder, or specific-purpose committee from using political contributions to rent or purchase real property from a business in which the candidate, officeholder, or qualifying relative has a participating interest of more than 10%, holds a position on the governing body, or serves as an officer. **Effective 09/01/07**

SB 64 – General-Purpose Political Committees: Adds Election Code §§ 254.039(a-1) and (a-2); Amends Election Code §§ 254.039(a) and (b), and 254.042.

SB 64 applies to general-purpose political committees, including county executive committees. The bill requires a general-purpose political committee to file a special report near election (formerly telegram report) if the committee accepts political contributions from a person that in the aggregate exceed \$5,000 during the reporting period. (Currently these committees are required to file a special report near election if the committee makes direct expenditures exceeding certain thresholds.) The bill extends the reporting period during which a special report near election is required to end at noon on the day before the election, rather than the second day before the election. A committee must file a required special report near election no later than the first business day after the date the contribution is accepted or the expenditure is made. The bill also provides that a late special report near election is subject to an automatic civil penalty. **Effective 09/01/07**

LOBBY

HB 2195 – Filing Deadline: Amends Election Code §§ 254.037, 254.038(c), and Government Code §§ 302.015(b), 305.010; Adds Government Code § 571.0645.

HB 2195 applies to all reports filed electronically with the Commission. The bill changes the deadline for filing an electronic report from 5 p.m. to midnight on the day the report is due. **Effective 09/01/07**

HB 2489 – Compensation and Reimbursement Thresholds: Adds Government Code § 305.005(g-1); Amends Government Code §§ 305.003(a) and 305.005(g).

HB 2489 clarifies that the compensation and reimbursement a lobbyist not only receives, but also is entitled to receive under an employment agreement, must be considered in determining when registration is required. The bill also provides new reporting ranges for a lobbyist to report compensation and reimbursement on a lobby registration. The bill extends the maximum of the reporting ranges to \$500,000 (currently \$200,000) and requires a lobbyist to report a specific amount if the \$500,000 threshold is exceeded. **Effective 09/01/07**

HB 2589 – Corrected Reports: Adds Government Code § 571.0771(c); Amends Government Code §§ 571.0771(a) and (b); Repeals Government Code §§ 571.0771(b-1) and (b-2).

HB 2589 applies to all reports filed with the Commission. It provides that a statement, registration, or report (other than a report due 8 days before an election or a special report near election) is not considered late for

purposes of a civil penalty if the filer files an affidavit of good faith and a corrected or amended statement, registration, or report not later than 14 business days after the filer learns of the error or omission. The bill provides that a report due 8 days before an election is not considered late if the Commission determines the report as originally filed substantially complies with the applicable law and the filer files an affidavit of good faith and a corrected report not later than 14 business days after the filer learns of the error or omission. The bill states that these provisions do not apply to a special report near an election. The bill provides that the Commission may still impose a penalty on corrected reports covered by the bill through the sworn complaint process and through the audit process. **Effective 09/01/07**

HB 2735 – Reporting Lobby Expenditures: Adds Government Code §§ 305.0021 and 305.024(c). HB 2735 applies to a registered lobbyist who joins with one or more other persons to make a lobby expenditure. The bill provides that the lobbyist reports only the portion of the amount of the joint expenditure attributable to the lobbyist, including any amount made on behalf of the lobbyist by a person who is not a registered lobbyist. The bill provides that the total value of a joint expenditure may exceed \$500, if each portion of the expenditure is made by a registered lobbyist and each portion does not exceed \$500. **Effective 09/01/07**

CONDUCT

HB 590 – State Agency Ethics Policy: Amends Government Code § 572.051.

HB 590 requires the Office of the Attorney General, in coordination with the Commission, to develop a model ethics policy and distribute the model policy to each state agency no later than November 1, 2007. A state agency is not required to adopt the model ethics policy but may do so. The bill requires each state agency to adopt a written ethics policy and distribute copies of the ethics policy and section 572.051 to each agency employee and officer not later than January 1, 2008, and to each new agency employee and officer within three business days of the date of employment or qualification for office.

