

By: Woolley

H.B. No. 914

A BILL TO BE ENTITLED

AN ACT

relating to disclosure of certain business or financial relationships with certain local government officers; providing criminal penalties.

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

SECTION 1. Subtitle C, Title 5, Local Government Code, is amended by adding Chapter 176 to read as follows:

CHAPTER 176. DISCLOSURE OF CERTAIN RELATIONSHIPS WITH LOCAL GOVERNMENT OFFICERS

Sec. 176.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Ethics Commission.

(2) "Family member" means a person related to another person within the first degree by consanguinity or affinity, as described by Subchapter B, Chapter 573, Government Code.

(3) "Local governmental entity" means a county, municipality, school district, or other political subdivision of this state or a local government corporation, board, commission, district, or authority to which a member is appointed by the commissioners court of a county, the mayor of a municipality, or the governing body of a municipality. The term does not include an association, corporation, or organization of governmental entities organized to provide to its members education, assistance, products, or services or to represent its members before the legislative, administrative, or judicial branches of the state or

1 federal government.

2 (4) "Local government officer" means:

3 (A) a member of the governing body of a local
4 governmental entity; or

5 (B) a director, superintendent, administrator,
6 president, or other person designated as the executive officer of
7 the local governmental entity.

8 (5) "Records administrator" means the director,
9 county clerk, municipal secretary, superintendent, or other person
10 responsible for maintaining the records of the local governmental
11 entity.

12 Sec. 176.002. APPLICABILITY TO CERTAIN VENDORS AND OTHER
13 PERSONS. (a) This chapter applies to a person who:

14 (1) contracts or seeks to contract for the sale or
15 purchase of property, goods, or services with a local governmental
16 entity;

17 (2) seeks the approval of a plat with the governing
18 body of a local governmental entity;

19 (3) seeks a permit or license to be granted by a local
20 governmental entity; or

21 (4) is an agent of a person described by Subdivision
22 (1), (2), or (3) in the person's business with a local governmental
23 entity.

24 (b) A person is not subject to the disclosure requirements
25 of this chapter if the person is:

26 (1) a state, a political subdivision of a state, the
27 federal government, or a foreign government; or

1 (2) an employee of an entity described by Subdivision
2 (1), acting in the employee's official capacity.

3 Sec. 176.003. CONFLICTS DISCLOSURE STATEMENT REQUIRED. (a)
4 A local government officer shall file a conflicts disclosure
5 statement with respect to a person described by Section 176.002(a)
6 if:

7 (1) the person has contracted with the local
8 governmental entity or the local governmental entity is considering
9 doing business with the person; and

10 (2) the person:

11 (A) has an employment or other business
12 relationship with the local government officer or a family member
13 of the officer that results in the officer or family member
14 receiving taxable income; or

15 (B) has offered or given to the local government
16 officer or a family member of the officer one or more gifts that
17 have an aggregate value of more than \$250 in the 12-month period
18 preceding the date the officer becomes aware that:

19 (i) a contract described by Subdivision (1)
20 has been executed; or

21 (ii) the local governmental entity is
22 considering doing business with the person.

23 (b) A local government officer shall file the conflicts
24 disclosure statement with the records administrator of the local
25 governmental entity not later than 5 p.m. on the seventh business
26 day after the date on which the officer becomes aware of the facts
27 that require the filing of the statement under Subsection (a).

1 (c) A local government officer commits an offense if the
2 officer knowingly violates this section. An offense under this
3 subsection is a Class C misdemeanor.

4 Sec. 176.004. CONTENTS OF DISCLOSURE STATEMENT. The
5 commission shall adopt the conflicts disclosure statement for local
6 government officers. The conflicts disclosure statement must
7 include:

8 (1) a requirement that each local government officer
9 disclose:

10 (A) an employment or other business relationship
11 described by Section 176.003(a), including the nature and extent of
12 the relationship; and

13 (B) gifts offered to or received by the local
14 government officer and any family member of the officer from a
15 person described by Section 176.002(a) during the 12-month period
16 described by Section 176.003(a)(2)(B) if the aggregate value of the
17 gifts from that person exceed \$250;

18 (2) an acknowledgment from the local government
19 officer that:

20 (A) the disclosure applies to each family member
21 of the officer; and

22 (B) the statement covers the 12-month period
23 described by Section 176.003(a)(2)(B); and

24 (3) the signature of the local government officer
25 acknowledging that the statement is made under oath under penalty
26 of perjury.

27 Sec. 176.005. APPLICATION TO CERTAIN EMPLOYEES. (a) The

1 local governmental entity may extend the requirements of Sections
2 176.003 and 176.004 to all or a group of the employees of the local
3 governmental entity.

4 (b) A local governmental entity may reprimand, suspend, or
5 terminate the employment of an employee who fails to comply with a
6 requirement adopted under this section.

7 (c) An employee of a local governmental entity commits an
8 offense if the employee knowingly violates requirements imposed
9 under this section. An offense under this subsection is a Class C
10 misdemeanor.

