

FINANCIAL DISCLOSURE FOR COUNTY OFFICIALS IN TEXAS

2007 Update

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of the
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FINANCIAL DISCLOSURE FOR COUNTY OFFICIALS IN TEXAS

INTRODUCTION

Financial disclosure statutes are designed to support a public policy that discourages conflicts between a public servant's personal interests and the performance of the officer's official duties. To implement this policy, laws have been enacted that require disclosure of the public servant's sources of income, assets, and liabilities. This information is available to the public for inspection. Under Texas law, affected officers and candidates file annual reports disclosing financial information for the preceding calendar year.

The statutes governing financial disclosure by **county officials** are found in Chapter 159 of the Local Government Code. (See Appendix A). Each of the 3 subchapters in Chapter 159 addresses different groups of officers and prescribes different penalties for noncompliance.

The applicability of Subchapters A and B is based on county population. Subchapter C applies to all counties. The definition of "county officers" who must file is different in each subchapter, and it is important to note these differences in determining who must file and the rules applicable to a given filer.

Substantial criminal and civil penalties are provided for failure to comply with Chapter 159. Therefore, affected persons need to be aware of the filing requirements set forth in the chapter. This publication will consider the filing requirements of each subchapter in the order that they appear in the statute.

MAJOR CHANGE

In 2007, the legislature amended Chapter 159 Subchapter A to require justices of the peace and candidates for justice of the peace in a county with a population of 125,000 or more to file financial disclosure statements. Previously, these persons were governed

by Subchapter B which provided for disclosure only if the commissioners courts of their counties adopted an order requiring certain county officers to file the statements.¹

¹ HB 2468 adopted during the 80th Regular Legislative Session amended Local Government Code Chapter 159 making financial disclosure mandatory for certain justices of the peace and candidates for those offices. The legislation takes effect on September 1, 2007.

Subchapter A
COUNTY OFFICERS IN COUNTIES OF 100,000 OR MORE; AND
JUSTICES OF THE PEACE IN COUNTIES OF 125,000 OR MORE ² -

Who must file:

The Subchapter A disclosure requirements apply to a county judge, county commissioner, or county attorney in a county with a population of 100,000 or more persons, and to a justice of the peace in a county of 125,000 or more.³ A financial statement is required of both the persons who hold these offices and candidates for these offices.⁴

Filing Dates for Officers and Candidates

County Officer and Justices of the Peace Deadlines:

General Rule: An elected officer shall file a financial statement no later than April 30 each year.⁵ A person appointed, rather than elected, to the office must file his or her first financial statement no later than the 30th day after the date of appointment or the date of qualification for office, whichever is earlier.⁶

Extensions: A county officer or justice of the peace may ask the county clerk to grant an extension of time of up to sixty days to file the statement. The county clerk must grant a request that is received before the filing deadline, and also if a timely filing or extension request is prevented by physical or mental incapacity. No more than one extension may be granted to a person in one calendar year, unless there is a showing of good cause.⁷

Candidate Deadlines:

² See Appendix B for a list of county populations.

³ Tex. Loc. Gov. Code § 159.001

⁴ Tex. Loc. Gov. Code § 159.003

⁵ Tex. Loc. Gov. Code § 159.004(a); Tex. Gov. Code §572.026

⁶ Tex. Gov. Code § 572.030 (c)

⁷ Tex. Loc. Gov. Code § 159.004(c)

⁸ Tex. Loc. Gov. Code § 159.003; Tex. Gov. Code §572.027(a)

General Rule: Whether partisan or independent, a candidate for a covered county office must file a financial statement no later than the 40th day after the regular filing deadline to apply for a place on the ballot in the general primary.⁸ If the deadline under which a candidate files for a place on the ballot, other than the regular filing deadline for an independent candidate, or files as a write-in candidate, falls after the date of the regular filing deadline for candidates in the general primary election, the candidate must file the required statement no later than the 30th day after the later deadline. However, if that resultant deadline falls after the 35th day before the date of the election in which that candidate is running, then the statement must be filed no later than the 5th day before that election date.⁹ An individual who is a candidate in a special election shall file not later than the 5th day before the date of the election.¹⁰ An individual nominated to fill a vacancy as a nominated candidate for one of the enumerated county offices must file the financial statement no later than the 15th day after the certificate of nomination is filed.¹¹

No extensions: The county clerk cannot grant an extension to a **candidate** for office as a county officer or justice of the peace.¹²

Where Statements Are Filed:

A statement filed under Subchapter A must be filed with the county clerk in the county where the officer or candidate resides.¹³

Timeliness of Filing:

⁹ Tex. Gov. Code § 572.027(b)

¹⁰ Tex. Gov. Code § 572.027(c)

¹¹ Tex. Gov. Code §572.027(d). The chair of the executive committee making the replacement nomination must file the certification. Tex. Elec. Code §145.037.

¹² Tex. Loc. Gov. Code § 159.004(d)

¹³ Tex. Loc. Gov. Code § 159.003

The time deadline for filing is 5 p.m. of the deadline day.¹⁴ If the last day for filing falls on a Saturday, Sunday, or holiday as listed in the Government Code¹⁵ then the statement is timely if filed on the next day that is not a Saturday, Sunday or listed holiday.¹⁶ A financial statement will be considered timely filed if, not later than the last day for filing, it is properly addressed and placed in the United States Post Office or in the hands of a common or contract carrier. The post office's cancellation mark, or the receipt of the common carrier, is taken as the date of mailing. However, the person filing may show by competent evidence that the actual date of posting differs from the mark or receipt.¹⁷

Contents of Financial Statements in General

The financial statement must include a detailed account of the financial activity of the county officer or candidate, and an account of the financial activity of the person's spouse, and dependent children, if the person had actual control of that activity during the preceding calendar year. The statement must comply with Government Code §§ 572.022 and 572.023.¹⁸ (See Appendix D for a sample of the form prescribed by the Ethics Commission to satisfy these sections.)

