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FISCAL IMPACT REPORT

ORIGINAL DATE 02/16/09

SPONSOR Lopez LAST UPDATED _____ HB _____

SHORT TITLE State Ethics Commissions Act SB 557

ANALYST Wilson

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	\$100.0	Recurring	The Legislative Ethics Commission
	\$100.0	Recurring	Executive Ethics Commission
	\$100.0	Recurring	Public Officer Ethics Commission

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		See Below			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 99, HB 151, HB 244, HB 252, HB 253, HB 272, HB 495, HB 535, HB 553, HB 614, HB 686, SB 49, SB 94, SB 116, SB 128, SB 139, SB 140, SB 163, SB 258, SB 262, SB 263, SB 269, SB 296, SB 346, SB 521, SB 535 & SB 555

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Corrections Department (CD)

Higher Education Department (HED)

Secretary of State (SOS)

SUMMARY

Synopsis of Bill

Senate Bill 557 appropriates \$300,000 from the general fund to the Legislative Ethics Commission (LEC), the Executive Ethics Commission (EEC) and the Public Officer Ethics Commission (POEC) for the purpose of carrying out the provisions of the State Ethics Commissions Act

SB 557 establishes the State Ethics Commissions act and creates the LEC, EEC and the POEC as adjunct agencies. The bill defines the membership, terms, powers and duties of the commissions. The commissions are required to receive and investigate complaints against public officers, state officials, state employees, government contractors and lobbyists alleging ethics violations, report its findings and maintain public records as required pursuant to the Act.

The commissions are also required to publish an ethics guide to clearly and plainly explain ethics requirements in state laws and a business ethics guide relating to conducting business with the State. The commissions must provide annual ethics training to all public officers, state officials, state employees, government contractors and lobbyists. In addition, the commissions will be required to promulgate rules necessary to implement and administer the Act. The commissions are also given the authority to subpoena information and witnesses needed to conduct investigations, recommend disciplinary action for ethics violations, issue advisory opinions and contract for the provision of goods and services.

SB 557 provides that if a commission finds conduct that may amount to a criminal violation of state law, the commission is required to immediately refer the matter to the Attorney General or a district attorney.

The bill prohibits a complaint from being filed later than 3 years after an alleged ethics violation was committed.

SB 557 prohibits retaliatory, disciplinary or other adverse action against a person who in good faith files a complaint or provides testimony or information to a commission.

The bill requires each commission to appoint 2 members to serve on an ethics commission task force to review and make recommendations on the appropriate oversight body for judiciary employees, district attorneys and the staff of district attorneys.

SB 557 contains a sunset provision providing that effective July 1, 2012, the State Ethics Commission Act is repealed.

The Act applies to a state official, state employee, government contractor or lobbyist who commits an ethics violation on or after July 1, 2009.

The effective date of the Act is July 1, 2009.

FISCAL IMPLICATIONS

The appropriation of \$300,000 contained in this bill is a recurring expense to the General Fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2010 shall revert to the general fund.

The appropriations in this bill are for expenditure in FY 2010 and are as follows:

- \$100,000 to the Legislative Ethics Commission
- \$100,000 to the Executive Ethics Commission
- \$100,000 to the Public Officer Ethics Commission

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary will be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

According to the December 2008 revenue estimate, FY recurring revenue will only support a base expenditure level that is \$293 million or 2.6 percent, less than the FY09 appropriation. All appropriations outside of the general appropriation act will be viewed in this declining venue context.

SIGNIFICANT ISSUES

The AOC noted that Section 2.K. excludes judges and justices from the definition of “state employee”. Section 2.L. defines “state official” to mean a person elected or appointed to an office of the executive or legislative branch of the state, but does not include a “public officer,” defined as specific elected state government officials. It appears that SB 557 cannot be construed to apply to judges and justices.

CD states that the bill will allow public officers or employees to engaging in official acts directly affecting his or her financial interest if the financial interest involves a benefit that is not more than the benefit to the general public. How if the officer or employee going to assess or determine the benefit to the general public? This portion of the bill is so vague that it is likely to allow these officers and employees to always assess or determine the benefit to the general public in a self-serving fashion.

ADMINISTRATIVE IMPLICATIONS

Each commission shall hire an executive director. The executive director of each commission shall hire a general counsel for the commission and all other personnel as may be necessary to carry out the responsibilities of the commission.

RELATIONSHIP

SB relates to other ethics bills as follows:

HB 99, Prohibit Former Legislators as Lobbyists
HB 151, State Ethics Commission Act
HB 244, Prohibit Contractor Contribution Solicitation
HB 252, Political Contributions to Candidates
HB 253, Quarterly Filing of Certain Campaign Reports
HB 272, Quarterly Campaign Report Filing
HB 495, Political Candidate & Committee Donations
HB 535, Lobbyist Identification Badges
HB 553, Disclosure of Lobbyist Expenses
HB 614, State Ethics Commission Act
HB 686, AG Prosecution of State Officer Crimes
SB 49, Governmental Conduct Act For Public Officers
SB 94, Prohibit Former Legislators as Lobbyists
SB 116, Limit Contributions to Candidates & PACs
SB 128, Require Biannual Campaign Reports
SB 139, State Ethics Commission Act
SB 140, State Ethics Commission Act
SB 163, Prohibit Former Legislators as Lobbyists
SB 258, Contribution from State Contractors
SB 262, Political Contributions to Candidates
SB 263, Contractor Disclosure of Contributions
SB 269, State Bipartisan Ethics Commission Act
SB 296, State Contractor Contribution Disclosure
SB 346, Political Contributions to Candidates
SB 521, Campaign Contributions in Certain Elections
SB 535, Election Definition of Political Committee
SB 555, Public Employee & Officer Conduct

DW/svb