

CLC

ADVANCING
DEMOCRACY
THROUGH LAW

THREAT ASSESSMENT

2025

Risks and Challenges Facing
State Ethics Commissions



**THE PURPOSE OF THIS REPORT
IS TO SPOTLIGHT NATIONWIDE
EFFORTS TO UNDERMINE
ETHICS COMMISSIONS
AND THEIR MISSION OF
INDEPENDENT, NONPARTISAN
ADMINISTRATION AND
ENFORCEMENT OF
ETHICS LAWS.**



Contents

1

ACKNOWLEDGMENTS

2

PURPOSE

3

EXECUTIVE
SUMMARY

5

NATIONAL
TRENDS

7

2025 THREATS

9

THREAT ASSESSMENT
2025 SUMMARY TABLE

11

ENFORCEMENT
POWER THREATS

17

SUBJECT MATTER
JURISDICTION
THREATS

22

EXISTENTIAL
THREATS

27

POSITIVE
LEGISLATION

30

CONCLUSION

Acknowledgments

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Campaign Legal Center (CLC) is a nonpartisan nonprofit dedicated to solving the wide range of challenges facing American democracy. Founded in 2002 and based in Washington, D.C., we fight for every American's freedom to vote and participate meaningfully in the democratic process, particularly Americans who have faced political barriers due to their race, ethnicity or economic status.

CLC's unparalleled expertise and impact span our key issue areas, which focus on promoting the freedom to vote, the right to have every vote counted, fair redistricting, campaign finance reform, and high ethical standards for officeholders and government officials. To protect and strengthen our democracy, we use tactics such as litigation, policy advocacy and strategic communication.

Experts at CLC are always available to provide tailored advice. Please feel free to contact us to discuss your state or local jurisdiction. You can reach us at info@campaignlegalcenter.org, (202) 736-2200 or campaignlegal.org.



PURPOSE

The purpose of this report

by Campaign Legal Center is to spotlight nationwide efforts to undermine ethics commissions and their mission of independent, nonpartisan administration and enforcement of ethics laws.

Specifically, this project highlights three types of threats ethics commissions faced in 2025:

1. Enforcement power threats
2. Subject matter jurisdiction threats
3. Existential threats

CLC reviewed pending litigation, proposed legislation and news reports in all 50 states in 2025 to find the most common types of threats mounted against ethics commissions. The review also found one instance of a positive development where an ethics commission's powers were reinforced. This information, including considerations for how to combat these threats, can help prepare other ethics commissions for what may arise in their states.



EXECUTIVE SUMMARY

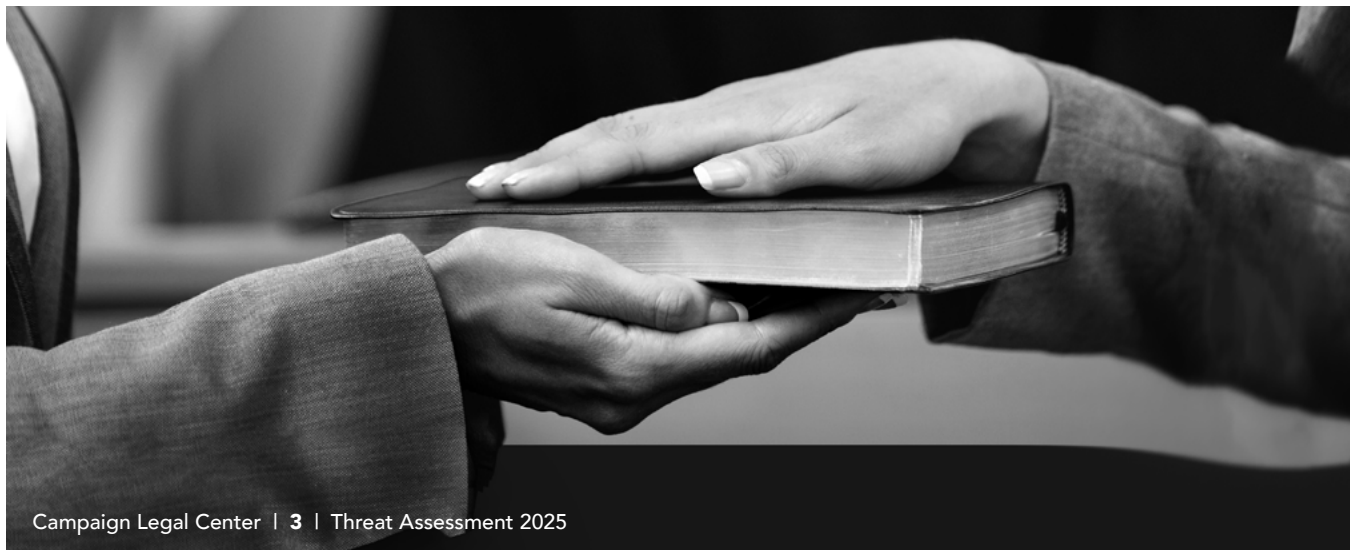
Ethics commissions serve a fundamental role in democracy.

They provide accountability for public officials by enforcing laws regulating lobbying, requiring campaign finance disclosure and preventing conflicts of interest. Ethics commissions also uphold transparency principles that inform public officials of the laws that govern their public service. By fulfilling voters' right to know that their elected and appointed officials are working for the good of the public, ethics commissions help preserve an essential building block of a healthy democracy: public trust.

The critical role ethics commissions have in upholding the public trust on which our democracy relies means threats to ethics commissions can constitute a threat to democracy itself. This report collects information about the most critical and common outside threats to ethics commissions in 2025 and provides

considerations for ethics commissions who may be combating these threats.

Ethics commissions face the same logistical and administrative challenges as any other government agency. Lawmakers introduce legislation that impedes the commission's mission or diminishes its authority. Lawsuits



EXECUTIVE SUMMARY CONTINUED

are filed to challenge a commission's authority to administer or enforce certain laws.

