

**EXHIBIT A: SUMMARY OF HOUSE BILL 2301
REGARDING ETHICS LEGISLATION FOR EL PASO COUNTY**

1. **It is a framework to build upon:** House Bill 2301 is not itself an ethics code. It is a framework to authorize the El Paso County Commissioners to create a county ethics commission with the authority to receive confidential complaints, investigate, with subpoena power if necessary, to hold hearings under state administrative hearing guidelines, and to assess civil fines. If the ethics commission thinks that the action warrants criminal penalties, it can refer it to the appropriate prosecuting attorney to prosecute the criminal violation of the ethics code.

2. **It Is Optional:** It permits a county to create an ethics commission, either by a commissioner's court order, or by presenting it to the voters as part of a uniform election day ballot. *Sections 161.051 and 161.052.* . If County establishes ethics commission, it retains authority to abolish it. If an ethics commission is created by voter approval, it may be dissolved by voter approval after it has been in effect for at least one year. *Subchapter F. Dissolution of Commission, Sections 161.301-161.304.*

3. **Ethics Code To Be Determined Locally:** HB 2301 itself does not create an ethics code or set out standards. If this legislation passes, the county will create its own ethics code, including who is or is not covered, what areas are or are not covered (elections, procurement, employment, etc.) and what the penalties are. *Section 161.101*

4. **Procedural Safeguards:** This legislation outlines proper procedures to accept and investigate complaints; to conduct hearings and issue final orders; to assess civil penalties; and, if necessary, to refer complaints to the appropriate prosecuting attorney. *Subchapter D. Complaint Procedures and Hearings, Sections 161.151-161.174 and Subchapter E. Enforcement, Sections 161.201-161.213.*

5. **Penalties for Frivolous or Malicious Complaints:** The ethics commission can penalize parties who file frivolous or malicious complaints, and the person falsely or maliciously accused may sue the complainant in district court. *Section 161.206.*

6. **Whistleblower Protection:** The county may not suspend or terminate a person who files a complaint in good faith or provides information to the ethics committee. *Section 161.157.*
7. **Membership:** It authorizes one appointment each by each member of the commissioners court and four representatives from the public to be chosen by the appointed members. *Section 161.055.*
8. **Community Values and Standard of Conduct:** The ethics commission for each county adopts its own ethics code, and may use as a guide any ethics code or rule of the U.S., the state, or political subdivision of this state. *Section 161.101(b).*
9. **Civil Penalties:** It permits the ethics commission to assess civil penalties for violations of the code (up to \$4,000), for delays in providing information to the commission (up to \$500) *Section 161.203*; for unauthorized destruction or release of confidential information (fines of up to \$4,000 and county jail confinement for up to 3 months) *Section 161.173(d)*; and for frivolous complaints (up to \$4,000) *Section 161.206(a)*. Fines may be waived or reduced upon application to the commission *Section 161.204(b)*.
10. **Private Right of Action:** It authorizes a private right of action by a respondent against a person who files a frivolous complaint, *Section 161.206(b)*; or who makes an unauthorized release of confidential information. *Section 161.173(j)*.
11. **Complaints:** Complaints must be sworn and meet jurisdictional requirements. *Section 161.155.* Complainants shall receive whistleblower protection. *Section 161.157.*
12. **Two-Tier System:** It sets up a two tier system- one expedited system for simple or technical violations and one for more complex issues. *Section 161.154*
13. **Complex Violations:** If a matter may not be resolved easily, the commission may set it for a formal hearing, which shall follow procedures consistent with the rules for state

administrative proceedings, Subchapters C through H, Chapter 2001 of the Government Code. *Sections 161.164-161.167.*

14. **Confidentiality:** In general, only the final order, or evidence entered into the record at a formal hearing or a judicial proceeding is public information. The complaint, proceedings, and other evidence are confidential under law. Civil penalties or jail confinement may be assessed for the destruction or unauthorized release of confidential information, the same penalties assessed under the Texas Public Information Act. *Section 161.173.*

15. **Final Orders:** are to be posted on the county website. In addition to civil penalties, the commission may issue cease-and-desist orders, an affirmative order to require compliance with the code, and/or an order of public censure with or without penalty. May be appealed to a district court within the county. *Section 161.174.*