



**Select Interim Committee To Study Ethics Laws  
Interim Report - 83rd Legislature**

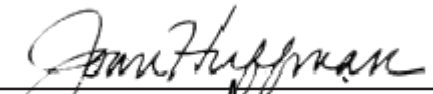
January 2015

The Honorable Joe Straus  
Speaker, Texas House of Representatives  
Members of the Texas House of Representatives  
Texas State Capitol, Rm, 2W.13  
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

The Select Interim Committee to Study Ethics Laws of the Eighty-third Legislature hereby submits its interim report including its findings and recommendations for consideration by the Eighty-fourth Legislature.

Respectfully submitted,



Joan Huffman, Chair



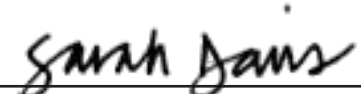
Kel Seliger



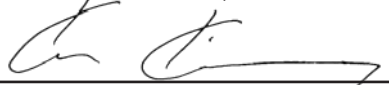
Carlos Uresti



Thomas Phillips



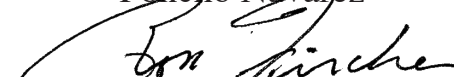
Sarah Davis, Chair



Ken King



Poncho Navarez



Ross Fischer esq.



Jim Clancy

**SELECT INTERIM COMMITTEE TO STUDY ETHICS LAWS  
INTERIM REPORT 2014**

A REPORT TO THE  
84TH TEXAS LEGISLATURE

**JOAN HUFFMAN  
SARAH DAVIS**  
CO-CHAIRS

BRIGETTE DECHANT  
*COMMITTEE CLERK*

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## INTRODUCTION

## INTERIM COMMITTEE ENABLING LEGISLATION

## BACKGROUND

## MAJOR THEMES

Senate Bill 219 83R

Reforming the Judicial Campaign Fairness Act

Amending Ch. 176 of the Local Government Code

## COMMITTEE HEARING AND TESTIMONY

## CONCLUSIONS AND RECOMMENDATIONS

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## Introduction

Senate Bill 1773, 83rd Legislature, created an interim select committee to review laws and regulations related to ethics and recommend "...changes, if any, [that] should be made to more effectively accomplish the purposes of the laws." The establishment of this Committee is part of a continuing effort to streamline ethics laws to more effectively convey the intent of the Legislature for the mission of the Texas Ethics Commission. The Committee focused on issues that will help build and maintain public confidence in government and provide for improved transparency and oversight. The following members were named to the Committee by the Speaker of the House, Joe Straus, and Lieutenant Governor David Dewhurst on August 22, 2014: Chairwoman Joan Huffman and Chairwoman Sarah Davis, Thomas Phillips (public member appointed by the Lieutenant Governor), Senator Kel Seliger, Senator Carlos Uresti, Representative Ken King, Representative Poncho Nevarez, Ross Fischer (public member appointed by the Speaker of the House), and the former presiding officer of the Texas Ethics Commission, Jim Clancy.

Following the late-August appointment of members, the Committee heard testimony at a hearing held on December 3, 2014 on several issues within the purview of the Committee. The hearing was attended by Co-Chairs Huffman and Davis; Representatives King and Nevarez; Senator Seliger; and public members Clancy and Fisher. Three main topics were discussed, with the goal of strengthening Texas ethics laws and increasing transparency. Project Manager Karl Spock of the Texas Sunset Advisory Commission delivered testimony related to Senate Bill 219 of the 83rd legislative session. Senate Bill 219 reflected several recommended changes by the Sunset Commission to the Texas Ethics Commission. Senate Bill 219 was vetoed by the Governor, which prevented those changes from becoming law. This bill was relevant to the scope of the Committee due to the shared theme of reforming ethics laws. The Judicial Campaign Fairness Act was reviewed to consider the ways the law could be updated and clarified for judicial candidates and their contributors. Topics discussed during the hearing included contribution limits, expenditure limits, and the Code of Judicial Conduct. The Committee received recommendations related to Chapter 176 of the Local Government Code. The Committee heard various ways the code can be amended to provide for greater accountability of state dollars flowing to local procurement projects. Finally, the Committee heard testimony from various state agencies and public stakeholders.

