

By: Duncan

S.B. No. 875

A BILL TO BE ENTITLED

AN ACT

relating to establishing uniform minimum ethics requirements for persons involved in the management or investment of state funds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle F, Title 10, Government Code, is amended by adding Chapter 2263 to read as follows:

CHAPTER 2263. ETHICS REQUIREMENTS FOR MANAGING OR INVESTING STATE FUNDS

Sec. 2263.001. APPLICABILITY; CONSTRUCTION WITH OTHER LAW.

(a) This chapter applies in connection with the management or investment of any state funds managed or invested:

(1) under the Texas Constitution or other law, including Chapters 404 and 2256; and

(2) by or for:

(A) a public retirement system as defined by Section 802.001 that provides service retirement, disability retirement, or death benefits for officers or employees of the state;

(B) an institution of higher education as defined by Section 61.003, Education Code; or

(C) another entity that is part of state government and that manages or invests state funds or for which state funds are managed or invested.

(b) This chapter applies in connection with the management

1 or investment of state funds without regard to whether the funds are
2 held in the state treasury.

3 (c) This chapter does not apply to or in connection with a
4 state governmental entity that does not manage or invest state
5 funds and for which state funds are managed or invested only by the
6 comptroller.

7 (d) To the extent of a conflict between this chapter and
8 another law, the law that imposes a stricter ethics requirement
9 controls.

10 Sec. 2263.002. ETHICS REQUIREMENTS. In addition to any
11 other requirements provided by law, the governing body of a state
12 governmental entity that manages or invests state funds or for
13 which state funds are managed or invested shall enforce an ethics
14 policy as provided by this chapter for members of the governing body
15 and for officers and employees of, consultants and advisors to, and
16 brokers and money managers who provide financial services for the
17 state governmental entity.

18 Sec. 2263.003. ETHICS REQUIREMENTS FOR OFFICERS AND
19 EMPLOYEES: FINANCIAL DISCLOSURE STATEMENT. (a) Each officer and
20 employee of a state governmental entity who exercises significant
21 decision-making or fiduciary authority in connection with the
22 management or investment of state funds, as determined by the
23 governing body of the entity, shall file a financial disclosure
24 statement with a person designated by the governing body and with
25 the state auditor.

26 (b) The content of the financial disclosure statement must
27 substantially comply with the requirements of Subchapter B, Chapter

1 572.

2 (c) The officer or employee shall file the first financial
3 statement not later than the 30th day after the date the person is
4 first employed by the state governmental entity in a position in
5 which the officer or employee exercises authority as described by
6 Subsection (a) and shall file annual statements not later than
7 April 30 of each subsequent year in which the officer or employee
8 remains employed in such a position. The filing deadline may be
9 postponed:

10 (1) by the administrative head of the state
11 governmental entity for not more than 60 days on written request;
12 and

13 (2) for an additional period for good cause as
14 determined by:

15 (A) the presiding officer of a multimember
16 governing body; or

17 (B) the single state official who governs the
18 state governmental entity.

19 (d) The state governmental entity shall maintain a
20 financial disclosure statement for at least five years after the
21 date of its filing.

22 Sec. 2263.004. ETHICS REQUIREMENTS FOR GOVERNING BODY,
23 OFFICERS, AND EMPLOYEES: DISCLOSURE OF CERTAIN RELATIONSHIPS. (a)
24 A member of the governing body of, or an officer or employee of, a
25 state governmental entity who has a direct or indirect business or
26 commercial relationship that could reasonably be expected to
27 diminish the person's independence of judgment in the performance

1 of the person's responsibilities in connection with the management
2 or investment of state funds shall disclose the relationship in
3 writing to a person designated by the governing body and to the
4 state auditor.

5 (b) A person who files a disclosure statement under
6 Subsection (a) or who is required to file such a statement may not
7 give advice or make decisions about matters affected by the
8 conflict of interest unless the governing body, after consultation
9 with the general counsel of the state governmental entity,
10 expressly waives this prohibition. The state governmental entity
11 shall maintain a written record of each waiver and the reasons for
12 it.

13 (c) The governing body may delegate the authority to waive
14 prohibitions under Subsection (b) that affect an officer or
15 employee to one or more designated officers or employees. The
16 governing body may adopt criteria for designated officers or
17 employees to use to determine the kinds of relationships that do not
18 constitute a material conflict of interest for purposes of
19 Subsection (b). A multimember governing body may delegate this
20 authority only by adopting an order on a vote of a majority of its
21 members at an open meeting called and held in compliance with
22 Chapter 551, and the governing body shall have the order entered
23 into the minutes of the meeting.

