



HB 2301 and SB 1368:
El Paso County Ethics Commission Legislation

Testimony of Anna Perez, El Paso County Commissioner, Pct. No. 1
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Good afternoon. My name is Anna Perez and I serve as County Commissioner for Precinct 1 of El Paso County, recently taking office on January 1, 2009. I am a former state prosecutor for the 34th Judicial District of Texas and I am the former Chief of the Litigation Unit in the El Paso County Attorney's office where I represented El Paso County in civil legal matters before state and federal courts. I am here in support of HB 2301/SB 1368. This initiative is the appropriate remedy to the recent failure of elected and appointed El Paso County officials to uphold the public trust.

Background

In June 2007, the El Paso County Judge's chief of staff pleaded guilty to four federal counts of corruption. In July 2007, a former County commissioner pleaded guilty to six federal counts of corruption. The admission by these individuals of having engaged in corrupt conduct tainted the integrity of dozens of public decisions affecting the constituent's tax dollar. The factual information

behind these incidences demonstrated that County governmental operations were degraded in efficiency and accountability. Public investment into capital projects were diverted to where bribes and kickbacks were easily attainable without public awareness.

As is seen where public corruption exists, El Paso County has suffered the consequences. The guilty pleas have undermined economic development by generating considerable distortions in the playing field of doing business with the County. It became evident that business people gained access to County officials by unconventional means – those that did not utilize these methods suffered the disadvantages. The pleas highlighted the inefficient processes and practices that were in place and which allowed the corruption to occur. Compliance with construction, environmental, or other regulations in the public works projects implicated in the guilty pleas is now suspect. And worst of all, all confidence that may have existed in the operation of El Paso County government was ruined and the expectation of the citizenry of honest representation in County policymaking has collapsed.

The terminology used in the federal charging instruments said it all – these individuals devised schemes to defraud El Paso County and deprive the citizens of

their honest services in the affairs of the County. What has occurred in El Paso County has undermined the legitimacy of government and such democratic values as trust and tolerance.

Current Anti-Corruption Efforts of El Paso County

And this occurred despite available efforts to ensure honest government. El Paso County utilizes standard employment disciplinary practices of reprimands, suspensions, demotions and terminations, and for covered employees, uses a civil service system providing due process. As many other communities, El Paso County utilizes a lobbyist registration and reporting system. But not all active lobbyists are registered or regularly report their activity, nor do all County officials encourage it. The County implemented an Ethics Code providing guidelines for the appropriate manner to conduct business. It appointed a body of citizens to serve as an Ethics Board where elected officials and department heads, lobbyists and vendors, employees and county volunteers alike would voluntarily abide by the Ethics Code and submit themselves to the scrutiny of the Ethics Board. And there has been consistent public scrutiny – constituents have spoken out, media has reported on questionable conduct, and public censure of individuals by the Ethics Board has made headline news.

The risk of continued misconduct exists. In fact at one point, certain elected naysayers critical of this voluntary system publicly encouraged dismantling the system permanently.

Need for Legislation

Currently, Texas county governments cannot legally enact ethics codes that can be enforced with sanctions, civil or criminal. This legislation would provide this tool. A mandated ethics code will provide the necessary guidelines for conducting business, avoiding transgressions which would otherwise go undetected or unenforceable by conventional law enforcement methods. Under current laws, receipt of expensive gifts, promises of employment, and random large political contributions are difficult to tie to promises of official action. By sanctioning such things which tempt County officials and employees, the enticement would be avoided and the integrity of County government operation would be restored.

As previously noted, unscrupulous methods of conducting the work of public entities have their consequences. Corruption lowers investment and retards economic growth. Businesses interpret requests for bribes and other valuable inducements as a tax, and combined with the need for secrecy and uncertainty that

the bribe-taker will fulfill his part of the agreement, incentive to do business with government is diminished.

Funds used to support valuable programs and projects are diverted, or used in unproductive and wasteful manner. For example, El Paso County has initiated litigation to recoup significant losses believed to have been caused by a property transaction induced by corruption. This transaction was the subject of a federal conspiracy charge where a former county commissioner admitted to have received a bribe to facilitate the transaction.

The allocation of public procurement contracts through a corrupt system may lead to lower quality of infrastructure and public services. Less qualified or even unqualified individuals who clearly would be unable to provide the services are nonetheless awarded the contracts to the inevitable detriment of the project.

It may distort the composition of government expenditure in that it tempts government officials to choose government expenditures less on the basis of public welfare than on the opportunity they provide for extorting bribes. For example, one might expect that it is easier to collect substantial bribes or receive kickbacks on

large infrastructure projects or high-technology systems than on employee salaries or smaller needed capital projects.

Support of HB 2301 and SB 1368

Today El Paso County will have a new opportunity to combat the conditions that have allowed what has occurred. El Paso County Commissioners and members of the County Ethics Board unanimously support this legislation. By pursuing this legislation, we are able to demonstrate to El Paso County constituents that there will exist a means to hold their elected county officials accountable to them. El Paso County elected officials, department heads, employees and all doing business with El Paso County must live up to a standard like no other in the state – fulfilled by the passing of this legislation. We will convert ourselves from being an example of government's worst to becoming a leader in what government should be. We must make steady progress toward change and this is a definite beginning for El Paso County to recover from its recent blows. This legislation will provide enough regulatory common sense so that County leaders can flourish in an ethical culture and will strengthen the public's confidence that El Paso County conducts its business with impartiality and integrity.

Thank you for your time and I would be happy to answer any questions you may have.