Ethics commissions faced threats in three major categories in 2025:

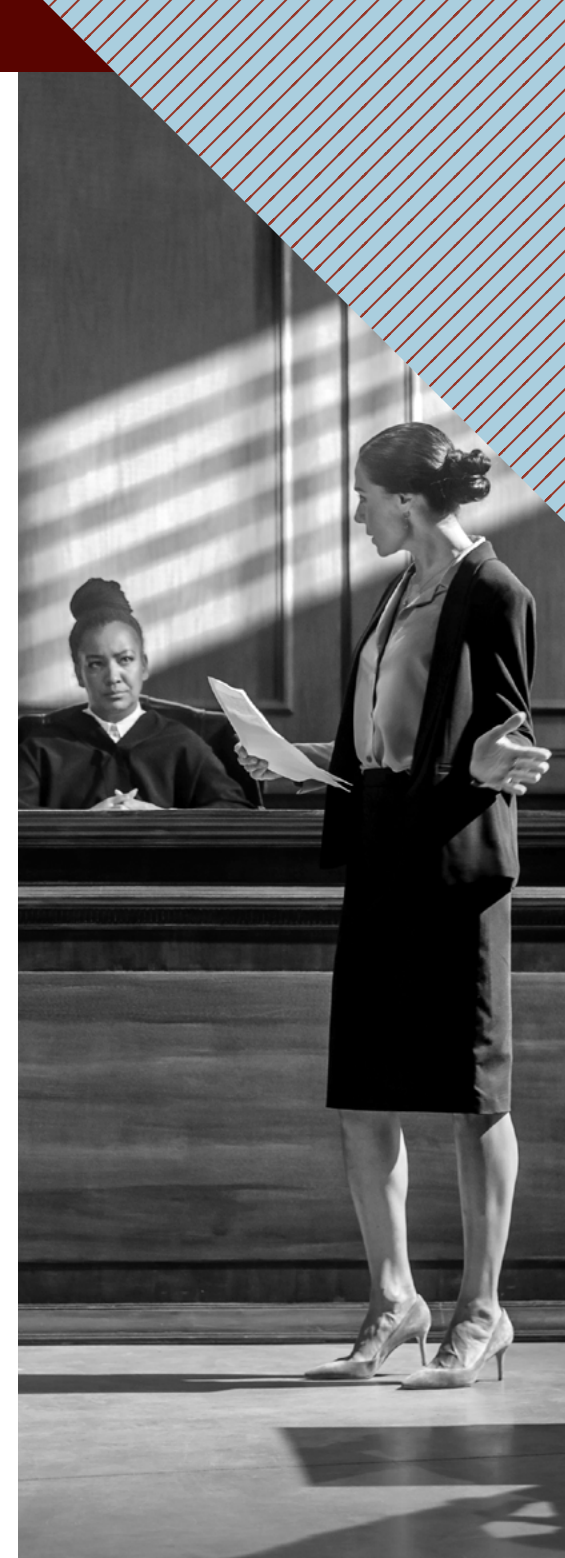
1. Enforcement power threats
2. Subject matter jurisdiction threats
3. Existential threats

Ethics commissions are typically established with well-defined subject matter jurisdiction and enforcement powers to serve their primary purpose: to make government more ethical. Their mandate often begins at the time a person is campaigning for office and extends until a period after they leave office.

Ethics commissions commonly have limited jurisdiction over certain areas of law, including conflicts of interest, lobbying and campaign finance. They are empowered to administer and enforce the laws under their established jurisdiction.

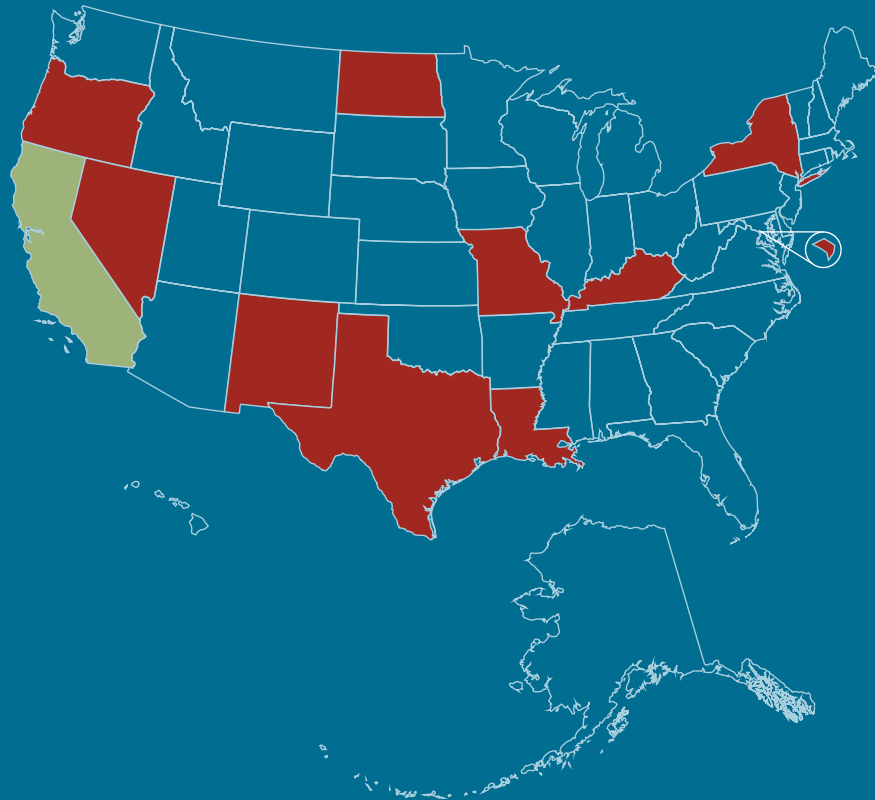
Their mission of holding powerful people accountable to the public opens commissions to threats from those who would like to curb or eliminate the power of independent ethics enforcement bodies.

Campaign Legal Center researched threats to ethics commissions in all 50 states. This report compiles litigation and legislation that threatened ethics commissions across the country in 2025. This report does not include every action or legislation pending nationwide; it highlights trends that can help commissions know what to expect.