The bill provides that an employee who violates the standards of conduct or violates an ethics policy under section 572.051 is subject to certain employment-related sanctions including termination. The bill also provides that a state officer or state employee who violates the standards or violates the policy is subject to any applicable criminal or civil penalties. The bill requires a prosecuting attorney to notify the Commission regarding the status of an investigation into an alleged ethics policy violation under this section. The Commission is required to assist the prosecuting attorney with the investigation upon request. The bill also provides that a violation under this section is not subject to the Commission's sworn complaint process. **Effective 09/01/07**

HB 1491 – Conflicts Disclosure Statement for Local Government Officers: Amends Chapter 176 of the Local Government Code.

HB 1491 clarifies the filing requirements for local government officers and certain persons who contract with or are considering doing business with local government entities to make certain financial and business disclosures. Although the Commission does not have jurisdiction of the law at issue, the Commission is required to adopt the forms necessary for individuals to comply with the law. The bill modifies the information required to be reported on the forms and requires the Commission to adopt updated forms no later than October 1, 2007. At its June 29, 2007, meeting, the Commission adopted the forms as required by the bill. **Effective 05/25/07**

PERSONAL FINANCIAL STATEMENT**HB 842 – Judges and Justices:** Adds Government Code § 572.032(a-1).

HB 842 requires the Commission to remove the home address of a judge or justice from a personal financial statement before providing the statement to a member of the public. **Effective 06/15/07**

HB 1652 – Provision of Personal Financial Statement Form: Adds Government Code §§ 572.030(d) and (e); Amends Government Code §§ 572.030(b) and (c).

HB 1652 authorizes the Commission to provide the personal financial statement (PFS) form and instructions on the Commission's Internet website and only to mail a copy of the form and instructions upon request. It also authorizes the Commission to charge a fee for mailing a requested PFS form and instructions, not to exceed the reasonable cost of production and mailing. **Effective 06/15/07**

HB 2589 – Corrected Reports: Adds Government Code § 571.0771(c); Amends Government Code §§ 571.0771(a) and (b); Repeals Government Code §§ 571.0771(b-1) and (b-2).

HB 2589 applies to all reports filed with the Commission. It provides that a statement, registration, or report (other than a report due 8 days before an election or a special report near election) is not considered late for purposes of a civil penalty if the filer files an affidavit of good faith and a corrected or amended statement, registration, or report not later than 14 business days after the filer learns of the error or omission. The bill provides that a report due 8 days before an election is not considered late if the Commission determines the report as originally filed substantially complies with the applicable law and the filer files an affidavit of good faith and a corrected report not later than 14 business days after the filer learns of the error or omission. The bill states that these provisions do not apply to a special report near an election. The bill provides that the Commission may still impose a penalty on corrected reports covered by the bill through the sworn complaint process and through the audit process. **Effective 09/01/07**

HB 2839 – Filing Deadline: Amends Government Code § 572.026(b).

HB 2839 applies to individuals appointed to serve as salaried or unsalaried officers of major state agencies and to individuals appointed to fill vacancies in elective offices. The bill changes the deadline for filing the personal financial statement to the 30th day, rather than the 14th day, after the date of appointment or date of qualification for office. **Effective 05/25/07**

SB 129 – Gifts: Adds Government Code § 572.022(d); Amends Government Code § 572.022.

SB 129 applies to personal financial statements required to be filed on or after January 1, 2008. The bill requires the description of a gift of cash or cash equivalent, such as a negotiable instrument or gift certificate, that is reportable on a personal financial statement to include the value of the gift. **Effective 09/01/07**

81th Legislature Legislation***CAMPAIGN FINANCE*****HB 1720 and SB 2085 – Political Advertising:** Amends Election Code § 255.003.

Current law provides that an officer or employee of a political subdivision may not knowingly spend or authorize the spending of public funds for political advertising. HB 1720 specifies that an expenditure is prohibited for a communication describing a measure, if the communication contains information the officer or employee knows is false and is sufficiently substantial and important as to be reasonably likely to influence a voter. The bills provide that it is an affirmative defense to prosecution to reasonably rely on a court order or an interpretation of section 255.003 in a written opinion by a court, the Attorney General, or the Commission.