Forms

The county clerk must either design a form to be used to report the required information or require that the form prescribed by the Texas Ethics Commission be used.¹⁹ The clerk must make two copies of the forms available to each person required to file the statement. The copies must be mailed: 1) before the 30th day before the financial statement filing deadline for current county officers; 2) no later than the 15th day after the deadline for filing an application for a place on the ballot for most candidates; 3) no later than the 7th day after the appointment date for

¹⁴ Tex. Loc. Gov. Code § 159.004(b); Tex. Gov. Code § 572.029(a)

¹⁵ Tex. Gov. Code § 662.021; § 662.003. See Appendix C for list of holidays.

¹⁶ Tex. Gov. Code § 572.029(b)

¹⁷ Tex. Gov. Code § 572.029(c)

¹⁸ Tex. Loc. Gov. Code § 159.003; Tex. Gov. Code § 572.023(a)

¹⁹ Tex. Loc. Gov. Code § 159.005

persons appointed to office; and, 4) no later than the 5th day after a certificate of nomination is filed for those candidates nominated to fill a candidate's vacated nomination.²⁰

Reportable Items

The statutes require the account of the financial activity to include the following items:

- 1) a list of all occupational income, with the employer identified, or if one is self-employed, then the income sources are identified by the nature of the occupation. That would include identifying any person, business entity or other organization from which the county officer or candidate received a fee or retainer in exchange for future services, in cases where those services were not actually performed during the reporting period in an amount equal to or greater than the amount of the actual fee, and the category of the amount of the fee. Such a retainer would be distinguished from an agreed-upon fee for a service specified at the time the contract is made or the fee received;
- 2) identification by name and category, the number of shares of stock of any business entity held or bought and, if sold, the category of the amount of net gain or loss realized from such sale;
- 3) a list of all bonds, notes, and other commercial paper bought or held and, if sold, the category of the amount of net gain or loss realized in that sale;
- 4) identification of each source and category of the amount of income of more than \$500 per source derived from interest, dividends, royalties and rents;
- 5) identification of each person or financial institution to whom a personal note or notes totaling a financial liability of more than \$1000 existed at any time during that year, and the category of the amount of liability;
- 6) identification by description of all beneficial interests in real property and business entities held or acquired and, if sold, the category of the amount of any net gain or loss realized from that sale;

²⁰ Tex. Gov. Code §572.030(c). The chair of the executive committee making the replacement nomination must file the certification, Tex. Elec. Code §145.037.

- 7) identification of any person, business entity, or other organization from which the person, their spouse or dependent children received a gift of money²¹ or property over \$250 in value, or a series of gifts of money or property from the same source which totals more than \$250 in value, and a description of each gift, except gifts from relatives within the 2nd degree by consanguinity or affinity and campaign contributions otherwise legally reported. It should be noted that a county official may be required to report some gifts of food, lodging, transportation or entertainment, under this law and ethics requirements, in order to satisfy Penal Code, Sec. 36.02;
- 8) identification of the source and category of the amount of all income received as beneficiary of a trust, other than a blind trust described in Government Code § 572.023(c), and identification of each trust asset from which the beneficiary received income of more than \$500, if known by the beneficiary;
- 9) identification by description and category of the amount of all assets and liabilities of any corporation, firm, partnership, or association²² in which 50% or more of the outstanding stock was held, acquired or sold;
- 10) a list of all boards of directors of which the person is a member, and any executive positions held in corporations, firms, partnerships, and proprietorships by the person, stating the position held, and the name of each corporation, firm, partnership or proprietorship;
- 11) identification of any person providing transportation, meals, or lodging expenses permitted under Section 36.07(b), Texas Penal Code, (the code “does not prohibit a public servant from accepting transportation and lodging expenses in connection with a conference or similar event in which the public servant renders services, such as addressing an audience or engaging in a seminar, to the extent that those services are more than merely perfunctory, or from accepting meals in connection with such an event”), and the amount of those expenses, other than expenditures required to be reported under Government Code Chapter 305 (Registration of Lobbyists);

²¹ SB 129 adopted during the 80th Legislative Regular Session amended Tex. Gov. Code § 572.022 to require the description of a gift of cash or cash equivalent to include the value of the gift.

²² Tex. Gov. Code § 572.023(b) (9), (10), and (12) list the following entities: corporation, firm, partnership, professional corporation, professional association, joint venture, or other business association.

- 12) any partnership, joint venture, or other business association, excluding a publicly-held corporation, in which both the county officer and a person registered under Chapter 305 have an interest;²³
- 13) identification by name and the category of the number of shares of any mutual fund held or acquired, and if sold, the category of the amount of net gain or loss realized from the sale; and
- 14) identification of each blind trust that complies with subsection (c), including the category of the fair market value of the trust, date of creation, name and address of trustee, and a statement signed by the trustee under penalty of perjury that the trustee has not revealed certain information to the filer.²⁴

The Degree of Detail Required for Reportable Items:

Categories of Value: The statute directs that certain items are to be listed in “categories” of amounts rather than actual dollar amounts. The statute establishes the categories to be used.²⁵

Amounts of Stock: Similarly, the law requires that amounts of stock must be reported by category of number of shares, instead of dollar value, and the report is to reflect whether the amount is: 1) less than 100 shares; 2) at least 100 but less than 500; 3) at least 500 but less than 1000 shares; 4) at least 1000 but less than 5000; 5) at least 5000 but less than 10,000 shares; 6) 10,000 shares or more.²⁶

Real Property: The officer must report real property by reporting the street address, if available, or the number of lots or acres, as applicable, in each county, if the street address is not available,

²³ Tex. Loc. Gov. Code § 159.003(b); Tex. Gov. Code § 572.023(b)

²⁴ Tex. Gov. Code § 572.023(c) describes a blind trust as one to which the trustee is a disinterested party, is not the filer, is not required to register as a lobbyist, is not a public officer or public employee, was not appointed to an office or employment by the filer or a person the filer supervises, and the trustee has complete discretion to manage the trust and to dispose of and acquire assets without consulting or notifying the filer.