The Committee would like to express its gratitude to all of the individuals that made a contribution to the interim hearing. We would like to thank the leadership staff of the Texas Ethics Commission, the employees of the Sunset Advisory Commission, Locke Lord LLP, the Professional Advocacy Association of Texas, the Center for Politics and Governance at the LBJ School of Public Affairs, and the Texas Fair Courts Network for their input and recommendations.

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## Interim Committee Enabling Legislation

S.B. 1773

### AN ACT

relating to the creation of a select interim committee to review and make recommendations for substantive changes to ethics laws.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. INTERIM STUDY REGARDING ETHICS LAWS. (a) A select interim committee is created to study and review the statutes and regulations related to ethics, including campaign finance laws, lobby laws, and personal financial disclosure laws.

(b) The study must consider:

- (1) the purposes of the current laws and whether the laws accomplish those purposes;
- (2) the effectiveness of the current laws; and
- (3) what changes, if any, should be made to more effectively accomplish the purposes of the laws.

(c) The committee is composed of:

(1) four members appointed by the lieutenant governor as follows:

- (A) three senators, one of whom the lieutenant governor shall designate as co-chair of the committee; and
- (B) one member of the public;

(2) four members appointed by the speaker of the house of representatives as follows:

- (A) three state representatives, one of whom the speaker shall designate as co-chair of the committee; and
- (B) one member of the public; and

(3) the presiding officer of the Texas Ethics Commission on the effective date of this Act.

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(d) The committee shall convene at the call of the co-chairs.

(e) The committee has all other powers and duties provided to a special or select committee by the rules of the senate and the house of representatives, by Subchapter B, Chapter 301, Government Code, and by policies of the senate and house committees on administration.

(f) Not later than December 20, 2014, the committee shall report the committee's findings and recommendations to the lieutenant governor, the speaker of the house of representatives, and the governor. The committee shall include in its recommendations specific statutory and rule changes that appear necessary from the results of the committee's study under Subsection (a) of this section.

(g) Not later than the 60th day after the effective date of this Act, the lieutenant governor and the speaker of the house of representatives shall appoint the members of the committee created under this section.

(h) The Texas Legislative Council and the Texas Ethics Commission shall provide any necessary staff and resources to the committee created under this section.

SECTION 2. ABOLITION OF COMMITTEE. The committee is abolished and this Act expires December 21, 2014.

SECTION 3. EFFECTIVE DATE. This Act takes effect September 1, 2013.

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## **Background**

### **Major Themes**

#### **Senate Bill 219, 83rd Legislature**

Senate Bill 219, authored by Senator Huffman, proposed changes to the Texas Ethics Commission primarily in four categories: investigation and enforcement, personal financial reporting, campaign finance reporting, and lobbying. The bill was comprised of recommendations from the Sunset Review of the Texas Ethics Commission in addition to eleven other provisions added by the Legislature. The Committee heard testimony summarizing the Sunset review of the Ethics Commission and the tenets of the resulting legislation.

#### **Reforming the Judicial Campaign Fairness Act**

Senate Bill 94, 74th Legislature, authored by Senator Ellis, was passed in 1995 and included the Judicial Campaign Fairness Act [Texas Election Code, Title 15, Chapter 253, Subchapter F]. The act was written to regulate financing of judicial elections after an increasing trend of large contributions. The Act's areas of focus include contribution limits, expenditure limits and the Code of Judicial Conduct. Testimony was heard on the potential to clarify sections and increase equality for those affected under the scope of the law.

#### **Amending Ch. 176 of the Local Government Code**

Chapter 176 of the Local Government Code was added in 2005 with the successful passage of House Bill 914, authored by Representative Woolley. The bill necessitated disclosure of information concerning certain local government officers and vendors when engaged in procurement activities. Increasingly in the past years, members of the legislative body have supported local control by funneling an increased amount of State dollars to local procurement opportunities across Texas. The members of the Committee recognize this as an effective form of government procurement and heard testimony regarding the improvement of this system.



