

## Summary of the Ethics Legislation

### What It Is And Is Not

1. This is NOT an Ethics Code. It is legislation to validate the existing code, to provide statutory authorization for a county ethics commission, and to permit a county ethics commission to assess penalties for violations of the ethics code.
2. It is optional. If passed, it does not require that any county either create an ethics commission or adopt an ethics code.
3. If this legislation passes, every county that creates an ethics commission creates 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.
4. This legislation sets out procedures which a county may, but is not required to, adopt that to ensure appropriate legal safeguards for
  - Establishing proper procedures to accept complaints and review them,
  - Assessing penalties or dismissing complaints, and
  - Referring complaints to the County Attorney or District Attorney.
5. It has no content regarding specific ethical behavior or standards.
6. Nothing in this legislation will prevent the current or future commissioners courts from modifying or abolishing the code if it is created by commissioners court order.
7. It provides protection from frivolous or malicious complaints.

### Why Is It Necessary?

1. As it stands, the El Paso County ethics code is too weak or too strong - limited to an order of public censure, referral to an employee's supervisor, or referral for criminal prosecution.
2. The County requested legislation to authorize the creation of an ethics commission that could adopt an ethics code and assess penalties for violations. In order to provide credibility to the ethics commission, and to ensure that review of complaints would be conducted fairly and with appropriate legal safeguards, and to protect against frivolous complaints, this legislation sets out procedures for accepting and reviewing complaints that comply with legal requirements.

### What Does this Legislation Contain?

1. Creation. It permits a county to create an ethics commission, either by a commissioners court order, or by the commissioners court setting it up for election by the voters as part of a uniform election day ballot. If an ethics system is created by voter approval, it may be dissolved by voter approval after it has been in effect for at least one year.
2. Membership. It authorizes one appointment each by each member of the commissioners court and two representatives from the public to be chosen by the appointed members. They may be removed for misconduct or for good cause.
3. Unique County Ethics Code. 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.
4. Review and Enforcement. The legislation contains sections which the county may or may not adopt, or use as a guideline, which set out procedures for accepting and reviewing complaints; and for enforcement.

5. **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), for unauthorized destruction or release of confidential information (fines of up to \$4,000 and county jail confinement for up to 3 months), and for frivolous complaints (up to \$4,000). Fines may be waived or reduced upon application to the commission.
6. **Private Right of Action.** It authorizes a private right of action by a respondent against a person who files a frivolous complaint or who makes an unauthorized release of confidential information.
7. **Complaints.** Complaints must be sworn and meet jurisdictional requirements. Complainants shall receive whistleblower protection.
8. **Two-Tier System.** It sets up a two tier system- one expedited system for simple or technical violations and one for more complex issues.
9. **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.
10. **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.
11. **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.