The bills provide that the Commission shall prepare an advance written advisory opinion upon written request of the governing body of a political subdivision that has ordered an election on a measure. The bills state that the affirmative defense and advisory opinion provisions do not apply to a port authority or navigation district. **Effective 09/01/09**

HB 2065 – Moratorium on Political Contributions: Amends Election Code §§ 253.034(b) and 253.0341(b). HB 2065 applies to legislative caucuses, statewide officeholders, members of the legislature, and specific-purpose committees supporting, opposing, or assisting a statewide officeholder or member of the legislature. The bill clarifies the provision regarding contributions received by U.S. mail during the moratorium period and expands the provision to include contributions received by common or contract carrier during the moratorium period. **Effective 09/01/09**

HB 2525 – Corporations and Labor Organizations: Amends Election Code § 253.100.

HB 2525 applies to corporations and labor organizations that make political expenditures to finance the establishment or administration of a general-purpose committee. The bill provides specific types of expenditures that are considered permissible corporate expenditures for the maintenance and operation of a general-purpose committee. The bill also provides specific types of expenditures that are impermissible corporate expenditures under this section, unless a corporation or labor organization is making the expenditure to communicate with its stockholders or members or with the families of its stockholders or members as provided by section 253.098 (relating to Communication with Stockholders or Members). **Effective 06/19/09**

HB 3922 – Notice of Filing Deadline: Amends Election Code § 251.033.

HB 3922 allows the Commission to send notices regarding upcoming filing deadlines by email. **Effective 06/19/09**

HB 4060 – Judicial Political Contributions: Amends Election Code §§ 253.153(a)(2) and (b); Repeals Election Code § 253.153(c).

HB 4060 applies to judicial candidates, judicial officeholders, and specific-purpose committees supporting, opposing, or assisting judicial candidates or officeholders. The bill changes the end date for the period during which a political contribution may not be accepted to the 120th day after the date of the election in which the candidate or officeholder last appeared on the ballot, regardless of whether the candidate or officeholder had an opponent in that election. The bill also provides that this moratorium on contributions does not apply to a contribution that is made and accepted with the intent that it be used to repay a debt incurred directly by the making of a campaign expenditure during the period beginning on the date the application for a place on the ballot or for nomination by convention was required to be filed for the election in which the candidate last appeared on the ballot and ending on the date of that election. **Effective 09/01/09**

SB 1142 – Filing Authority for Single-County District Judges: Amends Election Code §§ 254.066, 254.097, and 254.130.

SB 1142 applies to single-county district judges, candidates for single-county district judge, and specific-purpose committees for supporting, opposing, or assisting such candidates or officeholders. The bill removes the requirement for these filers to file campaign finance reports with the county clerk. The bill provides that these candidates, officeholders and associated specific-purpose committees are only required to file reports with the Commission (the authority with whom the candidate's campaign treasurer appointment is required to be filed.) Consequently, all single-county district judges must file semiannual campaign finance reports regardless of whether they have a campaign treasurer appointment on file. (The exemption declaration form may not be filed in lieu of a report.) **Effective 06/19/09**

SB 1152 – Political Contributions: Amends Election Code § 253.039.

SB 1152 expands the prohibition on a person knowingly accepting a political contribution or making or authorizing a political contribution while in the Capitol to also include in a courthouse. The bill defines “courthouse” for purposes of this section. The bill does not prohibit contributions made in a courthouse through the U.S. postal service or a common or contract carrier. **Effective 09/01/09**

SB 1795 – Political Committees: Amends Election Code §§ 254.124(e) and 254.154(e).

SB 1795 applies to all general-purpose committees, including county executive committees, and specific-purpose committees. The bill changes the filing requirement for a political committee that is involved in a runoff election. Current law requires a committee to file a runoff report only if the committee was involved in both the initial election and the ensuing runoff election. The bill provides that a political committee involved in a runoff election must file an 8-day before runoff pre-election report, regardless of whether the committee was involved in the initial election. **Effective 09/01/09**

SWORN COMPLAINTS

HB 677 – Rulemaking Authority; Complaint Procedures: Adds Government Code §§ 571.0631, 571.122(b-1), and 571.142.