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## Committee Hearing and Testimony

On December 3, 2014 the Committee convened to review laws and regulations related to ethics, such as those focused on campaign finance, lobbying and personal finance disclosure. The goal of this hearing was to assess and develop recommendations from the membership to modernize and provide uniformity to ethics laws and regulations from the state to local level.

### **Commissioner Jim Clancy, Texas Ethics Commission**

Commissioner Clancy was legislatively directed to sit on the Committee and provided testimony as the Chairman of the Texas Ethics Commission on SB 1773's effective date. Commissioner Clancy testified on campaign finance, lobbying and personal finance disclosure amongst other topics by the TEC. Commissioner Clancy presented the members with an overview of the confidential sworn complaint process and delivered the recommendations for reforming TEC procedure.

### **Project Manager Karl Spock, Sunset Commission**

As the project manager for the Ethics Commission Sunset review during the 83rd Legislative Session, Karl Spock spent a considerable amount of time studying the Texas Ethics Commission. Mr. Spock touched upon the various topics listed under the Sunset Commission's recommendations which the Legislature had adopted and added to. The major objectives represented in the Sunset Advisory Commission's recommendations were restructuring the statutory enforcement process set up for the Ethics Commission and updating and streamlining filing requirements for campaign finance, personal financial statements, and lobby laws.

### **Gardner Pate, Locke Lord LLP**

Gardner Pate is an associate in the Public Law section of Locke Lord LLP and was asked to testify due to his expertise in campaign law and ethics compliance in Texas. Mr. Pate provided the joint committee with suggestions about updating Judicial Campaign Finance Act could be updated and clarified to best serve candidates, donors, and their consultants while still serving its legislative purpose. His suggestions also included simplifying the Code of Judicial Conduct for ease of understanding and application.

### **Jack Gullahorn, Professional Advocacy Association of Texas**

The Professional Advocacy Association of Texas' objectives are two-fold. The association aims to improve public opinion of the lobbying profession while promoting members to exude professionalism, integrity, and ethical standards within the field. Mr. Gullahorn serves as the association's President and General Counsel and provided testimony focused on interpretation of lobby laws and issues with non-legislative lobbying. He addressed the need to update and clarify the laws and to enhance their consistent application at the state and local level. His suggestions for the lobby laws held the general theme of increased transparency, clarity, and consistency, as did the whole of the Committee hearing.

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## Conclusions and Recommendations

In light of the failure of SB 219 (83rd Regular) to become law, the Joint Committee to Study Ethics Laws recommends that the Legislature file legislation to simplify unnecessarily complicated ethics laws as well as give the Ethics Commission clear guidance on recent substantive issues instead of forcing the agency to address them through rulemaking or other agency action. This Committee remains sensitive to issues currently under judicial review but would encourage the Legislature to act once those issues have been resolved by a court of law.

In the hearing held December 3, 2014, the committee heard the following recommendations during testimony:

- The statutory enforcement processes of the Texas Ethics Commission should be restructured, in addition to updating and streamlining filing requirements for campaign finance, personal financial statements, and lobby laws.

Testimony further addressed the Judicial Campaign Fairness Act, including but not limited to the following areas:

- Clarify contribution limit application and to whom it applies.
- Remove voluntary expenditure limits and the 60 day notice.
- Revise portions of the Act to correspond with changes in First Amendment case law.
- Revise limitations on campaign activities by judicial candidates, including joint campaign activities and restrictions on the use of political funds.

To ensure transparency and public confidence in non-legislative lobbying, testimony addressed two main areas of the lobby laws:

- Clarify and simplify the language in Chapter 305 of the Government Code, including codifying various Commission interpretations and updating the law to match current practices.
- Establish consistency in state and local procurement laws by amending Chapter 176 of the Local Government Code.

The members of the Committee will refer to these conclusions and recommendations for direction in moving forward.