11 Sec. 176.006. DISCLOSURE REQUIREMENTS FOR VENDORS AND OTHER
12 PERSONS; QUESTIONNAIRE. (a) A person described by Section
13 176.002(a) shall file a completed conflict of interest
14 questionnaire with the appropriate records administrator not later
15 than the seventh business day after the date that the person:

16 (1) begins contract discussions or negotiations with
17 the local governmental entity; or

18 (2) submits to the local governmental entity:

19 (A) an application, response to a request for
20 proposals or bids, correspondence, or another writing related to a
21 potential agreement with the local governmental entity;

22 (B) a request for approval of a plat; or

23 (C) a request for the granting of a permit or
24 license.

25 (b) The commission shall adopt a conflict of interest
26 questionnaire for use under this section that requires disclosure
27 of a person's affiliations or business relationships that might

1 cause a conflict of interest with a local governmental entity.

2 (c) The questionnaire adopted under Subsection (b) must
3 require, for the local governmental entity with respect to which
4 the questionnaire is filed, that the person filing the
5 questionnaire:

6 (1) describe each affiliation or business
7 relationship the person has with each local government officer of
8 the local governmental entity;

9 (2) identify each affiliation or business
10 relationship described by Subdivision (1) with respect to which the
11 local government officer receives, or is likely to receive, taxable
12 income from the person filing the questionnaire;

13 (3) identify each affiliation or business
14 relationship described by Subdivision (1) with respect to which the
15 person filing the questionnaire receives, or is likely to receive,
16 taxable income that:

17 (A) is received from, or at the direction of, a
18 local government officer of the local governmental entity; and

19 (B) is not received from the local governmental
20 entity;

21 (4) describe each affiliation or business
22 relationship with a corporation or other business entity with
23 respect to which a local government officer of the local
24 governmental entity:

25 (A) serves as an officer or director; or

26 (B) holds an ownership interest of 10 percent or
27 more;

1 (5) describe each affiliation or business
2 relationship with an employee or contractor of the local
3 governmental entity who makes recommendations to a local government
4 officer of the local governmental entity with respect to:

5 (A) the expenditure of money;

6 (B) the approval of a plat; or

7 (C) the granting of a permit or license;

8 (6) describe each affiliation or business
9 relationship with a person who:

10 (A) is a local government officer; and

11 (B) appoints or employs a local government
12 officer of the local governmental entity that is the subject of the
13 questionnaire; and

14 (7) describe any other affiliation or business
15 relationship that might cause a conflict of interest.

16 (d) A person described by Subsection (a) shall file an
17 updated completed questionnaire with the appropriate records
18 administrator not later than:

19 (1) September 1 of each year in which an activity
20 described by Subsection (a) is pending; and

21 (2) the seventh business day after the date of an event
22 that would make a statement in the questionnaire incomplete or
23 inaccurate.

24 (e) A person is not required to file an updated completed
25 questionnaire under Subsection (d)(1) in a year if the person has
26 filed a questionnaire under Subsection (c) or (d)(2) on or after
27 June 1, but before September 1, of that year.

1 (f) A local governmental entity may void a contract entered
2 into with a person described by Subsection (a) if the person
3 violates this section. The contract must state the substance of
4 this subsection.

5 (g) A person commits an offense if the person violates this
6 section. An offense under this subsection is a Class C misdemeanor.

7 (h) It is a defense to prosecution under Subsection (g) that
8 the person filed the required questionnaire not later than the
9 seventh business day after the date the person received notice of
10 the violation.

11 Sec. 176.007. LIST OF GOVERNMENT OFFICERS. The records
12 administrator for a local governmental entity shall maintain a list
13 of local government officers of the entity and shall make that list
14 available to the public and any person who may be required to file a
15 questionnaire under Section 176.006.

16 Sec. 176.008. ELECTRONIC FILING. The requirements of this
17 chapter, including signature requirements, may be satisfied by
18 electronic filing in a form approved by the commission.

19 Sec. 176.009. POSTING ON INTERNET. A local governmental
20 entity shall provide access to the statements and questionnaires
21 filed under this chapter on the Internet website maintained by the
22 local governmental entity.

23 Sec. 176.010. REQUIREMENTS CUMULATIVE. The requirements of
24 this chapter are in addition to any other disclosure required by
25 law.

26 SECTION 2. Section 176.006(f), Local Government Code, as
27 added by this Act, applies only to a contract entered into on or

1 after the effective date of this Act.

2 SECTION 3. The Texas Ethics Commission shall adopt the
3 conflicts disclosure statement and the conflict of interest
4 questionnaire required by Chapter 176, Local Government Code, as
5 added by this Act, not later than December 1, 2005.

6 SECTION 4. (a) A local government officer is not required
7 to file a conflicts disclosure statement under Chapter 176, Local
8 Government Code, as added by this Act, before January 1, 2006.

9 (b) A person described by Section 176.002(a), Local
10 Government Code, as added by this Act, is not required to file a
11 conflict of interest questionnaire under Chapter 176, Local
12 Government Code, as added by this Act, before January 1, 2006.

13 SECTION 5. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2005.