Requires the Commission to adopt rules concerning technical and clerical violations. **Effective 09/01/09**

HB 3216 – Notice of Complaint: Amends Government Code § 571.123(b).

HB 3216 relates to the sworn complaint procedures. The bill provides that, after a complaint is filed, the Commission shall immediately attempt to contact and notify the respondent by telephone or email. **Effective 06/19/09**

HB 3218 – Filing of Complaint: Amends Government Code §§ 571.122(a) and 571.123(c); Adds Government Code §§ 571.122(b-1) and 571.1221.

HB 3218 relates to the sworn complaint procedures. The bill provides that a sworn complaint must be filed on a form prescribed by the Commission, and the prescribed form must require the complainant to provide certain contact information for both the complainant and the respondent. The bill requires an individual to be a Texas resident to be eligible to file a sworn complaint with the Commission, and the individual must attach to the complaint certain documentation as proof of residency. **Effective 06/19/09**

LOBBY

HB 3445 – Contingent Fees: Amends Government Code §§ 305.002(1), 305.005(c), and 305.022(c); Adds Government Code §§ 305.0041, 305.022(c-1), (c-2), (c-3), (e), and (f).

HB 3445 relates to requirements governing registration and authorized activities by certain lobbyist. **Effective 09/01/09**

82th Legislature Legislation (2011)

CAMPAIGN FINANCE

HB 336 – Concerning Certain School District Websites: Adds Election Code § 254.04011.

HB 336 applies to school board trustees, candidates for school board trustees, and specific-purpose committees that support, oppose, or assist a candidate for or member of the board of trustees in a school district located wholly or partly in a municipality with a population of more than 500,000 and with a student enrollment of more than 15,000. The bill adds the provision that requires campaign finance reports filed by these school board members, candidates, and associated specific-purpose committees be posted on the school district's Internet website. A report must be posted not later than the fifth business day after the date the report is filed. The bill applies only to the posting of a campaign finance report required to be filed on or after January 1, 2012. **Effective 09/01/11**

HB 2359 – Concerning Direct Campaign Expenditures: Amends Election Code §§ 253.094, 254.036, and 254.061; Adds Election Code Subchapter J, §§ 254.261 and 254.262; Repeals Election Code §§ 253.002, 253.097, 254.036(f), and Subchapter C, §§ 253.061, 253.062, and 253.063.

HB 2359 is in response to the United States Supreme Court Ruling in *Citizens United* (CU) and US District Court for the Western District of Texas, Austin Division's court ruling issued after CU. HB 2359, for the most part, codifies Ethics Advisory Opinion No. 489 (2010) and Ethics Commission Rule § 22.6 that were issued by the Commission in response to CU.

HB 2359 repeals the prohibition on direct campaign expenditures and clarifies the reporting requirements for direct campaign expenditures. The bill requires a person, not acting in concert with another person, who makes a direct campaign expenditure to file a campaign finance report to disclose the expenditure as if the person was the campaign treasurer of a general-purpose political committee. The bill provides that a candidate is not required to disclose a notice from such persons who make direct campaign expenditures on behalf of the candidate. A candidate, however, is still required to disclose a notice from political committees that make direct campaign expenditures on behalf of the candidate. The bill requires direct campaign expenditure reports be filed with the Commission and requires the reports to be filed electronically unless the filer qualifies for the exemption from the electronic filing requirement. **Effective 06/17/11**

HB 3093 – Concerning Corrections Made to Semiannual Reports: Adds Election Code §§ 254.0405 and 254.041(d).

HB 3093 applies to semiannual campaign finance reports filed by candidates, officeholders, specific-purpose committees, general-purpose committees, caucuses, and persons filing direct campaign expenditure reports as if they were a general-purpose committee. HB 3093 provides that a semiannual report that is amended before the eighth day after the date the original report was filed is considered to be filed on the date the original report was filed. The bill provides that a semiannual report that is amended on or after the eighth day of the original filing date is considered to be filed on the date the original report was filed if the amendment is filed before any complaint is filed with regard to the subject of the amendment and the original report was made in good faith and without an intent to mislead or misrepresent the information. **Effective 09/01/11**

SB 1 (Special Session) – Regarding Funds Received by a Candidate/Officeholder, Political Contributions and Political Expenditures; Lobby Registration Fees; Complaint Procedures: Amends Election Code §§ 253.040(a) and 254.031(a); Adds Election Code § 253.0351(c); Amends Government Code §§ 305.005(c) and 571.123(b); Adds Government Code §§ 572.054(g-1), 571.122(e), 571.1222, and 571.1231.

