

TEXAS ETHICS COMMISSION

Issue 1

Cumbersome Laws and Informal Management Practices Result in a Disclosure System that Limits TEC's Efficiency and Burdens the Regulated Community.

Change in Appropriation

Rec. 1.1, Adopted

The House Appropriations and Senate Finance committees should consider providing TEC additional guidance regarding the use of unexpended funds for IT improvements.

Change in Statute

Rec. 1.2, Adopted as Modified

Require TEC to adjust reporting and registration thresholds every 10 years instead of annually, rounding the thresholds to the nearest \$10 if under \$100, \$100 if under \$1,000, and nearest \$1,000 for all above \$10,000 to make the limits more practical to remember and report. This recommendation would also exempt lobby compensation categories from the adjustment.

Rec. 1.3, Adopted

Align monthly reporting periods and deadlines.

Rec. 1.4, Not Adopted

Align the itemization thresholds for electronic and non-electronic contributions.

Rec. 1.5, Adopted

Eliminate double counting of political expenditures made using credit cards.

Rec. 1.6, Adopted

Remove prescriptive mailing requirements from statute.

Rec. 1.7, Adopted

Remove the electronic filing exemption for campaign finance reports.

Management Action

Rec. 1.8, Adopted

Direct TEC to develop a comprehensive plan for short- and long-term improvements to the agency's IT resources.

Rec. 1.9, Adopted

Direct TEC to improve its EFS contract monitoring practices.

Rec. 1.10, Adopted

Direct TEC to ensure key contract management staff receive appropriate training.

Rec. 1.11, Adopted

Direct TEC to offer trainings to help filers navigate their disclosure requirements.

Rec. 1.12, Adopted

Direct TEC to coordinate helpline guidance among its divisions.

Issue 2

TEC's Regulatory Tools and Practices Hinder Its Compliance Efforts and Prevent the Agency from Prioritizing Serious Violations of State Ethics Laws.

Change in Statute

Rec. 2.1, Adopted

Require TEC to categorize violations of law within its jurisdiction according to seriousness.

Rec. 2.2, Not Adopted

Restructure TEC's audit function to better differentiate between facial compliance reviews and complete audits.

Rec. 2.3, Adopted

Require TEC to prioritize complaint investigations based on risk to full and accurate disclosure.

Rec. 2.4, Adopted

Authorize TEC to increase penalties for filers who repeatedly file reports late.

Rec. 2.5, Adopted

Require TEC to develop a penalty matrix.

Rec. 2.6, Not Adopted

Require filers to provide supporting records and documentation upon request by TEC.

Management Action

Rec. 2.7, Adopted

Direct TEC to collect and use data to improve its compliance efforts.

Issue 3

TEC's Sworn Complaint Process Fails to Promote Efficiency and Weakens the Commission's Role in Enforcing Disclosure Laws.

Change in Statute

Rec. 3.1, Adopted

Restructure the preliminary review hearing to involve only a subset of commission members.

Rec. 3.2, Adopted

Clearly authorize TEC to send formal hearings to SOAH.

Rec. 3.3, Not Adopted

Require judicial review of commission decisions to be based on the substantial evidence rule.

Rec. 3.4, Adopted

Require TEC to implement discovery control plans.

Issue 4

TEC's Statute and Processes Do Not Reflect Some Standard Elements of Sunset Reviews.

Change in Statute

Rec. 4.1, Adopted

Amend TEC's Sunset review date to 2037.

Rec. 4.2, Adopted

Update the standard across-the-board requirement related to commission member training.

Management Action

Rec. 4.3, Adopted

Direct TEC to adopt a rule review plan.

Adopted New Recommendations

Customer Service

- The House Appropriations and Senate Finance committees should consider appropriating TEC additional funding for FTEs to support the agency's ability to provide timely customer service through its dedicated legal helpline and main phone line. (Change in appropriation)
- Direct TEC to provide any in-person trainings and online webinars, as well as any guides and instructions on its website, EFS help guide, and other training materials in plain language to the extent practicable. As part of this recommendation, TEC should consider tailoring some training material toward first-time and less sophisticated filers. TEC should also develop a plain-language guide for members of the public about engaging with policymakers and government officials. This guide should be published prominently on TEC's website and include information on when an individual or group would be required to register as a lobbyist or political committee; any restrictions on giving gifts to policymakers; and information relevant to first-time candidates for office and first-time or volunteer campaign treasurers. When providing guidance over TEC's helpline, TEC staff should include a clear, plain language warning about potential accruing penalties that may be applied when a filer corrects a report. (Management action – nonstatutory)

Penalty Assessment and Compliance

- Amend Section 254.042, Texas Election Code, to specify that if an 8-day pre-election report is determined to be late, the filer is liable to the state for a civil penalty of \$500 for the first day the report is late and \$100 for each day thereafter through election day that the report is late.
- Exclude the first semiannual report due after an election from accruing daily late penalties under Section 254.042(b), Texas Election Code.
- Require TEC to waive late penalties if TEC cannot produce a record of the late notice sent to the filer.
- Direct TEC to consider revising its rules related to the definition of "substantial compliance." (Management action – nonstatutory)

- Direct TEC to consider revising its rules related to the definition of “principal purpose.” (Management action – nonstatutory)
- Direct TEC to display the agency’s list of delinquent penalties prominently on its website and include more detailed information on the amount and status of unpaid penalties. Specifically, the list should identify unpaid penalties resulting from late filed reports and from publicly available sworn complaint orders. TEC should provide (1) the filer’s name; (2) the filer’s status when the penalty was incurred; (3) the date and penalty amount of each violation; (4) which penalties have been referred to the Office of the Attorney General for collections; (5) whether the Office of the Attorney General accepted the referral, if known; and (6) any other information TEC deems relevant, so long as it is not confidential. (Management action – nonstatutory)