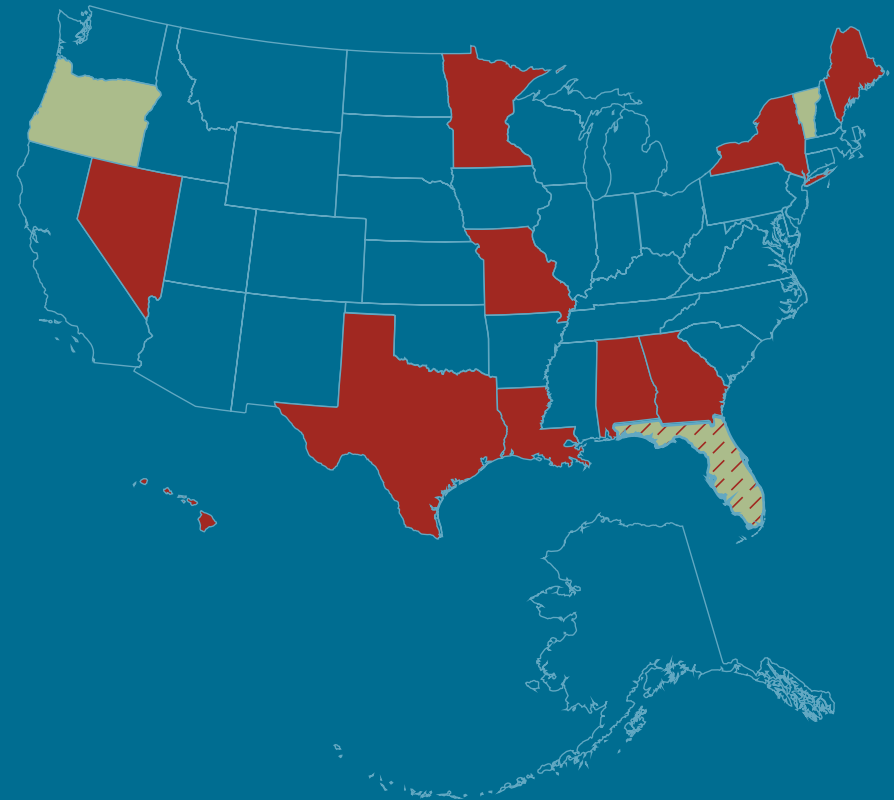
NATIONAL TRENDS

2025



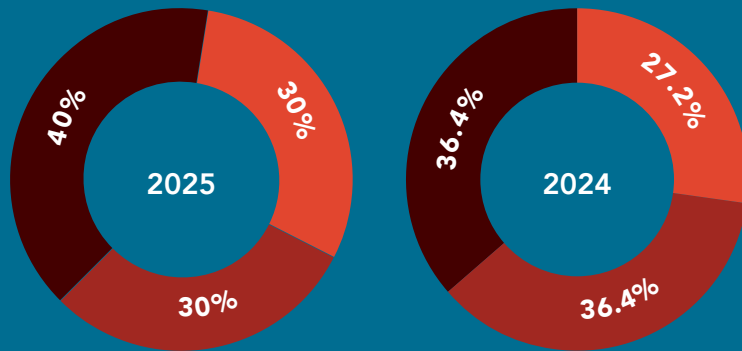
- Ethics Commission Threatened
- Ethics Commission Strengthened

2024



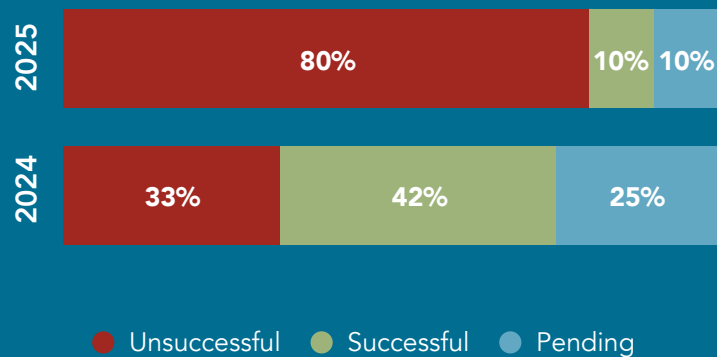
- Ethics Commission Threatened
- Ethics Commission Strengthened
- ▨ Ethics Commission Threatened and Strengthened

THREAT TO ETHICS COMMISSIONS



- Enforcement Authority Threats
- Existential Threats
- Subject Matter Jurisdiction Threats

SUCCESS OF THREATS

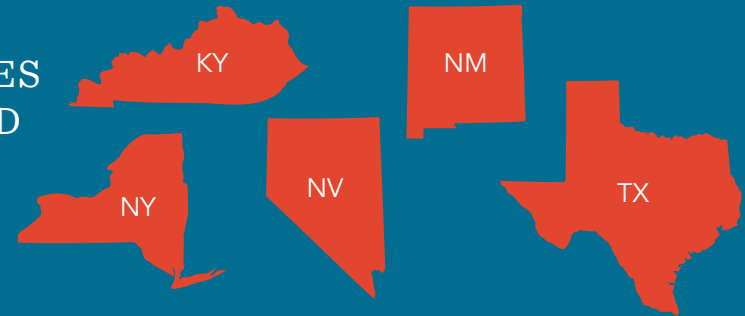


- Unsuccessful
- Successful
- Pending

LITIGATION VS. LEGISLATION THREATS

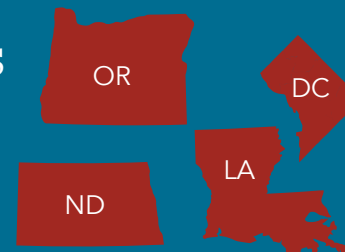
5 STATES FACED

LITIGATION THREATS



4 STATES FACED

LEGISLATION THREATS



1 STATE FACED

A THREAT THAT WAS NEITHER LITIGATION NOR LEGISLATION



1 STATE HAD

POSITIVE LEGISLATION



2025 THREATS

No ethics commission is completely insulated from threats. The more active and proactive a commission is, the more likely it is that it will face litigation and legislation attempting to weaken its powers. Here are important facts about nationwide trends to help ethics commissions assess potential threats:

WHEN: Threats to ethics commissions appear more likely to occur shortly after new laws are passed or in the wake of high-profile ethics investigations or enforcement actions.

Threats are more likely to occur shortly after the legislature passes a new law expanding an ethics commission's jurisdiction or enforcement powers or in the aftermath of high-profile ethics enforcement.

- **In the District of Columbia**, a legislator attempted to remove the ethics commission's power to designate new financial disclosure filers after the commission exercised that power for the first time in its history.
- **In Louisiana**, the governor sought to control and limit the commission's investigation process in the wake of a high-profile investigation of his alleged ethics violation.

HOW: Threats appear more likely to originate from individuals and organizations subject to new ethics laws or ethics enforcement actions.

Ethics commissions should be on alert for threats from those most likely to see increased

enforcement when the legislature passes a new law and from those who have had ethics laws enforced against them.

- **In Kentucky**, a legislator sued to halt an ethics investigation into his misconduct.
- **In New York**, the governor sued the ethics commission on the grounds that it is unconstitutional after it found that the governor violated ethics laws.
- **In Nevada**, the governor sued the ethics commission on the grounds that it is unconstitutional after it found that the governor violated ethics laws.
- **In Texas**, an unregistered lobbyist appealed his case to the Supreme Court of the United States in an attempt to invalidate the enforcement of lobbying laws.
- **In New Mexico**, an unregistered lobbying group sued to prevent registration.

2025 THREATS CONTINUED

WHERE: Legislative threats appear more prevalent in states where one party controls the executive and legislative branches of government.

In general, legislative threats to ethics commissions are occurring across the country, with no geographic concentration representing most threats. However, the specific risk of legislative threats appears to be higher in states where one party controls the executive branch and both legislative chambers, what is often referred to as a government trifecta.

- In **Oregon**, there is a Democratic trifecta, and legislation was introduced to limit the subject matter jurisdiction of the ethics commission.
- In **Louisiana and North Dakota**, there are Republican trifectas, and legislation was introduced to limit the enforcement power of the ethics commissions.
- In the **District of Columbia**, which is not technically a state government trifecta but is under Democratic control at both the mayoral and council level, legislation was introduced to limit the subject matter jurisdiction of the ethics commission.

WHO: Threats appear to be increasing for more recently established ethics commissions as their full potential is realized.

Compared to 2024, more recently established ethics commissions (formed after 2000) are facing threats as they establish their powers and reach their full enforcement potential. In 2024, only one of the 11 states that faced threats had a newly established commission.

In 2025, four out of the 10 states that faced threats highlighted in this report have more newly established ethics commissions.