SB 1 provides that the Department of Information Resources is a regulatory agency for purposes of the revolving door restrictions in section 572.054 of the Government Code.

SB 1 increases the annual lobby registration fees for all registrants. For most registrants, the registration fee increases from \$500 to \$750. The bill also increases the registration fee from \$50 to \$75 for independent contractors required to register as lobbyists under the lobby law and from \$100 to \$150 for entities, and registrants employed by such entities, that are exempt from federal income tax under sections 501(c)(3), 501(c)(4), or 501(c)(6) of the Internal Revenue Code of 1986.

SB 1 provides that a candidate or officeholder who deposits personal funds in an account in which political contributions are held shall report the deposited amount as a loan and include the amount in the total amount of political contributions maintained as of the last day of the reporting period. The bill also provides that the deposited amount may be reimbursed in an amount not to exceed the amount reported as a loan. The bill provides that personal funds deposited in an account in which political contributions are held are subject to the personal use restrictions in section 253.035 of the Election Code.

SB 1 changes the threshold triggering itemization of political expenditures from \$50 to \$100.

SB 1 requires the disclosure of any credit, interest, rebate, refund, reimbursement, or return of a deposit fee resulting from the use of a political contribution or asset purchased with a political contribution, if the amount exceeds \$100. The bill also requires the disclosure of the sale of an asset and the disclosure of an investment purchased with a political contribution if the amount received exceeds \$100. The bill also requires the disclosure of any other gains received from a political contribution, if the amount received exceeds \$100. The new disclosure requirements will be reported on the Schedule K of the campaign finance report form, previously an optional schedule used for reporting credits.

SB 1 provides that it is not a valid basis of a complaint to allege that a campaign finance report contains the improper name or address of a contributor if the name or address in the report is the same as the name or address that appears on a check for the contribution. The bill also provides that the Commission shall dismiss a complaint to the extent that the complaint makes such an allegation.

SB 1 further provides that if the respondent is a candidate or officeholder, the Commission must state in the notice of the complaint that is sent to the respondent that the respondent may designate an agent with whom Commission staff may discuss the complaint. **Effective 09/28/11**

LOBBY

HB 3409 – Regarding Lobby Registrations, Lobby Reports, and Travel Provided by Lobbyists: Amends Government Code § 305.005(k); Adds Government Code §§ 305.0065, 305.006(g), and 305.009(e). HB 3409 adds the provision that a registrant who has a change in client or subject matter information during a regular legislative session is required to file an amended registration not later than the fifth day after the registrant, or any person appearing on the registrant's behalf, makes the first lobby communication related to the new client or subject matter.

HB 3409 exempts legislative and executive branch employees and immediate family members from certain restrictions that apply to transportation, lodging, food, and beverages, and entertainment, provided by a lobbyist to a member of the legislative or executive branch in connection with certain types of trips. **Effective 06/17/11**

SB 1 (Special Session) – Political Contributions and Political Expenditures; Lobby Registration Fees; Complaint Procedures

See SB 1 under *CAMPAIGN FINANCE* for bill summary, as related to lobby registration fees (second paragraph of the analysis).

CONDUCT

SB 1269 –Acceptance of Honorarium: Amends Penal Code § 36.10(a); Adds Penal Code § 36.07(b-1). SB 1269 provides that transportation, lodging, and meals described by section 36.07(b) of the Penal Code are not political contributions as defined by Title 15 of the Election Code. The bill also provides that sections 36.08 (Gift to Public Servant by Person Subject to His Jurisdiction) and 36.09 (Offering Gift to Public Servant) do not apply to certain items, including transportation, lodging, and meals described by section 36.07(b) of the Penal Code. **Effective 09/01/11**

SWORN COMPLAINTS

SB 1 (Special Session) – Political Contributions and Political Expenditures; Lobby Registration Fees; Complaint Procedures

See SB 1 under *CAMPAIGN FINANCE* for bill summary, as related to complaint procedures (the last two paragraphs of the summary).