²⁵ Tex. Gov. Code § 572.022(a). See Appendix D.

²⁶ Tex. Gov. Code § 572.022(b). See Appendix D.

along with the name of the appropriate county, and the names of all persons retaining an interest in the property, other than severed mineral interests.²⁷

Duplicate Statements Not Required

If a person has filed a financial statement for the preceding calendar year, under one provision of Subchapter A, the person does not have to file another financial statement under the subchapter covering that same year if, before the filing deadline of the later required statement, the person notifies the county clerk in writing that he or she has previously filed a financial statement covering that year.²⁸ For example, if a county officer or justice of the peace files the required statement as an officer and then becomes a **candidate** for office, the officer may notify the county clerk that he or she has already filed a financial statement under this subchapter and is not required to file a second statement.

Records Maintenance and Access

Financial statements filed under this law are public information, and the county clerk must maintain the records in a manner accessible to the public during regular business hours. Each time a person requests to see a financial statement, excluding the county clerk or his or her employee acting on official business, the clerk shall note and maintain in the file a listing of the requesting person's name and address, who that person represents, and the date of the request, up to the first anniversary of the filing date of the statement. The county clerk may destroy each financial statement after the second anniversary of the date a person ceases to hold the office of be a candidate, and must do so if the former county officer or candidate so requests.²⁹

Notification

²⁷ Tex. Gov. Code § 572.022(c) .

²⁸ Tex. Loc. Gov. Code § 159.006

Not later than the 10th day after a filing deadline, the county clerk must notify the local prosecuting attorney whether a person required to file a financial statement did so timely and whether the person requested and received an extension to file on a later date.³⁰

Penalties

Criminal Penalty

A county officer or a candidate for the office, commits a Class B misdemeanor if he or she knowingly fails to file the required financial statement. It is a defense to prosecution that the county officer or candidate did not receive a copy of the form required to be provided by the county clerk.³¹ The offense may be prosecuted in the county or counties prescribed by the Code of Criminal Procedure.³²

Civil Penalty

Any person who determines that an individual required to file a financial statement under the law has failed to do so may notify the county attorney or criminal district attorney (or the district attorney if the person failing to properly file is the county attorney). Upon receipt of such notice, the appropriate prosecuting attorney will determine from available evidence whether the accused person has failed to properly file. Upon making that determination, the prosecuting attorney will promptly mail a notice of that determination, by certified mail, to the person responsible for filing the statement. If the notified person still fails to file the financial statement before the 30th day after receiving notice of the omission, then that person is civilly liable to the county in an amount not to exceed \$1000.³³ Venue for the recovery of civil penalties is in the county of the defendant's residence.

²⁹ Tex. Loc. Gov. Code § 159.007

³⁰ Loc. Gov. Code § 159.0071

³¹ Tex. Loc. Gov. Code § 159.008

³⁰ Tex. Loc. Gov. Code § 159.009

³³ Tex. Loc. Gov. Code § 159.010

Subchapter B

FINANCIAL DISCLOSURE BY OTHER COUNTY OFFICERS AND EMPLOYEES - COUNTIES WITH A POPULATION OF 125,000 OR MORE³⁴ -

Financial Disclosure Reporting System

The commissioners court of a county of 125,000 or more may adopt a reporting system for certain officers, candidates for those offices, and employees.³⁵ If the commissioners court adopts a financial disclosure reporting system, it shall also detail the items that are required to be reported, and the due date for filing the report.³⁶

The reporting requirement does not have to be applied across the board to all county employees. For example, the commissioners court may limit reporting to a specific group of county employees with similar jobs, as long as all employees in that group are required to report; i.e. the commissioners court could require all purchasing agents to report, while at the same time not requiring sanitation workers to report.³⁷

If the commissioners court requires a person to file, that person meets the requirement by filing a report that complies with Chapter 572, Texas Government Code, with the authority designated by the commissioners court.³⁸ (see Appendix D).

Who Must File:

Under Subchapter B of the Local Government Code “county officers,” “precinct officers,”³⁹ “county judicial officers,” and “county employees” **may** be required to file a financial disclosure statement.⁴⁰ Note that the definition of “county officer” here differs from the

³⁴ See Appendix B.

³⁵ Tex. Loc. Gov. Code § 159.033(a)

³⁶ Tex. Loc. Gov. Code § 159.033(b)

³⁷ Tex. Loc. Gov. Code § 159.033(c). The statute is silent on whether the county may exclude certain listed officers from the requirement to file. To date, no official opinion has been rendered on this matter.

³⁸ Tex. Loc. Gov. Code § 159.034(c)

³⁹ As discussed in of Subchapter A of the Handbook, justices of the peace in counties with a population of 125,000 or more must file disclosure statements in accordance with Subchapter A.