Despite this trend, all ethics commissions, regardless of how well-established, should be prepared for increasingly creative threats.



Summary Table

THREAT ASSESSMENT 2025

STATE	LITIGATION OR LEGISLATION	CATEGORY	BRIEF DESCRIPTION	STATUS
California	Legislation	Positive Legislation	Bill permanently allows commission to administer, implement and enforce local campaign finance or government ethics law	The bill passed, to the commission's benefit
District of Columbia	Legislation	Subject Matter Jurisdiction	Legislation introduced that would remove authority to designate financial disclosure filers	The bill is slated to be voted upon this legislative session and is expected to pass, to the commission's detriment
Kentucky	Litigation	Enforcement	Suit filed that would undermine the commission's investigative authority	The court denied judicial intervention into commission proceedings, to the commission's benefit
Louisiana	Legislation	Enforcement	Bills passed by the Louisiana Legislature gave the governor outsized influence over the trajectory of ethics investigations by the commission	The bills passed, to the commission's detriment
Missouri	N/A	Enforcement	Governor's failure to appoint a quorum threatened commission's enforcement powers	The governor appointed a quorum, to the commission's benefit
Nevada	Litigation	Existential	Suit challenging the commission's authority under separation of powers doctrine	The case was settled with a finding of one non-willful violation, to the commission's benefit

CONTINUED ON NEXT PAGE →

Summary Table

THREAT ASSESSMENT 2025 continued

STATE	LITIGATION OR LEGISLATION	CATEGORY	BRIEF DESCRIPTION	STATUS
New Mexico	Litigation	Subject Matter Jurisdiction	Suit challenging the commission's jurisdiction to enforce lobbying laws against certain types of lobbyists	The court ruled the commission had authority to investigate all requirements under the lobbying law, to the commission's benefit
New York	Litigation	Existential	Suit challenging state ethics commission's authority to investigate and charge the governor with ethics violations	The court ruled in favor of the commission, to the commission's benefit
North Dakota	Legislation	Enforcement	Legislation mandating complaints be dismissed after 180 days	The bill passed without the deadline, to the commission's benefit
Oregon	Legislation	Enforcement	Bill allowing commission to find violations of open meetings laws only if violation was intentional	The bill failed to pass, to the commission's benefit
Texas	Litigation	Existential	Suit on the constitutionality of long-standing lobbying registration laws	The U.S. Supreme Court denied petition for certiorari, to the commission's benefit

ENFORCEMENT POWER THREATS

Attempts to weaken enforcement power are efforts to limit the ability of ethics commissions to investigate or penalize violations of the laws under their jurisdiction. Decreased enforcement power results in less accountability for noncompliant officials and diminished confidence in government. In 2025, threats occurred in the following states:



Kentucky

An attempt by a lawmaker under investigation to invalidate the ethics commission's enforcement powers.



Louisiana

An attempt to limit enforcement by establishing stringent standards for initiating ethics investigations.



Missouri

An attempt to limit enforcement by ensuring a lack of a quorum.



North Dakota

An attempt to mandate ethics complaints be dismissed if not fully investigated in 180 days.



SOURCES OF THREATS

Threats to enforcement power often come from regulated community members in response to enforcement actions taken against them and legislators or executive branch officials who either fear possible ethics complaints or oppose increased oversight.

CONSIDERATIONS FOR DEFENDING AGAINST THREATS

Ethics commissions are likely to face resistance to existing or new enforcement powers from those who want less oversight. Commissions must understand that positive changes to enforcement powers may come incrementally. When enforcement threats happen, ethics commissions rely on numerous strategies to defend themselves, such as:

- Proactively engaging with legislative leaders who respect the ethics commission's process and are willing to work toward protecting the commission's enforcement power. For example, a commission can find legislative champions who respect the mission of the ethics commission and deputize them to mitigate the potential of the worst legislative result.
- Preparing for possible litigation by ensuring any public records, including legislative records, accurately reflect the commission's

powers. For example, if a legislative process antagonistic to the commission misrepresents the commission's powers and duties, a commission should work to correct that record through counter testimony or other means.

- Showing willingness to talk to any potentially hostile lawmaker or litigant as threats develop and resisting the urge to enter discussions with preconceived notions of their intent. This can result in an open dialogue and mutual understanding that ethics commission enforcement powers do not exist for political retribution purposes.

Additional considerations found in our 2024 Threat Assessment Report include:

- Engaging with legislators, the court, the public and the media to clearly articulate the public's significant interest in the commission maintaining enforcement powers. For example, some commissions have drafted white papers and engaged with legislators about proposed legislation.
- Developing a clear message to articulate why independent ethics enforcement bodies are valuable and reasonable that is mindful of the political dynamics surrounding threats to enforcement authority.

TAKEAWAY

Ethics commissions may face frequent threats to their enforcement powers, but proactive engagement with legislators and strategic preparation for future litigation can help ethics commissions prevail.

- Maintaining a good relationship with the media, as they are in the best position to communicate to the public why regulations exist.
- Creating well-reasoned arguments for why existing or increased powers are necessary and ensuring that the resources are available to handle increased agency responsibilities.



Kentucky

EXAMPLES: ENFORCEMENT POWER THREATS

Grossberg v. Kentucky Ethics Commission

Dismissed on July 30, 2025



SUMMARY OF THREAT

Kentucky Representative Daniel Grossberg was under investigation by the Kentucky Legislative Ethics Commission (KLEC). He filed a lawsuit to undermine KLEC's authority to continue its investigation.



ORIGIN

In July 2024, KLEC opened an investigation into Grossberg. The allegations include harassment, misuse of position and intimidation of a business entity. In June 2025, Grossberg filed a suit in court, attempting to halt the ethics investigation into his misconduct.



POTENTIAL IMPACT

Legislator-initiated court action could halt ethics investigations into legislator misconduct.



ANTI-COMMISSION ARGUMENT

Grossberg made claims that he was being unfairly targeted by KLEC for his faith and neurodivergence.



PRO-COMMISSION ARGUMENT

Attempts to enjoin KLEC from investigating the complaints stymie the legislative branch's efforts to determine whether disciplinary action is appropriate for ethics violations. KLEC has a duty to determine whether lawmakers violated the Kentucky Code of Legislative Ethics, and legislative immunity is not so broad as to →

prevent the legislative branch from exercising its proper and constitutional function of policing the conduct of its own members.



