

TEXAS HOUSE OF REPRESENTATIVES



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**GENERAL INVESTIGATING
& ETHICS COMMITTEE**

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Chuck Hopson*

November 15, 2010

Dear Members of the Texas House of Representatives:

As Chairman of the House Committee on General Investigating and Ethics, I would like to take this opportunity to offer a brief word of caution. It is our duty, as members of the Texas House, to select the next Speaker in an ethical and legal manner.

In recent weeks, several communications between members, members-elect, and private citizens have sought to influence our vote for the next Speaker. It is important that those authorizing the communications are well informed of the ethical and legal guidelines found in the Government Code and the Texas Penal Code prior to approving them.

Specifically, section 302.032 of the Government Code contains a "legislative bribery" provision stating that a person commits an offense if they make certain promises or threats with the intent to influence a member in casting a vote for Speaker of the House of Representatives. A copy of section 302.032 is attached for you to review.

Similarly, Texas Penal Code, section 36.03, includes a "Coercion of a Public Servant" provision, which provides that a person commits an offense if by means of coercion they influence or attempt to influence a public servant in a specific exercise of their official power or duty. A copy of section 36.03 is also attached for you to review.

As the body granted the responsibility to elect our Speaker, it is imperative that we carry out this duty in a legal and ethical manner that maintains the public's trust and the integrity of the Texas House of Representatives.

Please let me know if you have any questions.

Thank You,

Chuck Hopson

Chuck Hopson, Chairman
General Investigating and Ethics Committee

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**Texas Government Code
Speaker's Race" Statute
Legislative Bribery**

SUBCHAPTER C. LEGISLATIVE BRIBERY

Sec. 302.031. DEFINITION. In this subchapter, "economic benefit" means anything reasonably regarded as economic gain or advantage, including a campaign contribution.

Sec. 302.032. LEGISLATIVE BRIBERY: PROMISES OR THREATS. A person commits an offense if, with the intent to influence a member of or candidate for the house of representatives in casting a vote for speaker of the house of representatives, the person:

(1) promises or agrees to cause:

(A) the appointment of a person to a chairmanship or vice-chairmanship of a house committee or subcommittee;

(B) the appointment of a person to a particular house committee or subcommittee, the Legislative Budget Board, the Texas Legislative Council, the Legislative Library Board, the Legislative Audit Committee, or any other position the speaker appoints;

(C) preferential treatment on any legislation or appropriation;

(D) the employment of a person; or

(E) economic benefit to a person; or

(2) threatens to cause:

(A) the failure to appoint a person to a chairmanship or vice-chairmanship of a house committee or subcommittee;

(B) the failure to appoint a person to a particular house committee or subcommittee, the Legislative Budget Board, the Texas Legislative Council, the Legislative Library Board, the Legislative Audit Committee, or any other position the speaker appoints;

(C) unfavorable treatment on any legislation or appropriation;

(D) the refusal of or removal from employment of a person; or

(E) the withholding of economic benefit from a person.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 302.033. LEGISLATIVE BRIBERY: ACCEPTING BENEFITS. A member of or candidate for the house of representatives commits an offense if, on the representation or understanding that the member or candidate will cast a vote for a particular person for speaker of the house of representatives, the member or candidate solicits, accepts, or agrees to accept:

(1) the appointment of or refusal to appoint a person to a chairmanship or vice-chairmanship of a house committee or subcommittee;

(2) the appointment of or refusal to appoint a person to a particular house committee or subcommittee, the Legislative Budget Board, the Texas Legislative Council, the Legislative

Library Board, the Legislative Audit Committee, or any other position the speaker appoints;

(3) preferential or unfavorable treatment on any legislation or appropriation;

(4) the employment of, refusal of employment of, or removal from employment of a person; or

(5) economic benefit to or withholding of economic benefit from a person.

Sec. 302.034. PENALTY. An offense under this subchapter is a felony punishable by imprisonment for not less than two years nor more than five years.

Texas Penal Code
Coercion Of Public Servant Or Voter

Sec. 36.03. COERCION OF PUBLIC SERVANT OR VOTER. (a) A person commits an offense if by means of coercion he:

(1) influences or attempts to influence a public servant in a specific exercise of his official power or a specific performance of his official duty or influences or attempts to influence a public servant to violate the public servant's known legal duty; or

(2) influences or attempts to influence a voter not to vote or to vote in a particular manner.

(b) An offense under this section is a Class A misdemeanor unless the coercion is a threat to commit a felony, in which event it is a felony of the third degree.

(c) It is an exception to the application of Subsection (a)(1) of this section that the person who influences or attempts to influence the public servant is a member of the governing body of a governmental entity, and that the action that influences or attempts to influence the public servant is an official action taken by the member of the governing body. For the purposes of this subsection, the term "official action" includes deliberations by the governing body of a governmental entity.

Section 1.07 of the Texas Penal Code defines coercion, in part, as follows:

- (9) "Coercion" means a threat, however communicated:
- (A) to commit an offense;

(B) to inflict bodily injury in the future on the person threatened or another;

(C) to accuse a person of any offense;

(D) to expose a person to hatred, contempt, or ridicule;

(E) to harm the credit or business repute of any person; or

(F) to take or withhold action as a public servant, or to cause a public servant to take or withhold action.