⁴⁰ Tex. Loc. Gov. Code § 159.033

definition of “county officer” provided in Subchapter A for counties of 100,000 or more. Also, the term “county judicial officer” has a different meaning here than that used in Subchapter C governing financial disclosure by county judicial officers. If the commissioners court adopts a reporting system, the following officers and candidates for those offices must file financial statements:

A sheriff, county tax assessor-collector, county clerk, district clerk, county treasurer, county auditor, county purchasing agent, constable, or a master, magistrate, or referee appointed by a justice of the peace.⁴¹ County personnel who are not county commissioners, county attorneys, or county judges may also be required to file.⁴²

Requirements for Filing and Maintenance of Records

The commissioners court may require the report to be filed with the clerk of the commissioners court, the county auditor, or any other county officer. Note that the commissioners court may require that the report be filed with the county clerk or other elected county officer, only with the consent of the county clerk or elected officer. The commissioners court may also contract with the office of the secretary of state for the filing of the reports.⁴³

With regard to maintaining the records, the commissioners court cannot require the reports to be maintained for more than one year and may require that the records be destroyed after a year.⁴⁴

Penalties

Criminal Penalty

A person who is required to file a report, and who knowingly fails to file, commits a Class B misdemeanor. It is a defense to prosecution that the person has filed the report and paid a civil penalty as described below.⁴⁵

⁴¹ Tex. Loc. Gov. Code § 159.032

⁴² Tex. Loc. Gov. Code § 159.032(4)

⁴³ Tex. Loc. Gov. Code § 159.034(a)

⁴⁴ Tex. Loc. Gov. Code § 159.034(b)

⁴⁵ Tex. Loc. Gov. Code § 159.036

Civil Penalty

A civil penalty of \$100 may be incurred if the report is late. Suit may be initiated to collect the penalty until the 10th day after the date a notice concerning the late report is mailed to the person. If the report is filed within this 10 day period and the penalty is paid, no civil suit may be initiated.⁴⁶

⁴⁶ Tex. Loc. Gov. Code § 159.035

Subchapter C

FINANCIAL DISCLOSURE BY COUNTY JUDICIAL OFFICERS

Subchapter C reporting requirements are applicable to all counties.

Definition of County Judicial Officer:

The disclosure requirements in Subchapter C apply to a judge of a **statutory** county court or **statutory** probate court and candidates for these offices.⁴⁷

Filing Deadlines for County Judicial Officers

General Rule: An elected county judicial officer must file the statement no later than April 30th each year.⁴⁸ An individual who is appointed, rather than elected, to county judicial office must file a financial statement no later than the 30th day after the appointment date or date of qualification for that office, whichever date is earlier.

Extensions: An officer required to file a financial statement under this subchapter, who opts to file with the Texas Ethics Commission, may request an extension of no more than 60 days from the commission to file his or her financial statement. The Ethics Commission must grant the request if it is received before the initial filing deadline, or if a timely filing or extension request is prevented because of physical or mental incapacity. The Ethics Commission cannot grant more than one extension to a person in one year, except upon a showing of good cause.⁴⁹ An officer who files with the county clerk may not request an extension of the filing deadline.

Filing Deadlines for Candidates For County Judicial Offices

General Rule: Whether partisan or independent, a candidate for a county judicial office covered by Subchapter C must file a financial statement no later than the 40th day after the regular filing

⁴⁷ Tex. Loc. Gov. Code §§ 159.051; 159.052

⁴⁸ Tex. Loc. Gov. Code §159.053(a); Tex. Gov. Code §572.026

⁴⁹ Tex. Loc. Gov. Code § 159.053(a); Tex. Gov. Code § 572.026(d)

⁴⁷ Tex. Loc. Gov. Code § 159.053(a); Tex. Gov. Code § 572.027(a)

deadline for applying for a place on the ballot in the general primary.⁵⁰ If the deadline under which a candidate files for a place on the ballot other than the regular filing deadline for an independent candidate, or files as a write-in candidate, falls after the date of the regular filing deadline for candidates in the general primary election, the candidate must file the required statement no later than on the 30th day after the later deadline. However, if that resultant deadline falls after the 35th day before the date of the election in which that candidate is running, then the statement is filed no later than the 5th day before that election date.⁵¹ An individual nominated to fill a vacancy as a nominated candidate for elective county judicial officer must file the financial statement no later than the 15th day after their certificate of nomination is filed.⁵²

No Extensions: Subchapter C does not authorize an extension of the filing deadline for a candidate regardless of the authority with whom the candidate chooses to file.

Where the Disclosure Statement Must Be Filed:

A statutory county court or probate court judge, and candidates for those offices, may file a financial statement with either the county clerk or the Texas Ethics Commission.⁵³ If a county judicial officer or a candidate for that office chooses to file the financial statement with the Texas Ethics Commission, he or she must also file a document with the county clerk stating that fact. The document must be filed by the original financial statement deadline.⁵⁴

Contents of Financial Statements In General

The financial statement must include a detailed account of the financial activity of the county officer or candidate, and an account of the financial activity of the person's spouse, and

⁵¹ Tex. Gov. Code § 572.027(b)

⁵² Tex. Gov. Code § 572.027(d). The chair of the executive committee making the replacement nomination must file the certification. Tex. Elec. Code § 145.037.

⁵³ Tex. Loc. Gov. Code § 159.052(a)

⁵¹ Tex. Loc. Gov. Code § 159.052(b)

⁵² Tex. Loc. Gov. Code § 159.052; Tex. Gov. Code § 572.023(a)

dependent children, if the person had actual control of that activity during the preceding calendar year. The statement must comply with Government Code §§ 572.022 and 572.023.⁵⁵ (See Appendix D for a sample of the form prescribed by the Ethics Commission to satisfy these sections.)

