

1-1 By: Woolley (Senate Sponsor - Williams) H.B. No. 914
1-2 (In the Senate - Received from the House March 29, 2005;
1-3 March 30, 2005, read first time and referred to Committee on State
1-4 Affairs; May 20, 2005, reported favorably, as amended, by the
1-5 following vote: Yeas 8, Nays 0; May 20, 2005, sent to printer.)

1-6 COMMITTEE AMENDMENT NO. 1 By: Williams

1-7 Amend H.B. No. 914 (house engrossed printing), in SECTION 1
1-8 of the bill, in added Chapter 176, Local Government Code, by
1-9 striking Section 176.010 (page 4, lines 23-38) and renumbering
1-10 Section 176.011 of the chapter accordingly.

1-11 COMMITTEE AMENDMENT NO. 2 By: Williams

1-12 Amend H.B. No. 914 (house engrossed printing), in SECTION 1
1-13 of the bill, in added Section 176.003(a)(2)(B), Local Government
1-14 Code, between "gifts" and "that" (page 2, line 20), by inserting ",
1-15 other than gifts of food, lodging, transportation, or entertainment
1-16 accepted as a guest,".

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to disclosure of certain business or financial
1-20 relationships with certain local government officers; providing
1-21 criminal penalties.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Subtitle C, Title 5, Local Government Code, is
1-24 amended by adding Chapter 176 to read as follows:

1-25 CHAPTER 176. DISCLOSURE OF CERTAIN RELATIONSHIPS WITH LOCAL
1-26 GOVERNMENT OFFICERS

1-27 Sec. 176.001. DEFINITIONS. In this chapter:

1-28 (1) "Commission" means the Texas Ethics Commission.

1-29 (2) "Family member" means a person related to another
1-30 person within the first degree by consanguinity or affinity, as
1-31 described by Subchapter B, Chapter 573, Government Code.

1-32 (3) "Local governmental entity" means a county,
1-33 municipality, school district, or other political subdivision of
1-34 this state or a local government corporation, board, commission,
1-35 district, or authority to which a member is appointed by the
1-36 commissioners court of a county, the mayor of a municipality, or the
1-37 governing body of a municipality. The term does not include an
1-38 association, corporation, or organization of governmental entities
1-39 organized to provide to its members education, assistance,
1-40 products, or services or to represent its members before the
1-41 legislative, administrative, or judicial branches of the state or
1-42 federal government.

1-43 (4) "Local government officer" means:

1-44 (A) a member of the governing body of a local
1-45 governmental entity; or

1-46 (B) a director, superintendent, administrator,
1-47 president, or other person designated as the executive officer of
1-48 the local governmental entity.

1-49 (5) "Records administrator" means the director,
1-50 county clerk, municipal secretary, superintendent, or other person
1-51 responsible for maintaining the records of the local governmental
1-52 entity.

1-53 Sec. 176.002. APPLICABILITY TO CERTAIN VENDORS AND OTHER
1-54 PERSONS. (a) This chapter applies to a person who:

1-55 (1) contracts or seeks to contract for the sale or
1-56 purchase of property, goods, or services with a local governmental
1-57 entity; or

1-58 (2) is an agent of a person described by Subdivision
1-59 (1) in the person's business with a local governmental entity.

1-60 (b) A person is not subject to the disclosure requirements

2-1 of this chapter if the person is:

2-2 (1) a state, a political subdivision of a state, the
2-3 federal government, or a foreign government; or

2-4 (2) an employee of an entity described by Subdivision
2-5 (1), acting in the employee's official capacity.

2-6 Sec. 176.003. CONFLICTS DISCLOSURE STATEMENT REQUIRED. (a)
2-7 A local government officer shall file a conflicts disclosure
2-8 statement with respect to a person described by Section 176.002(a)
2-9 if:

2-10 (1) the person has contracted with the local
2-11 governmental entity or the local governmental entity is considering
2-12 doing business with the person; and

2-13 (2) the person:

2-14 (A) has an employment or other business
2-15 relationship with the local government officer or a family member
2-16 of the officer that results in the officer or family member
2-17 receiving taxable income; or

2-18 (B) has given to the local government officer or
2-19 a family member of the officer one or more gifts that have an
2-20 aggregate value of more than \$250 in the 12-month period preceding
2-21 the date the officer becomes aware that:

2-22 (i) a contract described by Subdivision (1)
2-23 has been executed; or

2-24 (ii) the local governmental entity is
2-25 considering doing business with the person.