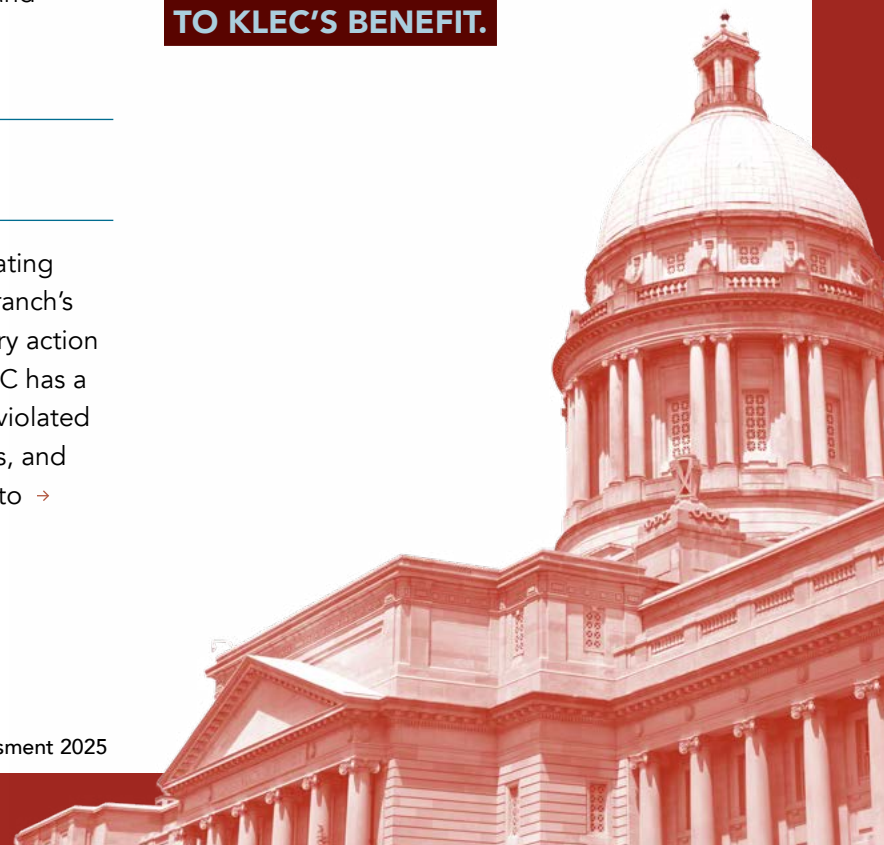
OUTCOME

THE COURT DENIED

JUDICIAL INTERVENTION

INTO KLEC'S PROCEEDINGS,

TO KLEC'S BENEFIT.





Louisiana

EXAMPLES: ENFORCEMENT POWER THREATS

House Bill 674

Enacted June 11, 2025

☰ SUMMARY OF THREAT

A bill passed by the Louisiana Legislature established stringent protocols the Louisiana Board of Ethics (Board) must follow to investigate ethics violations: A two-thirds majority of the Board must find probable cause to believe a violation occurred.

📍 ORIGIN

Governor Jeff Landry had been facing numerous ethics investigations as early as 2022, including when the Board voted to seek a penalty over Landry's failure to disclose trips taken to and from Hawaii on a political donor's private →

plane. In 2024, the governor enacted legislation that allowed him to directly appoint the majority of Board members. In 2025, legislation was introduced that would require ethics investigations to proceed only with two-thirds of Board members finding probable cause. Accordingly, all ethics investigations would require votes of approval from appointees who owe their positions to the governor.

🎯 POTENTIAL IMPACT

The governor has influence over ethics investigations that are meant to be apolitical. Additional and unnecessary procedural hurdles would limit or prevent ethics investigations by the Board.

✖ ANTI-COMMISSION ARGUMENT

Placing additional requirements on the ethics commission will ensure due process for those who have complaints brought against them.

✓ PRO-COMMISSION ARGUMENT

The bill makes it harder to investigate violations of the ethics laws. Requiring a two-thirds majority of the Board to find probable cause to believe a violation occurred prior to opening an investigation places an unnecessary burden on the Board to meet a high evidentiary standard.

🛡️ OUTCOME

THE BILL PASSED, TO THE BOARD'S DETRIMENT.





Missouri

EXAMPLES: ENFORCEMENT POWER THREATS

Last action July 11, 2025

SUMMARY OF THREAT

For more than eight months, two Missouri governors failed to appoint commissioners to ensure a quorum on the Missouri Ethics Commission (MEC). Without a quorum, MEC was unable to take any action on ethics complaints.

ORIGIN

The six-member MEC must complete an investigation within 90 days after they receive a complaint, and four members are required to investigate and vote on any action related to the complaint. The last two administrations →

had failed to fill vacancies on the MEC, leaving only two commissioners. At least 50 complaints over the previous two years were dismissed because the commission could not make a determination within the statutorily mandated period.

POTENTIAL IMPACT

Inability to enforce ethics laws for an extended time.

ANTI-COMMISSION ARGUMENT

A spokesperson for Governor Mike Kehoe said, "Requirements for MEC appointments are stringent, and this can make finding qualified and interested candidates difficult."

PRO-COMMISSION ARGUMENT

The MEC needs a quorum to fulfill its mission of holding public officials accountable. Failing to provide MEC with sufficient commissioners was a deliberate decision by political actors and state leaders to weaken the only body responsible for enforcing ethics laws that target themselves and their allies.

OUTCOME

FOLLOWING REPORTING THAT COVERED THE LACK OF A QUORUM, THE GOVERNOR APPOINTED NEW COMMISSIONERS TO THE MEC, TO THE COMMISSION'S BENEFIT.





North Dakota

EXAMPLES: ENFORCEMENT POWER THREATS

Senate Bill 2004

Passed May 2, 2025

SUMMARY OF THREAT

The North Dakota budget bill proposed numerous changes to the North Dakota Ethics Commission (NDEC), including a mandate for the NDEC to dismiss complaints after 180 days.

ORIGIN

Several bills sought to limit or change NDEC's enforcement powers, including House Bill 1505, which failed to pass earlier in the North Dakota legislative session. Some of those policy changes, including the 180-day investigation limit, were integrated into the state's proposed budget bill, Senate Bill 2004.

POTENTIAL IMPACT

NDEC would be forced to dismiss ethics complaints even if they were in the process of being investigated, limiting the commission's ability to enforce ethics laws.

ANTI-COMMISSION ARGUMENT

The legislator who added the amendment requiring the 180-day dismissal said it was needed to ensure that NDEC's investigations do not continue indefinitely, in fairness to the accused. NDEC needs to be incentivized to complete its ethics investigations timelier.

PRO-COMMISSION ARGUMENT

The dismissal deadline arbitrarily limits NDEC's enforcement process. Many complaints cannot be effectively investigated and resolved within the proposed time frame, and those accused of ethics violations would be incentivized to obstruct investigations to run out the clock. NDEC's backlog would be better addressed by approving more staff members.

OUTCOME

THE BILL WAS PASSED WITHOUT THE DEADLINE, ALLOWING INSTEAD FOR THE ACCUSED TO PETITION THE COMMISSION TO DISMISS THE COMPLAINT, TO NDEC'S BENEFIT.

SUBJECT MATTER JURISDICTION THREATS

Attempts to decrease subject matter jurisdiction are efforts to limit the kinds of laws ethics commissions have the power to administer and enforce. These types of threats challenge the specific laws under an ethics commission's jurisdiction, often through claims that the law itself violates the regulated community's constitutional rights.