Forms

The county clerk must design a form to be used for the financial statement or require that a form designed by the Texas Ethics Commission be used.⁵⁶ The clerk must make copies of the forms available to all persons required to file statements by these deadlines: 1) before the 30th day before the financial statement filing deadline for current county judicial officers; 2) no later than the 15th day after the deadline for filing an application for a place on the ballot; 3) no later than the 7th day after the appointment date for persons appointed to office; and 4) no later than the 5th day after a certification of nomination is filed for any candidate nominated to fill a former candidate's vacated nomination.⁵⁷ While Subchapter C does not expressly require the county clerk to mail the forms to the filers, mailing is an advisable method of distribution.

Reportable Items

The statutes require the account of the financial activity to include the following items:

- 1) a list of all occupational income, with the employer identified, or if one is self-employed, then the income sources are identified by the nature of the occupation. That would include identifying any person, business entity or other organization from which the county officer or candidate received a fee or retainer in exchange for future services, in cases where those services were not actually performed during the reporting period in an amount equal to or greater than the amount of the actual fee, and the category of the amount of the fee. Such a retainer would be distinguished from an agreed-upon fee for a service specified at the time the contract is made or the fee received;

⁵⁶ Tex. Loc. Gov. Code § 159.054(a)

⁵⁷ Tex. Loc. Gov. Code §159.054(b); Tex. Gov. Code § 572.030(c)

- 2) identification by name and category, the number of shares of stock of any business entity held or bought and, if sold, the category of the amount of net gain or loss realized from such sale;
- 3) a list of all bonds, notes, and other commercial paper bought or held and, if sold, the category of the amount of net gain or loss realized in that sale;
- 4) identification of each source and category of the amount of income of more than \$500 per source derived from interest, dividends, royalties and rents;
- 5) identification of each person or financial institution to whom a personal note or notes totaling a financial liability of more than \$1000 existed at any time during that year, and the category of the amount of liability;
- 6) identification by description of all beneficial interests in real property and business entities held or acquired and, if sold, the category of the amount of any net gain or loss realized from that sale;
- 7) identification of any person, business entity, or other organization from which the person, their spouse or dependent children received a gift of money⁵⁸ or property over \$250 in value, or a series of gifts of money or property from the same source which totals more than \$250 in value, and a description of each gift, except gifts from relatives within the 2nd degree consanguinity or affinity and campaign contributions otherwise legally reported. It should be noted that a county official may be required to report some gifts of food, lodging, transportation or entertainment, under this law and ethics requirements, in order to satisfy Penal Code, Sec. 36.02;
- 8) identification of the source and category of the amount of all income received as beneficiary of a trust, other than a blind trust described in Government Code 572.023(c) and identification of each trust asset from which the beneficiary received income of more than \$500, if known by the beneficiary;

⁵⁸ SB 129 adopted during the 80th Legislative Regular Session amended Tex. Gov. Code § 572.022 to require the description of a gift of cash or cash equivalent to include the value of the gift.

- 9) identification by description and category of the amount of all assets and liabilities of any corporation, firm, partnership, or association⁵⁹ in which 50% or more of the outstanding stock was held, acquired or sold;
- 10) a list of all boards of directors of which the person is a member, and any executive positions held in corporations, firms, partnerships, and proprietorships by the person, stating the position held, and the name of each corporation, firm, partnership or proprietorship;
- 11) identification of any person providing transportation, meals, or lodging expenses permitted under Section 36.07(b), Texas Penal Code, (the code “does not prohibit a public servant from
- 12) accepting transportation and lodging expenses in connection with a conference or similar event in which the public servant renders services, such as addressing an audience or engaging in a seminar, to the extent that those services are more than merely perfunctory, or from accepting meals in connection with such an event”), and the amount of those expenses, other than expenditures required to be reported under Government Code Chapter 305 (Registration of Lobbyists);
- 13) any partnership, joint venture, or other business association, excluding a publicly-held corporation, in which both the county officer and a person registered under Chapter 305 have an interest;⁶⁰
- 14) identification by name and the category of the number of shares of any mutual fund held or acquired, and if sold, the category of the amount of net gain or loss realized from the sale; and
- 15) identification of each blind trust that complies with subsection (c), including the category of the fair market value of the trust, date of creation, name and address of trustee, and a statement signed by the trustee under penalty of perjury that the trustee has not revealed certain information to the filer.⁶¹

⁵⁹ 572.023 (b) (9), (10), and (12) list the following entities: corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other business association.

⁶⁰ Tex. Loc. Gov. Code § 159.052(b); Tex. Gov. Code §572.023(b)

⁶¹ 572.023(c) describes a blind trust as one to which the trustee is a disinterest party, is not the filer, is not required to register as a lobbyist, is not a public officer or public employee, was not appointed to an office or employment by

Degree of Detail Required for Reportable Items

Categories of Value: The statute directs that certain items are to be listed in “categories” of amounts rather than actual dollar amounts. The statute establishes the categories to be used.⁶²

Amounts of Stock: Similarly, the law requires that amounts of stock must be reported by category of number of shares, instead of dollar value, and the report is to reflect whether the amount is: 1) less than 100 shares; 2) at least 100 but less than 500; 3) at least 500 but less than 1000 shares; 4) at least 1000 but less than 5000; 5) at least 5000 but less than 10,000 shares; 6) 10,000 shares or more.⁶³

Real Property: The officer must report real property by reporting the street address, if available, or the number of lots or acres, as applicable, in each county, along with the name of the appropriate county, if the street address is not available, and the names of all persons retaining an interest in the property, other than severed mineral interests.⁶⁴

Timeliness of Filing

The deadline for filing is 5 p.m. of the deadline day.⁶⁵ See the discussion under Subchapter A “Timeliness of Filing” (page 4) for the extension of a deadline that falls on a weekend or holiday and the discussion of the “mailbox rule.”