24 Sec. 2263.005. ETHICS REQUIREMENTS FOR GOVERNING BODY,
25 OFFICERS, AND EMPLOYEES: ANNUAL ETHICS COMPLIANCE STATEMENT. (a)
26 Each member of the governing body of a state governmental entity
27 that manages or invests state funds or for which state funds are

1 managed or invested and each officer and employee of the
2 governmental entity required to file a financial disclosure
3 statement under Section 2263.003 shall file annually a compliance
4 statement certifying that the person is in compliance with all
5 applicable requirements prescribed by or under this chapter. The
6 person shall file the statement with a person designated by the
7 governing body and with the state auditor.

8 (b) The governing body of the state governmental entity
9 shall prescribe the date by which the compliance statement must be
10 filed.

11 Sec. 2263.006. ETHICS REQUIREMENTS FOR CONSULTANTS,
12 ADVISORS, MONEY MANAGERS, AND BROKERS. (a) The governing body of a
13 state governmental entity by rule shall adopt standards of conduct
14 applicable to consultants, advisors, money managers, and brokers
15 who advise the state governmental entity or a member of the
16 governing body of the state governmental entity in connection with
17 the management or investment of state funds or provide financial
18 services to the state governmental entity and who:

19 (1) may reasonably be expected to receive more than
20 \$10,000 in compensation from the entity during a fiscal year; or

21 (2) render important investment or funds management
22 advice to the entity or a member of the governing body of the
23 entity, as determined by the governing body.

24 (b) A consultant, advisor, money manager, or broker who
25 advises a state governmental entity or a member of the governing
26 body of the state governmental entity in connection with the
27 management or investment of state funds or provides financial

1 services to the state governmental entity shall disclose in writing
2 to the administrative head of the entity and to the state auditor
3 any relationship the consultant, advisor, money manager, or broker
4 has with any party to a transaction with the state governmental
5 entity, other than a relationship necessary to the investment or
6 funds management services that the consultant, advisor, money
7 manager, or broker performs for the state governmental entity, if
8 the relationship could reasonably be expected to diminish the
9 person's independence of judgment in the performance of the
10 person's responsibilities to the state governmental entity.

11 (c) The consultant, advisor, money manager, or broker shall
12 disclose a relationship described by Subsection (b) without regard
13 to whether the relationship is a direct, indirect, personal,
14 private, commercial, or business relationship.

15 (d) A consultant, advisor, money manager, or broker
16 described by Subsection (a) shall file annually a statement with
17 the administrative head of the applicable state governmental entity
18 and with the state auditor. The statement must disclose each
19 relationship described by Subsection (b), if any. The state
20 auditor by rule shall prescribe the date by which the statement must
21 be filed. The state auditor may prescribe a uniform date or may
22 prescribe different dates for statements filed in relation to
23 different state governmental entities. The consultant, advisor,
24 money manager, or broker shall file a new or amended statement with
25 the administrative head of the applicable state governmental entity
26 and with the state auditor whenever there is new information to
27 report under Subsection (b).

1 Sec. 2263.007. DISCLOSURE OF CERTAIN EXPENDITURES BY
2 CONSULTANTS, ADVISORS, MONEY MANAGERS, AND BROKERS. The governing
3 body of a state governmental entity by rule shall require
4 consultants, advisors, money managers, and brokers who provide
5 investment or funds management advice to the state governmental
6 entity or provide financial services to the state governmental
7 entity to file regularly with the entity a report detailing any
8 expenditure of more than \$250 made on behalf of a member of the
9 governing body or an officer or employee of the state governmental
10 entity.

11 Sec. 2263.008. PUBLIC INFORMATION. (a) Chapter 552
12 controls the extent to which information contained in a statement,
13 waiver, or report filed under this chapter is subject to required
14 public disclosure or excepted from required public disclosure.

15 (b) The governing body shall designate an employee to be the
16 custodian of the statements, waivers, and reports for purposes of
17 public disclosure under Chapter 552.

18 Sec. 2263.009. FORMS. The state auditor shall prescribe
19 forms for financial disclosure statements, annual ethics
20 compliance statements, disclosure statements of conflicts of
21 interests, and waivers of the prohibition against involvement in a
22 matter affected by a conflict of interest.

23 SECTION 2. Each state governmental entity required to
24 adopt rules under Chapter 2263, Government Code, as added by this
25 Act, shall adopt its initial rules in time for the rules to take
26 effect not later than January 1, 2004.

27 SECTION 3. This Act takes effect September 1, 2003.