When ethics commissions have categories of laws stripped from their purview, this results in less transparency and oversight, and as a result, a decrease in public trust. In 2025, these threats included litigation in the following states:



District of Columbia

An attempt to remove the commission's jurisdiction to designate financial disclosure filers.



New Mexico

An attempt to limit the commission's jurisdiction to enforce lobbying laws against certain types of lobbyists.



Oregon

An attempt to limit enforcement authority and investigation powers.



SOURCES OF THREATS

Threats to subject matter jurisdiction often come from members of the regulated community subject to laws under the commission's jurisdiction that impact its influence on elections or legislation.

CONSIDERATIONS FOR DEFENDING AGAINST THREATS

Ethics commissions should expect that efforts to expand their subject matter jurisdiction or use previously unused powers could prompt challenges to the laws that provide for that jurisdiction. Members of the regulated community whom the ethics commission has found in violation of the law also challenge long-standing laws. To defend themselves against these attacks, ethics commissions should be prepared by:

- Opening direct dialogue with legislators who are trying to implement limiting legislation to better understand their perspectives.
- Hiring subject matter experts and experienced litigators who will be prepared to tackle constitutional threats. For example, one commission has prioritized hiring staff with litigation experience, knowing that these types of challenges will occur and that they typically come by way of litigation.

- Working with good government groups who have experience in the relevant issue areas to file amicus briefs or discuss best practices and possible alternatives.
- Finding other ethics commissions who have dealt with these threats and learning from their strategies.
- Balancing political capital with possible media coverage. For example, if a commission does not frequently liaise with the media, waiting for the right moment to engage with the press can help maximize impact.

Additional considerations found in our 2024 Threat Assessment Report include:

- Discussing challenges they foresee being brought against new laws with their legal representation.
- Looking to see how other states have dealt with similar litigation, finding amici and reaching out to the drafters of the law.
- Showing the governmental interest in keeping the law and arguing why the law is appropriately tailored because subject matter jurisdiction laws are often challenged on constitutional grounds.
- Maintaining thorough documentation of current investigations and enforcement actions, which helps in defending against accusations that the investigative process was improper and needs reform.

TAKEAWAY

Ethics commissions should expect attempts to reduce their subject matter jurisdiction. Opening dialogue with potentially hostile legislators, proactively preparing policy strategy and ensuring staff readiness for litigation can set the commission up for success against these threats.

District of Columbia

EXAMPLES: SUBJECT MATTER JURISDICTION THREATS

Bill 26-0325

Notice of Intent to Act on the bill published July 18, 2025

SUMMARY OF THREAT

Legislation was introduced to completely remove the authority of the District of Columbia's Board of Ethics and Government Accountability (BEGA) to designate which employees are required to file financial disclosure statements.

ORIGIN

BEGA has the authority to determine if certain public employees must file financial disclosure statements based on the nature of their job →

duties, such as decision-makers involved in contracting, procurement, grant administration, policy development, land use planning, inspections, licensing, regulation or auditing. BEGA had this power since its inception, but BEGA conducted its first review of D.C.'s boards and commissions to update the financial disclosure designations in 2023. After its review, BEGA notified agencies in late 2024 about the new financial disclosure responsibilities for newly designated employees and arranged training sessions. The chair of the D.C. Council introduced a provision in a bill that paused BEGA's designation process, ensuring new financial disclosure filers would not have to file. He then introduced Bill 26-0325 to remove BEGA's power to designate new filers permanently.

POTENTIAL IMPACT

The independent authority of the ethics commission to determine who must file financial disclosure statements could be removed.

ANTI-COMMISSION ARGUMENT

There have been no public statements indicating why this change should be made.

PRO-COMMISSION ARGUMENT

BEGA members are the experts on administering financial disclosures and advising on conflicts of interest. They are best positioned to determine who meets the criteria for financial disclosure. The bill does not assign this power to any other entity, meaning any new board or commission implemented by the city would not be required to file financial disclosures, regardless of its purpose.

OUTCOME

THE BILL IS SLATED FOR A VOTE THIS LEGISLATIVE SESSION AND IS EXPECTED TO PASS, TO BEGA'S DETRIMENT.

New Mexico

EXAMPLES: SUBJECT MATTER JURISDICTION THREATS

*New Mexico Families Forward
v. New Mexico State Ethics Commission*
Decided April 1, 2025

SUMMARY OF THREAT

A lawsuit challenged the New Mexico Ethics Commission's (NMEC) jurisdiction to enforce lobbying laws against certain types of lobbyists.

ORIGIN

New Mexico Representative Ambrose Castellano filed a complaint with NMEC against the lobbying advertising campaign New Mexico Families Forward (NMFF). The complaint alleged that NMFF violated the disclosure requirements of New Mexico's Lobbyist →

Regulation Act (LRA). NMFF filed a writ of mandamus in district court, asking the court to order the commission to cease all proceedings against NMFF for lack of jurisdiction because NMFF was not an individual lobbyist or lobbyist employer. The district court sided with NMFF, and NMEC appealed.

POTENTIAL IMPACT

NMEC would have limited jurisdiction over lobbyist registration and disclosure requirements.

ANTI-COMMISSION ARGUMENT

NMFF argued that the law limits NMEC's jurisdiction to "individuals" who influence legislation through personal contact with legislators and government officials. According to NMFF, NMEC lacks jurisdiction because NMFF is an organization and not an individual and because NMFF engages in lobbying through advertising and not through personal contact with legislators.

PRO-COMMISSION ARGUMENT

The New Mexico Legislature intended to give NMEC broad jurisdiction to enforce the registration, reporting and disclosure requirements imposed by the LRA both on individuals engaged in direct, personal lobbying and on organizations engaged in lobbying advertising campaigns. The Legislature's intent cannot be discerned from the supposedly "plain language" of a single provision and must be looked at in the context of the broader regulatory structure.

OUTCOME

COURT RULED THAT NMEC HAD AUTHORITY TO ENFORCE ALL THE REGISTRATION AND REPORTING REQUIREMENTS OF THE LRA, INCLUDING OVER ORGANIZATIONS THAT MOUNT AD CAMPAIGNS INTENDED TO INFLUENCE STATE LAWMAKERS, TO NMEC'S BENEFIT.

Oregon

EXAMPLES: SUBJECT MATTER JURISDICTION THREATS

House Bill 3945

Died in committee June 27, 2025

SUMMARY OF THREAT

House Bill 3945 would only allow the Oregon Government Ethics Commission (OGE) to find violations of public meetings laws if the complaint alleges that the violation was intentional. Additionally, if the violation was not intentional, then the commission may not impose civil penalties.

ORIGIN

OGE has jurisdiction over public meetings laws, allowing complaints to go through an ethics commission process instead of through the courts. In 2023, legislation passed that →

aimed to better regulate so-called “serial communications,” in which a majority of members of a governing body discuss official business and make decisions in text messages, emails or private meetings. Legislators subsequently attempted to raise the standard to file complaints related to public meetings laws violations.