ADMINISTRATIVE

SB 652 – Sunset Review Process: Amends Government Code § 571.022.

SB 652 provides that the Commission is subject to sunset review in 2013, rather than in 2015, and every 12th year thereafter. **Effective 06/17/11**

IX. Policy Issues

The purpose of this section is to briefly describe any potential issues raised by your agency, the Legislature, or stakeholders that Sunset could help address through changes in statute to improve your agency's operations and service delivery. This section is intended to give the Sunset Commission a basic understanding of the issues so staff can collect more information during our detailed research on your agency. Some questions to ask in preparing this section may include: (1) How can your agency do a better job in meeting the needs of customers or in achieving agency goals? (2) What barriers exist that limit your agency's ability to get the job done?

Emphasis should be given to issues appropriate for resolution through changes in state law. Issues related to funding or actions by other governmental entities (federal, local, quasi-governmental, etc.) may be included, but the Sunset Commission has no authority in the appropriations process or with other units of government. If these types of issues are included, the focus should be on solutions which can be enacted in state law. This section contains three components:

Brief Description of Issue.

Background. Include enough information to give context for the issue. Information helpful in building context includes:

- What specific problems or concerns are involved in this issue?
- Who does this issue affect?
- What is the agency's role related to the issue?
- Any previous legislative action related to the issue?

Possible Solutions and Impact. Provide potential recommendations to solve the problem. Feel free to add a more detailed discussion of each proposed solution, including:

- How will the proposed solution fix the problem or issue?
- How will the proposed change impact any entities or interest groups?
- How will your agency's performance be impacted by the proposed change?
- What are the benefits of the recommended change?
- What are the possible drawbacks of the recommended change?
- What is the fiscal impact of the proposed change?

Complete this section for each policy issue. Copy and paste boxes A through C as many times as needed to discuss each issue.

A. Brief Description of Issue

Whether individuals filing reports with the Commission should be subject to findings of violations and fines issued pursuant to the sworn complaint process for violations of law arising from the content of the report(s) filed with the Commission (i.e. reporting violations).

B. Discussion

Under current laws, an individual may file a sworn complaint with the Commission alleging that a person subject to a law administered and enforced by the Commission has violated a rule adopted by or a law administered and enforced by the Commission. (Govt. Code § 571.122). The Commission may impose a civil penalty of not more than \$5,000 or triple the amount at issue under a law administered and enforced by the Commission, whichever amount is more, for a delay in complying with a commission order or for a violation of a law administered and enforced by the Commission (Govt. Code § 571.173).

Questions have been raised on whether individuals subject to the laws of the jurisdiction should be permitted to correct a reporting violation of the law at the time that a complaint of the violation is filed with the Commission. If the reporting violations and correction are made in "good faith," there would be no finding of a violation and no penalty.

The policy debate is whether reducing enforcement powers of the Commission, and relying on the good faith of those filing disclosure reports to the Commission to report accurately, will result in both sufficient compliance with elections laws and a level playing field for candidates and officeholders in the election arena.

C. Possible Solutions and Impact

Policymakers will weigh the impacts of changes to the current enforcement powers of the Commission. Changes to the current law will provide those filing reports with greater flexibility on the requirements to file disclosure reports accurately could ultimately lead to fewer findings of violations. On the other hand, any changes to the current laws to reduce enforcement powers of the Commission may potentially impact the levels of compliance with disclosure laws among the regulated community, raising questions on the reliability of the disclosure reports filed with the Commission, as well as the general fairness of the elections process, and could ultimately impact the level of confidence of the public in governmental processes.

X. Other Contacts

A. Fill in the following chart with updated information on people with an interest in your agency, and be sure to include the most recent e-mail address.