Records Maintenance and Access

Financial statements filed under Subchapter C are public information and the county clerk or Ethics Commission must maintain the records in a manner accessible to the public during regular

the filer or a person the filer supervises, and the trustee discretion to manage the trust and to dispose of and acquire assets without consulting or notifying the filer.

⁶² Tex. Gov. Code § 572.022(a). See Appendix D.

⁶³ Tex. Gov. Code § 572.022(b). See Appendix D.

⁶⁴ Tex. Gov. Code § 572.022(c) Street address information is required on a statement required to be filed on or after January 1, 2005.

⁶⁵ Tex. Loc. Gov. Code § 159.053(b); Tex. Gov. Code § 572.029

business hours.⁶⁶ Until the first anniversary of the filing date of the statement, each time a person requests to see a financial statement, excluding the county clerk, the clerk's employees acting on official business, or commission employees, the clerk shall note and maintain in the file a listing of the requesting person's name and address, who that person represents, and the date of the request.⁶⁷

The county clerk or Ethics Commission may destroy each financial statement filed by a county judicial officer after the second anniversary date the person ceases to hold office, and must destroy the document if the second anniversary has lapsed and the former county judicial officers so requests.⁶⁸

Upon written request of a county judicial officer or candidate, the county clerk or the Ethics Commission shall remove the names of the dependent children of the officer or candidate from the financial statement before that statement is made available to the public.⁶⁹ This unique provision is intended to help prevent any harassment or retaliation by certain individuals against members of a judge's family because of a judge's decision in a given case or legal action.

Penalties

Criminal Penalty

A county judicial officer, or candidate for that office commits a Class B misdemeanor if the person knowingly fails to file the required financial statement.⁷⁰ Unlike Subchapters A and B of Chapter 159, Subchapter C does not contain any express defenses to prosecution.

Civil Penalty

⁶⁶ Tex. Loc. Gov. Code § 159.055(a); Tex. Gov. Code § 572.032(a)

⁶⁷ Tex. Loc. Gov. Code § 159.055(c); Tex. Gov. Code § 572.032(b)

⁶⁸ Tex. Loc. Gov. Code § 159.055(d); Tex. Gov. Code § 572.032(c)

⁶⁹ Tex. Loc. Gov. Code § 159.055(b)

⁷⁰ Loc. Gov. Code § 159.056

No civil penalty is provided in Subchapter C for a late filing with the county clerk. However, a person who chooses to file with the Ethics Commission and who fails to file timely is subject to civil penalties by the commission.⁷¹

Venue for an offense within the Ethics Commission's jurisdiction is in Travis County as well as any other county in which it may be prosecuted.⁷²

APPENDIX A

CHAPTER 159, TEX. LOC. GOV. CODE

⁷¹ Tex. Gov. Code § 572.033

⁷² Tex. Gov. Code § 572.008

§ 159.001. Applicability of Subchapter

This subchapter applies only to:

- (1) a county officer or candidate for a county office of a county with a population of 100,000 or more; or
- (2) a justice of the peace or a candidate for the office of justice of the peace of a county with a population of 125,000 or more.

§ 159.002. Definition

In this subchapter, "county officer" means a county judge, county commissioner, or county attorney.

§ 159.003. Financial Statement Required

(a) A county officer, candidate for a county office, justice of the peace, or candidate for the office of justice of the peace shall file a financial statement as required by this subchapter.

(b) The statement must:

- (1) be filed with the county clerk of the county in which the officer, justice, or candidate resides; and
- (2) comply with [Sections 572.022](#) and [572.023, Government Code](#).

§ 159.004. Filing Dates; Timeliness of Filing

(a) A county officer or justice of the peace shall file the financial statement required by this subchapter within the time prescribed by [Section 572.026, Government Code](#). A candidate for office as a county officer or justice of the peace shall file the financial statement required by this subchapter within the time prescribed by [Section 572.027, Government Code](#).

(b) The timeliness of the filing is governed by [Section 572.029, Government Code](#).

(c) A county officer or justice of the peace may request the county clerk to grant an extension of time of not more than 60 days for filing the statement. The county clerk shall grant the request if it is received before the filing deadline or if a timely filing or request for extension is prevented because of physical or mental incapacity. The county clerk may not grant more than one extension to a person in one year except for good cause shown.

(d) The county clerk may not grant an extension to a candidate for office as a county officer or justice of the peace.

§ 159.005. Preparation of Forms

(a) The county clerk may:

- (1) design a form to be used for filing the financial statement required by this subchapter; or
- (2) require that a form designed by the Texas Ethics Commission under Chapter 572, Government Code, be used for filing the financial statement.

(b) The county clerk shall mail two copies of the form to each person required to file under this subchapter within the time prescribed by [Section 572.030\(c\), Government Code](#).

§ 159.006. Duplicate Statements

If a person has filed a financial statement under one provision of this subchapter covering the preceding calendar year, the person is not required to file a financial statement required under another provision of this subchapter to cover that same year if, before the deadline for filing the statement under the other provision, the person notifies the county clerk in writing that the person has already filed a financial statement under this subchapter to cover that year.

§ 159.007. Public Access to Statements

(a) Financial statements filed under this subchapter are public records. The county clerk shall maintain the statements in separate alphabetical files and in a manner that is accessible to the public during regular office hours.