POTENTIAL IMPACT

This bill could disincentivize individuals who would file complaints from doing so, if they do not feel like they have enough proof to allege a knowing or willful violation. Imposing a high evidentiary standard would also limit the ethics commission’s ability to effectively enforce open meetings laws, which make up a large portion of its jurisdiction.

ANTI-COMMISSION ARGUMENT

Laws limiting serial communications could have an unintended chilling effect on legislators →

who wish to collaborate with other officials. One official said legislators’ “fear of inadvertently violating public meetings requirements is discouraging legitimate, informal discussions among elected officials.” A higher standard for complaints counterbalances the more restrictive rules around serial communications.

PRO-COMMISSION ARGUMENT

Public meetings laws exist to ensure transparency in government decision-making. Requiring proof of intentionality for complaints related to these laws could create an unintended chilling effect on those who would otherwise file complaints; this could limit OGE’s ability to enforce and investigate violations of public meetings, making it more difficult to hold violators accountable.

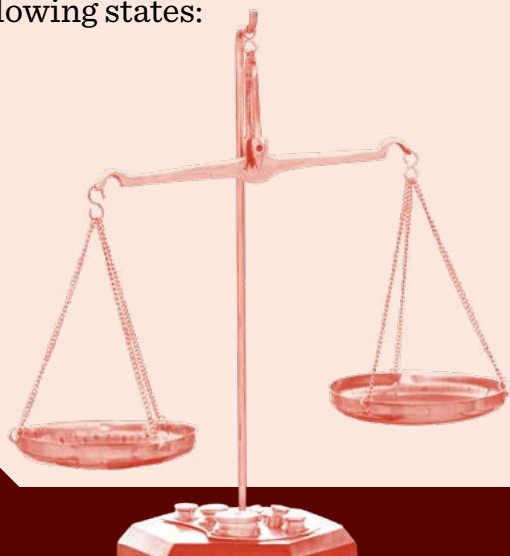
OUTCOME

FAILED TO PASS, TO OGE’S BENEFIT.

EXISTENTIAL THREATS

Existential threats are efforts to strip an ethics commission of all its power.

These types of threats are arguably the most serious because they challenge not only a commission's enforcement authority or the laws under the commission's jurisdiction, but the very foundation of the ethics commission's existence. In 2025, these threats included litigation and legislation in the following states:



Nevada

An allegation that the commission's powers violate the state constitution because they should be reserved for the executive branch.



New York

A constitutional challenge to state ethics commission's legitimacy under the state constitution's separation of powers doctrine.



Texas

A petition to the Supreme Court of the United States asking to dismantle lobbying registration and disclosure, the enforcement and administration of which are foundational to ethics commissions across the country.

SOURCES OF THREATS

Existential threats often come from regulated community members after enforcement actions were taken against them and who are seeking ways to invalidate the ethics commission's mandate.

CONSIDERATIONS FOR DEFENDING AGAINST THREATS

Attacks on the existence of ethics commissions typically occur in litigation with a focus on an ethics commission's constitutionality. These threats can happen most where an ethics commission's authority is not enshrined in the constitution or where the commission has jurisdiction over the legislative and executive branches. Ethics commissions can prepare for possible existential threats by:

- Approaching every enforcement action with an eye toward whether it could result in existential litigation.
- Preparing for dynamics to change throughout the course of litigation or the legislative process; public opinion, lawmakers and litigants can change over the course of a long challenge. In some states, for example, litigation has gone on for years, and strategies had to adapt to a changing political landscape.

- Engaging partners and friendly actors at every level and every stage of the challenge. This includes working with good government groups who can submit amicus briefs during litigation.
- Working with outside groups who also coordinate the advocacy efforts. In the course of some litigation, ethics commissions can only do so much outreach to media and so many campaigns to garner public support, so commissions have worked with outside groups to fill in the gaps.

Additional considerations found in our 2024 Threat Assessment Report include:

- Creating a system to track how the commission handles violations of the same kind to show its actions are consistent.
- Planning for who will represent the commission during a suit and deciding whether to use an in-house litigation team or outside counsel in the event the attorney general is unable or unwilling to provide representation.
- Understanding the political dynamics at play that could hinder effective representation when political appointees are tasked with representing the ethics commission in litigation.

TAKEAWAY

Existential threats to ethics commissions are a serious but not uncommon occurrence. Ethics commissions should be prepared to face changing dynamics in long litigation and engage partners who can provide external support.

- Finding persuasive arguments by citing the depth of precedent for fair and consistent enforcement across all violators, which can also help with gaining buy-in from the regulated community.
- Developing public messaging to show the importance of nonpolitical input in ethics commission processes.

Nevada

EXAMPLES: EXISTENTIAL THREATS

Lombardo v. Nevada Commission on Ethics

Settled September 23, 2025

SUMMARY OF THREAT

The Nevada governor challenged the authority of the Nevada Commission on Ethics (NCE), alleging a separation of powers violation, after the NCE censured and fined him for violating ethics laws that prohibit the use of government resources for political campaigns.

ORIGIN

In July 2023, the NCE found Governor Joe Lombardo guilty of violating ethics laws because he used his sheriff's badge and uniform as part of his campaign, in violation of an ethics law. The governor filed a lawsuit challenging the →

NCE's authority, alleging it violated the state constitution's separation of powers doctrine. The suit attempted to permanently bar the commission from conducting any investigations or administering penalties over the governor. The case was dismissed on procedural grounds in 2024. In 2025, the governor's appeal was pending until the matter was settled.

POTENTIAL IMPACT

The NCE could be found unconstitutional.

ANTI-COMMISSION ARGUMENT

The ethics law improperly vests the NCE with authority to exercise executive functions and authority. The fact that the legislature appoints half of the commissioners who sit on the NCE violates the state constitution's separation of powers provisions.

PRO-COMMISSION ARGUMENT

The case should be dismissed because the governor failed to notify the NCE that he intended to appeal its decision to censure and fine the governor by serving the suit to the attorney general's office within 45 days, as required by law.

OUTCOME

**THE CASE WAS SETTLED
WITH A FINDING OF ONE
NON-WILLFUL VIOLATION,
TO THE NCE'S BENEFIT.**



New York

EXAMPLES: EXISTENTIAL THREATS

Cuomo v. New York State Commission on Ethics and Lobbying in Government
Decided on February 18, 2025

SUMMARY OF THREAT

Governor challenged the state ethics commission's authority to investigate and charge him with ethics violations after he was found to have improperly used state resources to publish a book.

ORIGIN

Former New York Governor Andrew Cuomo wrote a memoir chronicling his handling of the 2020 COVID-19 pandemic. The New York State Commission on Ethics and Lobbying in Government (COELIG) initiated an investigation to determine whether he improperly used →

staff time to write the book. Cuomo sued, arguing that the ethics commission's enforcement powers violated the New York Constitution's separation of powers provisions. A trial court ruled in 2023 that COELIG was too independent from the governor; an appeals court agreed in 2024. COELIG appealed to the New York Court of Appeals, New York's highest court.

