

BILL ANALYSIS

Senate Research Center

S.B. 10
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 10 creates the Public Integrity Unit (PIU) in the Office of the Attorney General. The PIU is responsible for an initial investigation into complaints alleging offenses against public administration, insurance fraud, and motor fuels tax fraud. Following an initial investigation and a verification of findings by a Texas Ranger, the PIU transfers all complaints rising to the level of reasonable suspicion to the administrative judge presiding over the administrative judicial region of the public official's residence. The administrative judge will then transfer the matter to a county or district attorney in the administrative judicial region who is not from the public official's county of residence. The prosecuting attorney has the discretion to terminate the referred case or continue with the prosecution. The venue for prosecution is the county of residence. Residency is defined as an official's hometown—be it where the official has a homestead, or where the official lived prior to taking office.

As proposed, S.B. 10 amends current law relating to the investigation and prosecution of offenses against public administration, including ethics offenses, and offenses involving insurance fraud or the imposition of the motor fuels tax.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 402, Government Code, by adding Subchapter D, as follows:

SUBCHAPTER D. PUBLIC INTEGRITY UNIT

Sec. 402.101. DEFINITIONS. Defines "offense," "prosecute," and "prosecuting attorney."

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

- (1) an offense under Title 8 (Offenses Against Public Administration), Penal Code, committed by a state officer or a state employee in connection with the powers and duties of the state office or state employment;
- (2) an offense under Chapter 301 (Legislative Organization), 302 (Speaker of the House of Representatives), 305 (Registration of Lobbyists), 571 (Texas Ethics Commission), 572 (Personal Financial Disclosure, Standards of Conduct, and Conflict of Interest), or 2004 (Representation Before State Agencies);
- (3) an offense under Chapter 573 (Degrees of Relationship; Nepotism Prohibitions) committed by a state officer in connection with the powers and duties of the state office; and

(4) an offense under Title 15 (Regulating Political Funds and Campaigns), Election Code, committed in connection with a campaign for or the holding of state office or an election on a proposed constitutional amendment.

Sec. 402.103. OFFENSES INVOLVING INSURANCE FRAUD. Provides that for the purposes of this subchapter, the following are offenses involving insurance fraud:

(1) an offense under Chapter 35 (Insurance Fraud), Penal Code, including an offense under that chapter that involves workers' compensation insurance under Title 5 (Workers' Compensation), Labor Code; or

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

Sec. 402.104. OFFENSES INVOLVING MOTOR FUELS TAX. Provides that for the purposes of this subchapter, an offense involving motor fuels tax means a felony offense under Section 162.403 (Criminal Offenses), Tax Code.

Sec. 402.105. PUBLIC INTEGRITY UNIT. (a) Requires the Office of the Attorney General of the State of Texas (OAG) to establish and support a public integrity unit consisting of:

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

(2) one commissioned officer of the Texas Rangers division of the Department of Public Safety of the State of Texas (DPS) to assist with each investigation by the attorney general and verify the resulting findings.

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

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

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

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

(1) an offense against public administration;

(2) an offense involving insurance fraud; or

(3) an offense involving motor fuels tax.

(b) Requires one commissioned officer of the Texas Rangers division of DPS, while performing an initial investigation under Subsection (a), to provide assistance to and verify the findings made by the public integrity unit.

(c) Provides that if an initial investigation by the public integrity unit demonstrates a reasonable suspicion that:

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

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

(d) Requires the public integrity unit, on request of the prosecuting attorney described in Section 402.107(a) of this subchapter, to assist in the investigation of an offense under this subchapter.

(e) Authorizes the public integrity unit, if assisting in a prosecution as provided by Subsection (c)(1), to exercise the powers as necessary to accomplish the assistance, and provides that the prosecuting attorney described by Subsection 402.107(a) retains the authority to represent the state in the district and inferior courts in the prosecution of the offense.

Sec. 402.107. SELECTION OF PROSECUTING ATTORNEY BY PRESIDING JUDGE OF ADMINISTRATIVE JUDICIAL REGION. (a) Requires a presiding judge, upon receipt of an initial investigation under Subsection 402.106(c)(1), to appoint a criminal district attorney, district attorney, or county attorney for counties in which there is not a resident criminal district attorney as provided by Section 21 (County Attorneys; District Attorneys), Article V, Texas Constitution, from any judicial district comprised of a county within the borders of that particular administrative judicial region, unless that county is the county of residence for the person under investigation.

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

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

(d) Requires the prosecuting attorney to notify the public integrity unit of the termination of a case for insufficient evidence or the results of a case's final adjudication.

(e) Requires that all prosecution arising from the investigation described by Section 402.106(a)(1), including proceedings before a grand jury, be at the venue described in Section 402.108.

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

Sec. 402.109. RESIDENCE. Provides that for the purposes of this subchapter, a person resides in the county where that person:

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

(2) claimed to be a resident before being subject to residency requirements under Article IV (Executive Department), Texas Constitution, if that person is a member of the Executive Department of the State;

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

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

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

(b) Provides that information disclosed under this section is confidential and not subject to disclosure under Chapter 552 (Public Information).

SECTION 2. Amends Section 402.009, Government Code, as follows:

Sec. 402.009. AUTHORITY TO EMPLOY AND COMMISSION PEACE OFFICERS. Authorizes the attorney general to employ and commission peace officers as investigators for:

(1) Creates this subsection from existing text and makes no further change to this subdivision;

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

SECTION 3. (a) Requires the attorney general, not later than three months after the effective date of this Act, to establish the public integrity unit under Subchapter D, Chapter 402, Government Code, as added by this Act.

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

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

SECTION 4. Effective date: upon passage or September 1, 2015.