Texas Ethics Commission Exhibit 15: Contacts			
INTEREST GROUPS (groups affected by agency actions or that represent others served by or affected by agency actions)			
Group or Association Name/ Contact Person	Address	Telephone	E-mail Address
Texans For Public Justice/ Craig McDonald	609 W. 18 th Street, Suite E, Austin, TX 78701	512-472-9770	tpj@tpj.org
Public Citizen, Texas Office/ Tom "Smitty" Smith/ Andy Wilson	1303 San Antonio St., Austin, TX 78701	(512) 477-1155	www.publiccitizen.org
Fred Lewis	221 E. 9 th Street, Austin, TX 78701	(512) 636-1389	
Professional Advocacy Association of Texas (PAAT)/ Jack Gullahorn	P. O. Box 5315, Austin TX 78763	(512) 476-3166	jgullahorn @texasadvocacy.com

INTERAGENCY, STATE, OR NATIONAL ASSOCIATIONS (that serve as an information clearinghouse or regularly interact with your agency)			
Group or Association Name/ Contact Person	Address	Telephone	E-mail Address
Council on Government Ethics Laws	P.O. Box 81237, Athens, GA 30608	706-548-7758	director@cogel.org

LIAISONS AT OTHER STATE AGENCIES (with which your agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General=s office)			
Agency Name/Relationship/ Contact Person	Address	Telephone	E-mail Address
Office of the Attorney General, Ron Del Vento, Collections Division	209 W. 14 th St., Austin TX 78701	512-475-4936	Ronald.Delvento@oag.state.tx.us
Office of the Attorney General, Beau Eccles, Deputy Chief Litigation Division	209 W. 14 th St., Austin TX 78701	512-475-4112	<u>Beau.Eccles@oag.state.tx.us</u>
Legislative Budget Board, Demetrio Hernandez, Analyst	1501 North Congress Ave., 5 th Fl, Austin TX 78701	512-463-7116	Demetrio.hernandez@lbb.state.tx.us
Governor's Office, Christopher Burnet, Assistant General Counsel	Capitol Building, Austin TX 78701	512-463-6789	Christopher.Burnett@governor.state.tx.us
Secretary of State's Office, Ann McGeehan, Division Director, Elections Division	1100 Congress Ave, Capitol Building Room 1E.8 Austin TX 78711-2697	512-463-9871	Ann.Mcgeehan@sos.state.tx.us
Heather Fleming, Analyst, House Appropriations Committee	Capitol Extension, E1.032	512-463-6404	Heather.Fleming_HC@house.state.tx.us
Michael Myer, Analyst, Senate Finance Committee	Capitol Extension, E1.038	512-463-0370	Michael.Meyer_SC@senate.state.tx.us

XI. Additional Information

- A. Fill in the following chart detailing information on complaints regarding your agency. Do not include complaints received against people or entities you regulate. The chart headings may be changed if needed to better reflect your agency's practices.**

The Commission typically receives 5 to 10 complaints a year that are expressed in written form to the Executive Director who personally handles these complaints. The Executive Director typically responds to these complaints within a week of receipt.

Texas Ethics Commission Exhibit 16: Complaints Against the Agency for Fiscal Years 2009 and 2010		
	FY 2009	FY 2010
Number of complaints received	5	5
Number of complaints resolved	5	5
Number of complaints dropped/found to be without merit	2	2
Number of complaints pending from prior years	0	0
Average time period for resolution of a complaint	1 week	1 week

- B. Fill in the following chart detailing your agency's Historically Underutilized Business (HUB) purchases.**

Texas Ethics Commission Exhibit 17: Purchases from HUBs				
FISCAL YEAR 2008				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	\$0	\$0	0.0%	11.9%
Building Construction	\$0	\$0	0.0%	26.1%
Special Trade	\$0	\$0	0.0%	57.2%
Professional Services	\$4,756	\$4,756	100.0%	20.0%
Other Services	\$51,494	\$4,105	8.0%	33.0%
Commodities	\$64,217	\$40,008	62.3%	12.6%
TOTAL	\$120,467	\$48,869	40.6%	

FISCAL YEAR 2009				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	\$0	\$0	0.0%	11.9%
Building Construction	\$0	\$0	0.0%	26.1%
Special Trade	\$0	\$0	0.0%	57.2%
Professional Services	\$4,872	\$4,872	100.0%	20.0%
Other Services	\$39,466	\$7,027	17.8%	33.0%
Commodities	\$14,686	\$7,977	54.3%	12.6%
TOTAL	\$59,024	\$19,876	33.7%	