POTENTIAL IMPACT

COELIG could be found unconstitutional.

ANTI-COMMISSION ARGUMENT

COELIG violates constitutional principles of separation of powers because it exercises investigatory and enforcement powers constitutionally entrusted to the executive without sufficient oversight by the governor. The governor should therefore have the power to appoint and remove commissioners for COELIG to be constitutional.

PRO-COMMISSION ARGUMENT

COELIG is structured to address the inherent disincentive for the executive branch to investigate and enforce its own ethics violations, which has serious consequences for public trust in government. COELIG does not displace the executive branch. It acts as an independent agency power to enforce a narrow set of laws, mitigating the danger of self-regulation.

OUTCOME

THE NEW YORK COURT OF APPEALS FOUND THAT COELIG DOES NOT UNCONSTITUTIONALLY ENCROACH ON EXECUTIVE BRANCH POWERS, TO THE COMMISSION'S BENEFIT.





Texas

EXAMPLES: EXISTENTIAL THREATS

Empower Texans v. Texas Ethics Commission
Petition for certiorari denied on June 2, 2025

SUMMARY OF THREAT

An individual fined for failing to register as a lobbyist sought declaration that the Texas Ethics Commission's (TEC) enforcement powers violated the Texas Constitution's separation of powers clause. After exhausting his claims in the Texas Supreme Court, which denied relief, he petitioned the Supreme Court of the United States to review the constitutionality of long-standing lobbying registration laws, threatening the ability of ethics commissions across the country to perform a major part of their mission.

ORIGIN

In 2014, Michael Quinn Sullivan and his organization, Empower Texans Inc., initiated a lawsuit to challenge a \$10,000 fine levied against Sullivan for failing to register as a lobbyist. Sullivan challenged the fine itself and the constitutionality of powers granted to TEC by the state constitution. When his state options for relief were exhausted, Sullivan petitioned the Supreme Court to determine whether "the First Amendment permits the government to require ordinary citizens to register and pay a fee to communicate with their government representatives."

POTENTIAL IMPACT

Lobbying laws enforced by TEC, and ethics commissions across the country, could be found unconstitutional.

ANTI-COMMISSION ARGUMENT

Sullivan argued that lobbyist registration laws, long held to be constitutional, were at odds with modern First Amendment precedent. Lower courts are split on what level of scrutiny should be applied in these cases and whether informational interests are sufficient to require lobbyist registration.

PRO-COMMISSION ARGUMENT

Established precedent allows for lobbyist registration and disclosure. The Texas registration and disclosure requirements for paid lobbyists are plainly constitutional under Supreme Court precedent.

OUTCOME

**THE SUPREME COURT
DENIED SULLIVAN'S PETITION
FOR CERTIORARI, TO THE
COMMISSION'S BENEFIT.**

POSITIVE LEGISLATION

Ethics commissions also experienced **positive legislative** developments in 2025. In 2025, positive legislation was passed in:



California

A bill that permanently establishes a process for the statewide commission to administer, implement and enforce a local campaign finance or government ethics law upon agreement.



SOURCES OF POSITIVE LEGISLATION

Positive developments for ethics commissions come from advocacy efforts by pro-ethics legislators and the commissions themselves. Positive developments can also come from the public by ballot initiative.

CONSIDERATIONS FOR PROMOTING POSITIVE LEGISLATION

To facilitate the introduction and passage of positive legislation, ethics commissions should be proactive by:

- Working directly with legislators when practical to ensure legislation is drafted with the commission's perspective in mind at the earliest stages.
- Being available to legislators as questions arise or as the process evolves.
- Identifying allies in the legislature who can be champions of ethics issues and see positive legislation through.

Additional considerations found in our 2024 Threat Assessment Report include:

- Taking the lead on advocating for legislative improvements. This may include drafting proposed legislation or being active participants in the drafting or amendment process.
- Providing documentation to support whatever changes the legislature proposes and to counter arguments against the commission.
- Taking a strategic and long-term view of policy changes that affect agency.
- Keeping open lines of communication with legislative staff and commissioners who may be advocates for positive changes.

TAKEAWAY

Ethics commissions can continue to see their authority reinforced by continually showing their efficacy at performing their mission.



California

EXAMPLES: POSITIVE LEGISLATION

Assembly Bill 359

Enacted October 3, 2025

SUMMARY OF LEGISLATION

This bill makes permanent a provision of law that allows the Fair Political Practices Commission (FPPC) to administer, implement and enforce a local campaign finance or government ethics law upon agreement between the FPPC and a local jurisdiction with a population of less than 3 million people.

ORIGIN

In 2012, rather than appoint an ethics commission, which could present fiscal as well as conflict of interest challenges, San Bernardino County proposed to contract with the FPPC to enforce its local campaign finance ordinance. Prior to this, the FPPC did not enforce any local campaign finance ordinances. The FPPC and San Bernardino County entered into a series of mutual agreements, covering the period from January 1, 2013, through December 31, 2018. In 2018, a California law was passed that authorized the FPPC to administer, implement and enforce a local campaign finance ordinance or government ethics law upon mutual agreement between the FPPC and the governing body of a local jurisdiction with a population of less than 3 million people until 2026. Assemblymember James Ramos, whose home district is San Bernardino County, proposed this legislation to remove the 2026 sunset date and allow local governments to continue using FPPC to enforce campaign finance and ethics laws if they choose.

IMPACT

LOCAL GOVERNMENTS ARE ALLOWED TO CONTINUE CONTRACTING WITH THE FPPC FOR ITS SERVICES IN ADMINISTERING AND ENFORCING LOCAL CAMPAIGN FINANCE AND ETHICS LAWS AND ENSURING GOVERNMENT TRANSPARENCY.



CONCLUSION

Threats to ethics commissions can be unpredictable. They can come by way of litigation, legislation or something else entirely. Threats occur across the country, and their sources vary. However, ethics commissions are well equipped to combat these challenges, especially if they take lessons from other commissions who have successfully fought against threats.

Attempts to weaken enforcement powers of ethics commissions may be inevitable, but proactive engagement with legislators and strategic preparation for future litigation can help ethics commissions prevail. Ethics commissions can prepare for threats to their subject matter jurisdiction by opening dialogue with potentially hostile legislators, proactively preparing a policy strategy and ensuring staff readiness for litigation. And while existential threats to ethics commissions are becoming more common, ethics commissions can prevail by preparing to face changing dynamics in long litigation and engaging partners who can provide external support.

In the face of these threats, showing consistency and reliability in the performance of the commission's mission can pave the way for expanded powers, ensuring accountability and transparency into the future.



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WELL EQUIPPED TO COMBAT
THESE CHALLENGES,
ESPECIALLY IF THEY TAKE
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AGAINST THREATS.**





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