2-26 (b) A local government officer shall file the conflicts
2-27 disclosure statement with the records administrator of the local
2-28 governmental entity not later than 5 p.m. on the seventh business
2-29 day after the date on which the officer becomes aware of the facts
2-30 that require the filing of the statement under Subsection (a).

2-31 (c) A local government officer commits an offense if the
2-32 officer knowingly violates this section. An offense under this
2-33 subsection is a Class C misdemeanor.

2-34 (d) It is a defense to prosecution under Subsection (c) that
2-35 the person filed the required conflicts disclosure statement not
2-36 later than the seventh business day after the date the person
2-37 received notice of the violation.

2-38 Sec. 176.004. CONTENTS OF DISCLOSURE STATEMENT. The
2-39 commission shall adopt the conflicts disclosure statement for local
2-40 government officers. The conflicts disclosure statement must
2-41 include:

2-42 (1) a requirement that each local government officer
2-43 disclose:

2-44 (A) an employment or other business relationship
2-45 described by Section 176.003(a), including the nature and extent of
2-46 the relationship; and

2-47 (B) gifts received by the local government
2-48 officer and any family member of the officer from a person described
2-49 by Section 176.002(a) during the 12-month period described by
2-50 Section 176.003(a)(2)(B) if the aggregate value of the gifts from
2-51 that person exceed \$250;

2-52 (2) an acknowledgment from the local government
2-53 officer that:

2-54 (A) the disclosure applies to each family member
2-55 of the officer; and

2-56 (B) the statement covers the 12-month period
2-57 described by Section 176.003(a)(2)(B); and

2-58 (3) the signature of the local government officer
2-59 acknowledging that the statement is made under oath under penalty
2-60 of perjury.

2-61 Sec. 176.005. APPLICATION TO CERTAIN EMPLOYEES. (a) The
2-62 local governmental entity may extend the requirements of Sections
2-63 176.003 and 176.004 to all or a group of the employees of the local
2-64 governmental entity.

2-65 (b) A local governmental entity may reprimand, suspend, or
2-66 terminate the employment of an employee who fails to comply with a
2-67 requirement adopted under this section.

2-68 (c) An employee of a local governmental entity commits an
2-69 offense if the employee knowingly violates requirements imposed

3-1 under this section. An offense under this subsection is a Class C
 3-2 misdemeanor.

3-3 (d) It is a defense to prosecution under Subsection (c) that
 3-4 the person filed the required conflicts disclosure statement not
 3-5 later than the seventh business day after the date the person
 3-6 received notice of the violation.

3-7 Sec. 176.006. DISCLOSURE REQUIREMENTS FOR VENDORS AND OTHER
 3-8 PERSONS; QUESTIONNAIRE. (a) A person described by Section
 3-9 176.002(a) shall file a completed conflict of interest
 3-10 questionnaire with the appropriate records administrator not later
 3-11 than the seventh business day after the date that the person:

3-12 (1) begins contract discussions or negotiations with
 3-13 the local governmental entity; or

3-14 (2) submits to the local governmental entity an
 3-15 application, response to a request for proposals or bids,
 3-16 correspondence, or another writing related to a potential agreement
 3-17 with the local governmental entity.

3-18 (b) The commission shall adopt a conflict of interest
 3-19 questionnaire for use under this section that requires disclosure
 3-20 of a person's affiliations or business relationships that might
 3-21 cause a conflict of interest with a local governmental entity.

3-22 (c) The questionnaire adopted under Subsection (b) must
 3-23 require, for the local governmental entity with respect to which
 3-24 the questionnaire is filed, that the person filing the
 3-25 questionnaire:

3-26 (1) describe each affiliation or business
 3-27 relationship the person has with each local government officer of
 3-28 the local governmental entity;

3-29 (2) identify each affiliation or business
 3-30 relationship described by Subdivision (1) with respect to which the
 3-31 local government officer receives, or is likely to receive, taxable
 3-32 income from the person filing the questionnaire;

3-33 (3) identify each affiliation or business
 3-34 relationship described by Subdivision (1) with respect to which the
 3-35 person filing the questionnaire receives, or is likely to receive,
 3-36 taxable income that:

3-37 (A) is received from, or at the direction of, a
 3-38 local government officer of the local governmental entity; and

3-39 (B) is not received from the local governmental
 3-40 entity;

3-41 (4) describe each affiliation or business
 3-42 relationship with a corporation or other business entity with
 3-43 respect to which a local government officer of the local
 3-44 governmental entity:

3-45 (A) serves as an officer or director; or

3-46 (B) holds an ownership interest of 10 percent or
 3-47 more;

3-48 (5) describe each affiliation or business
 3-49 relationship with an employee or contractor of the local
 3-50 governmental entity who makes recommendations to a local government
 3-51 officer of the local governmental entity with respect to the
 3-52 expenditure of money;

3-53 (6) describe each affiliation or business
 3-54 relationship with a person who:

3-55 (A) is a local government officer; and

3-56 (B) appoints or employs a local government
 3-57 officer of the local governmental entity that is the subject of the
 3-58 questionnaire; and

3-59 (7) describe any other affiliation or business
 3-60 relationship that might cause a conflict of interest.

3-61 (d) A person described by Subsection (a) shall file an
 3-62 updated completed questionnaire with the appropriate records
 3-63 administrator not later than:

3-64 (1) September 1 of each year in which an activity
 3-65 described by Subsection (a) is pending; and

3-66 (2) the seventh business day after the date of an event
 3-67 that would make a statement in the questionnaire incomplete or
 3-68 inaccurate.

3-69 (e) A person is not required to file an updated completed

4-1 questionnaire under Subsection (d)(1) in a year if the person has
4-2 filed a questionnaire under Subsection (c) or (d)(2) on or after
4-3 June 1, but before September 1, of that year.

4-4 (f) A person commits an offense if the person violates this
4-5 section. An offense under this subsection is a Class C misdemeanor.

4-6 (g) It is a defense to prosecution under Subsection (f) that
4-7 the person filed the required questionnaire not later than the
4-8 seventh business day after the date the person received notice of
4-9 the violation.

4-10 Sec. 176.007. LIST OF GOVERNMENT OFFICERS. The records
4-11 administrator for a local governmental entity shall maintain a list
4-12 of local government officers of the entity and shall make that list
4-13 available to the public and any person who may be required to file a
4-14 questionnaire under Section 176.006.

4-15 Sec. 176.008. ELECTRONIC FILING. The requirements of this
4-16 chapter, including signature requirements, may be satisfied by
4-17 electronic filing in a form approved by the commission.

4-18 Sec. 176.009. POSTING ON INTERNET. A local governmental
4-19 entity shall provide access to the statements and questionnaires
4-20 filed under this chapter on the Internet website maintained by the
4-21 local governmental entity.

4-22 Sec. 176.010. NOTICE OF MEETING OF GOVERNING BODY. The
4-23 notice required under Subchapter C, Chapter 551, Government Code,
4-24 of a meeting of the governing body of a local governmental entity at
4-25 which the governing body will consider a contract or proposed
4-26 contract for the sale or purchase of property, goods, or services
4-27 must include, with the specific agenda item related to the
4-28 contract:

4-29 (1) a list of each conflicts disclosure statement
4-30 filed by a local government officer or employee under Section
4-31 176.003 or 176.005 that relates to a person described by Section
4-32 176.002(a) who is contracting or seeking to contract or is an agent
4-33 of a person contracting or seeking to contract; and

4-34 (2) each conflict of interest questionnaire filed
4-35 under Section 176.006 by a person who is contracting or seeking to
4-36 contract or is an agent of a person contracting or seeking to
4-37 contract.

4-38 Sec. 176.011. REQUIREMENTS CUMULATIVE. The requirements of
4-39 this chapter are in addition to any other disclosure required by
4-40 law.

4-41 SECTION 2. The Texas Ethics Commission shall adopt the
4-42 conflicts disclosure statement and the conflict of interest
4-43 questionnaire required by Chapter 176, Local Government Code, as
4-44 added by this Act, not later than December 1, 2005.

4-45 SECTION 3. (a) A local government officer is not required
4-46 to file a conflicts disclosure statement under Chapter 176, Local
4-47 Government Code, as added by this Act, before January 1, 2006.

4-48 (b) A person described by Section 176.002(a), Local
4-49 Government Code, as added by this Act, is not required to file a
4-50 conflict of interest questionnaire under Chapter 176, Local
4-51 Government Code, as added by this Act, before January 1, 2006.

4-52 SECTION 4. This Act takes effect immediately if it receives
4-53 a vote of two-thirds of all the members elected to each house, as
4-54 provided by Section 39, Article III, Texas Constitution. If this
4-55 Act does not receive the vote necessary for immediate effect, this
4-56 Act takes effect September 1, 2005.

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