(b) During the one-year period following the date of filing of a financial statement, each time a person, other than the county clerk or an employee of the county clerk who is acting on official business, requests to see the financial statement, the county clerk shall place in the file a statement of the person's name and address, whom the person represents, and the date of the request. The county clerk shall retain that statement in the file for one year after the date the requested financial statement is filed.

(c) The county clerk may, and on notification from a former county officer, justice of the peace, or candidate shall, destroy any financial statements filed by the officer, justice, or candidate two years after the date the person ceases to be an officer, justice, or candidate, as applicable.

§ 159.0071. Notification to Prosecuting Attorney

The county clerk of each county in which a person is required to file a financial statement under this chapter shall maintain a list of the county officers, candidates for county office, justices of the peace, and candidates for the office of justice of the peace required to file the financial statement. Not later than the 10th day after each applicable filing deadline, the county clerk shall provide to the county attorney or criminal district attorney a copy of the list showing for each county officer, candidate for county office, justice of the peace, and candidate for justice of the peace:

- (1) whether the officer, justice, or candidate timely filed a financial statement as required by this subchapter;
- (2) whether the officer, justice, or candidate timely requested and was granted an extension of time to file as provided for by [Section 159.004](#) and the new due date for each such officer, justice, or candidate; or
- (3) whether the officer, justice, or candidate did not timely file a financial statement or receive an extension of time.

§ 159.008. Criminal Penalty

(a) A county officer, candidate for county office, justice of the peace, or candidate for the office of justice of the peace commits an offense if the officer, justice, or candidate knowingly fails to file a financial statement as required by this subchapter.

(b) An offense under this section is a Class B misdemeanor.

(c) It is a defense to prosecution under this section that the officer, justice, or candidate did not receive copies of the financial statement form required to be mailed to the officer, justice, or candidate by this subchapter.

§ 159.009. Venue

An offense under this subchapter, including perjury, may be prosecuted in any county in which it may be prosecuted under the Code of Criminal Procedure.

§ 159.010. Civil Penalty

(a) A person who determines that a person required to file a financial statement under this subchapter has failed to do so may notify in writing:

- (1) the county attorney or criminal district attorney; or

(2) the district attorney, if the person required to file the statement is the county attorney.

(b) On receipt of a written notice under Subsection (a), the county attorney, district attorney, or criminal district attorney shall determine from any available evidence whether the person to whom the notice relates has failed to file a statement. On making that determination, the county attorney, district attorney, or criminal district attorney shall immediately mail by certified mail a notice of the determination to the person responsible for filing the statement.

(c) If the person responsible for filing the statement fails to file the statement before the 30th day after the person receives the notice under Subsection (b), the person is civilly liable to the county for an amount not to exceed \$1,000.

(d) A penalty paid under this section shall be deposited to the credit of the general fund of the county.

(e) This section is cumulative of any other available sanctions for late filings of statements.

Subchapter B. Financial Disclosure by Other County Officers and Employees

§ 159.031. County Covered by Subchapter

This subchapter applies only to a county with a population of 125,000 or more.

§ 159.032. Definitions

In this subchapter:

(1) "County officer" means a sheriff, county tax assessor-collector, county clerk, district clerk, county treasurer, county auditor, or county purchasing agent. The term does not include a county officer as defined by [Section 159.002](#).

(2) "Precinct officer" means a constable.

(3) "County judicial officer" means a justice of the peace or a master, magistrate, or referee appointed by a justice of the peace.

(4) "County employee" does not include a person covered by Subdivision (1), (2), or (3).

§ 159.033. Financial Disclosure Reporting System

(a) The commissioners court of the county may adopt by order a financial disclosure reporting system for county officers, precinct officers, county judicial officers, candidates for those offices, and county employees.

(b) The commissioners court shall prescribe the items required to be reported and the times the report is due.

(c) If reporting is required, the commissioners court may restrict the reporting requirement to a limited part of county employees if all employees with similar jobs are required to report.

§ 159.034. Filing Requirement

(a) The commissioners court may require the report to be filed with the clerk of the commissioners court, the county auditor, or any other county officer. However, the commissioners court may require the report to be filed with the county clerk or other elected county officer only if the county clerk or elected county officer consents to the imposition of that duty. The commissioners court may contract with the secretary of state for the filing of reports under this subchapter.

(b) The commissioners court may not require records filed under this subchapter to be maintained for more than one year and may require the authority with whom the records are filed to destroy the records after one year.

(c) A person required by order of the commissioners court to file a report under this subchapter is considered to have complied with the order if the person files with the authority prescribed by the commissioners court a report that complies with the requirements of Chapter 572, Government Code.

§ 159.035. Civil Penalty

(a) If a report is determined to be late, the person responsible for filing the report is civilly liable to the county for \$100. The county attorney or the district or criminal district attorney with civil jurisdiction may not initiate suit for the penalty until the 10th day after the date a notice concerning the late report is mailed to the person. If the report is filed and the penalty is paid before the 10th day after the date of the mailing, the authority with whom the report is filed shall notify the county attorney or the district or criminal district attorney, and the civil suit under this section may not be initiated.

(b) A penalty paid under this section shall be deposited to the credit of the general fund of the county.

§ 159.036. Criminal Penalty

(a) An officer, candidate, or employee required to file a report by an order adopted under this subchapter commits an offense if the person knowingly fails to file the report as required by the order.

(b) An offense under this section is a Class B misdemeanor.

(c) It is a defense to prosecution under this section that the person has filed the required report and paid a civil penalty as provided by this subchapter.

Subchapter C. Financial Disclosure by County Judicial Officers

§ 159.051. Definitions

In this subchapter:

(1) "Commission" means the Texas Ethics Commission.

