

LOBBY WATCH



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The Tooth Fairy:

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Ethics Commission's Teeth in Perry's Hands

**Without a veto, Elections Code compliance will be voluntary.
Even the author of this train wreck denounces it.**

The *Austin American-Statesman* reported at the end of the regular session that La Porte Senator Mike Jackson added language to an ethics bill to effectively kick in the teeth of the Texas Ethics Commission.¹

Jackson's amendment to House Bill 1616 orders the Ethics Commission to dismiss any Election Code complaint if the defendant claims that the violation was a good-faith boo boo and he or she corrects the error within two weeks of the complaint.

Jackson told the *Statesman* that "Members have been talking about this the whole session" to prevent people from being "fined for what amounted to administrative or clerical errors." Yet those legislative discussions did not occur in public hearings and nothing in Jackson's amendment restricts it to clerical errors.

Advised by the Ethics Commission that his legislation grants "Get out of jail free" cards to the Election Code's worst offenders, Jackson urged Governor Rick Perry to veto his own handiwork. Governor Perry, who has not

publicly signaled his intent, must veto the bill by Sunday or the Ethics Commission is defanged.

To see who might benefit from such shenanigans, *Lobby Watch* requested a list of the largest complaint-driven fines issued by the Ethics Commission. Three of the Commission's top fines involved Government Code allegations, which would not be affected by Jackson's amendment. Sixteen other top offenders, however, were fined a total of \$221,700 for Election Code violations. Had the Jackson amendment been in place, these offenders could have walked away by claiming that they made a good-faith error and by correcting that mistake within two weeks.

The Commission fined its worst Election Code violator, Harris County Commissioner Jerry Eversole, \$75,000. His campaign wrote \$126,812 in "public relations" checks. Those checks oddly went to restaurants, hotels, entertainment venues and to stores selling clothing, sporting goods, health products and jewelry. Eversole's whole shopping spree would be subject to Jackson's "Oops! defense."

Top Complaint-Driven Fines Meted Out By the Ethics Commission

Fine Amount	Defendant	Fine Date	Alleged Offense
\$100,000	Sharon Keller	4/28/10	Not an Election Code Violation.
\$75,000	Gerald Eversole	6/9/09	Converting >\$100,000 in campaign funds to personal use.
\$29,000	Nathan Hecht	12/4/08	Taking an in-kind donation 89X larger than judicial limits allow.
\$17,300	Craig Estes	4/3/08	Numerous disclosure and reimbursement violations.
\$10,600	Rob Eissler	2/12/08	Using campaign funds to pay a spouse and for a condo.
\$10,000	Jay Aiyer	3/23/06	Illegally repaying himself a \$5,000 loan; Improper reporting.
\$10,000	Toby Goodman	2/12/08	Paying mortgage on wife's condo with campaign funds.
\$10,000	Texas Jobs PAC	12/7/10	Not an Election Code Violation.
\$9,500	Garnet Coleman	10/13/08	Failure to itemize \$105,577 in expenditures.
\$8,600	Mario Gallegos	6/28/07	Disclosure violations too numerous to mention here.
\$8,500	Ed Kuempel	6/29/07	Failure to itemize \$80,800 in credit card expenditures.
\$7,400	Dan Patrick	12/11/07	Failure to itemize \$73,500 in campaign expenditures.
\$7,000	Jerry Patterson	6/10/08	Failure to itemize \$66,452 in credit card expenditures.
\$6,400	Carl Isett	10/13/08	Spending \$64,696 in campaign funds to benefit spouse.
\$6,400	Buddy West	10/26/07	Not itemizing \$58,010 in credit spending; pocketing \$3,500.
\$6,015	Melinda Wheatley	6/28/07	Not an Election Code Violation.
\$5,700	Suzanna Hupp	10/26/07	Failure to itemize \$9,800 in credit card expenditures.
\$5,300	Vicki Truitt	10/26/07	Failure to itemize \$33,500 in credit card expenditures.
\$5,000	Ricardo Flores	6/9/10	Illegally taking corp. funds; improperly reporting \$78,000.
\$337,715	TOTAL		

Many of the complaints listed above would not have been filed had the Jackson amendment been in force. Few whistleblowers will act if defendants enjoy an absolute "Oops! defense." Jackson's amendment also allows bad actors to cover up ethics violations because it effectively makes ethics compliance voluntary.

The Ethics Commission fined many politicians on the accompanying list for using campaign funds to pay credit-card bills, for example, without itemizing the underlying goods or services. This prohibited practice opens the door to politicians converting campaign funds to personal use. The politicians above got caught because they reported unitemized credit card expenditures in the first place. With the Jackson amendment, the worst offenders would be tempted to not even disclose *unitemized* credit card-expenditures. Under Jackson's amendment, only chumps will report embarrassing details *before* they're caught.

Any legislature defanging of the Texas Ethics Commission is patently self-serving. The 16 Election Code violators listed above include three current members of the Senate and two sitting House members. Many other lawmakers have received lesser ethics fines. Indeed, the Ethics Commission fined [Senator Jackson](#) \$100 in 2008 and ordered him to reimburse his campaign \$236.51 for dry cleaning expenses.

Lawmakers overwhelmingly approved Jackson's last-minute amendment to knock out the Ethics Commission's teeth. The amendment unanimously passed the Senate (with Senators Craig Estes and Steve Ogden absent). In the House, just four members voted against the Senate's amendments to HB 1616 (Reps. Rafael Anchia, Stefani Carter, Mark Strama and Van Taylor). Sometimes it's the worst bills that garner the most legislative support. •

¹ "Ethics Loophole Spurs Senator To Seek Veto," *Austin American-Statesman*, June 3, 2011.