FISCAL YEAR 2010				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	\$0	\$0	0.0%	11.9%
Building Construction	\$0	\$0	0.0%	26.1%
Special Trade	\$0	\$0	0.0%	57.2%
Professional Services	\$4,310	\$4,310	100.0%	20.0%
Other Services	\$39,351	\$2,176	5.5%	33.0%
Commodities	\$30,020	\$14,816	49.4%	12.6%
TOTAL	\$73,681	\$21,302	28.9%	

C. Does your agency have a HUB policy? How does your agency address performance shortfalls related to the policy? (Texas Government Code, Sec. 2161.003; TAC Title 34, Part 1, rule 20.15b)

Yes. The Commission follows an established policy that incorporates the use of Historically Underutilized Businesses (HUBs). The Commission consistently strives to incorporate the use of HUBs in its procurement practices, however, since we are a small agency that has few contracts and a low procurement rate, it is sometimes difficult to meet every statewide goal for HUB use. For the past five years the Commission has exceeded statewide goals for two of the three HUB procurement categories for which we had expenditures.

D. For agencies with contracts valued at \$100,000 or more: Does your agency follow a HUB subcontracting plan to solicit bids, proposals, offers, or other applicable expressions of interest for subcontracting opportunities available for contracts of \$100,000 or more? (Texas Government Code, Sec. 2161.252; TAC Title 34, Part 1, rule 20.14)

Not applicable.

E. For agencies with biennial appropriations exceeding \$10 million, answer the following HUB questions.

Not applicable.

F. Fill in the chart below detailing your agency's Equal Employment Opportunity (EEO) statistics.¹

Texas Ethics Commission Exhibit 18: Equal Employment Opportunity Statistics							
FISCAL YEAR 2008							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	8	0.0%	6.6%	25.0%	14.2%	75.0%	37.3%
Professional	10	0.0%	8.3%	20.0%	13.4%	50.0%	53.2%
Technical	6	0.0%	12.4%	0.0%	20.2%	16.7%	53.8%
Administrative Support	15	13.3%	11.2%	46.7%	24.1%	86.7%	64.7%
Service Maintenance	0	0.0%	13.8%	0.0%	40.7%	0.0%	39.0%
Skilled Craft	0	0.0%	6.0%	0.0%	37.5%	0.0%	4.8%

FISCAL YEAR 2009							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	7	0.0%	9.0%	28.6%	23.7%	71.4%	38.8%
Professional	10	10.0%	11.7%	20.0%	19.9%	50.0%	54.5%
Technical	5	0.0%	17.0%	0.0%	27.0%	0.0%	55.6%
Administrative Support	16	12.5%	13.2%	50.0%	31.9%	87.5%	66.2%
Service/Maintenance	0	0.0%	12.8%	0.0%	44.8%	0.0%	39.7%
Skilled Craft	0	0.0%	5.1%	0.0%	46.9%	0.0%	5.1%

¹ The Service/Maintenance category includes three distinct occupational categories: Service/Maintenance, Para-Professionals, and Protective Services. Protective Service Workers and Para-Professionals are no longer reported as separate groups. Please submit the combined Service/Maintenance category totals, if available.

FISCAL YEAR 2010							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	7	0.0%	7.5.0%	28.6%	21.17%	71.4%	37.5%
Professional	9	11.1%	9.7%	22.2%	18.8%	44.4%	53.3%
Technical	6	0.0%	13.9%	0.0%	27.1%	33.3%	53.9%
Administrative Support	14	14.3%	12.7%	42.9%	31.9%	92.9%	67.1%
Service/Maintenance	0	0.0%	14.4%	0.0%	49.9%	0.0%	39.1%
Skilled Craft	0	0.0%	6.6%	0.0%	46.3%	0.0%	6.0%

G. Does your agency have an equal employment opportunity policy? How does your agency address performance shortfalls related to the policy?

Through its recruitment plan, the Commission strives to maximize the number of qualified minority, disabled, and female applicants for available positions within all job categories. All three of the new hires thus far in FY 2011 have been from the under-represented classes.

XII. Agency Comments

None.