(2) "County judicial officer" means the judge of a statutory county court or statutory probate court.

§ 159.052. Filing Requirement

(a) A county judicial officer or a candidate for office as a county judicial officer shall file with the county clerk or the commission a financial statement that complies with [Sections 572.022](#) and [572.023, Government Code](#).

(b) A county judicial officer or candidate who files a financial statement with the commission shall file with the county clerk a document stating that the officer or candidate is filing the financial statement with the commission. The document must be filed by the deadline for filing the financial statement.

§ 159.053. Filing Dates; Timeliness of Filing

(a) A county judicial officer shall file the financial statement required by this subchapter within the time prescribed by [Section 572.026, Government Code](#). A candidate for office as a county judicial officer shall file the financial statement required by this subchapter within the time prescribed by [Section 572.027, Government Code](#).

(b) The timeliness of the filing is governed by [Section 572.029, Government Code](#).

§ 159.054. Preparation of Forms

(a) The county clerk may:

(1) design a form to be used for filing the financial statement required by this subchapter; or

(2) require that a form designed by the commission under Chapter 572, Government Code, be used for filing the financial statement.

(b) The county clerk shall make copies of the form available to each person required to file under this subchapter within the time prescribed by [Section 572.030\(c\), Government Code](#).

§ 159.055. Public Access to Statements

(a) Except as provided by Subsection (b), a financial statement filed under this subchapter or a document filed under [Section 159.052\(b\)](#) is a public record. The county clerk or the commission shall maintain the financial statements or documents in a manner that is accessible to the public during regular business hours.

(b) On the written request of a county judicial officer or candidate, the county clerk or the commission shall remove the names of the officer's or candidate's dependent children from the officer's or candidate's financial statement before the statement is made available to a member of the public.

(c) Until the first anniversary of the date a financial statement is filed, each time a person requests to see the financial statement, excluding the county clerk or an employee of the county clerk or the commission, acting on official business, the county clerk or the commission shall place in the file a statement of the person's name and address, whom the person represents, and the date of the request. The county clerk or the commission shall maintain that statement in the file until the first anniversary of the date the financial statement is filed.

(d) After the second anniversary of the date a person ceases to be a county judicial officer, the county clerk or the commission may and on notification from the former officer shall destroy each financial statement filed by the officer.

§ 159.056. Failure to File; Criminal Penalty

(a) A person commits an offense if the person:

(1) is a county judicial officer or a candidate for office as a county judicial officer; and

(2) knowingly fails to file a financial statement as required by this subchapter.

(b) An offense under this section is a Class B misdemeanor.

APPENDIX B

TEXAS COUNTIES HAVING POPULATION OF 100,000 OR MORE

U. S. Census Bureau Data

TEXAS COUNTIES HAVING POPULATION OF 100,000 OR MORE

2000 US CENSUS DATA

County	Population
Bell	237,974
Bexar	1,392,931
Brazoria	241,767
Brazos	152,415
Cameron	335,227
Collin	491,675
Dallas	2,218,899
Denton	432,976
Ector	121,123
El Paso	679,622
Ellis	111,360
Fort Bend	354,452
Galveston	250,158
Grayson	110,595
Gregg	111,379
Harris	3,400,578
Hidalgo	569,463
Jefferson	252,051
Johnson	126,811
Lubbock	242,628
McLennan	213,517
Midland	116,009
Montgomery	293,768
Nueces	313,645
Potter	113,546
Randall	104,312
Smith	174,706
Tarrant	1,446,219
Taylor	126,555
Tom Green	104,010
Travis	812,280
Webb	193,117
Wichita	131,664
Williamson	249,967

APPENDIX C

§§662.021 AND 662.003, TEX. GOV. CODE

SUBCHAPTER B LEGAL HOLIDAYS

§ 662.021. Dates of Holidays

A legal holiday includes only the following days:

- (1) a national holiday under [Section 662.003\(a\)](#); and
- (2) a state holiday under [Sections 662.003\(b\)\(1\)](#) through [\(6\)](#).

§ 662.003. Dates and Descriptions of Holidays

(a) A national holiday includes only the following days:

- (1) the first day of January, "New Year's Day";
- (2) the third Monday in January, "Martin Luther King, Jr., Day" in observance of the birthday of Dr. Martin Luther King, Jr.;
- (3) the third Monday in February, "Presidents' Day";
- (4) the last Monday in May, "Memorial Day";
- (5) the fourth day of July, "Independence Day";
- (6) the first Monday in September, "Labor Day";
- (7) the 11th day of November, "Veterans Day," dedicated to the cause of world peace and to honoring the veterans of all wars in which Texans and other Americans have fought;
- (8) the fourth Thursday in November, "Thanksgiving Day"; and
- (9) the 25th day of December, "Christmas Day."

(b) A state holiday includes only the following days:

- (1) the 19th day of January, "Confederate Heroes Day," in honor of Jefferson Davis, Robert E. Lee, and other Confederate heroes;
- (2) the second day of March, "Texas Independence Day";
- (3) the 21st day of April, "San Jacinto Day";
- (4) the 19th day of June, "Emancipation Day in Texas," in honor of the emancipation of the slaves in Texas in 1865;
- (5) the 27th day of August, "Lyndon Baines Johnson Day," in observance of the birthday of Lyndon Baines Johnson;
- (6) the Friday after Thanksgiving Day;
- (7) the 24th day of December; and
- (8) the 26th day of December.

(c) An "optional holiday" includes only the days on which Rosh Hashanah, Yom Kippur, or Good Friday falls.

APPENDIX D

TEXAS ETHICS COMMISSION FORMS & INSTRUCTION GUIDE