

By: Morrison

H.B. No. 2334

A BILL TO BE ENTITLED

AN ACT

relating to the filing of a disclosure statement by a vendor or member of a governing body of a port authority or navigation district; imposing a penalty.

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

SECTION 1. Chapter 60, Water Code, is amended by adding Subchapter P to read as follows:

SUBCHAPTER P. DISCLOSURE REQUIREMENTS FOR VENDORS

AND MEMBERS OF GOVERNING BODIES

Sec. 60.481. DEFINITIONS. In this subchapter:

(1) "Governing body" means the governing body of a port authority or navigation district.

(2) "Vendor" means a person who provides goods or services.

Sec. 60.482. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a port authority or navigation district created or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

Sec. 60.483. VENDOR REQUIREMENTS. (a) This section applies to a vendor who:

(1) responds to a port authority or navigation district request for a proposal; or

(2) otherwise communicates with the port authority or navigation district in connection with a potential agreement

1 between that vendor and the authority or district.

2 (b) The governing body by rule shall design a conflict of  
3 interest questionnaire that requires disclosure of a vendor's  
4 affiliations or business relationships that might cause a conflict  
5 of interest.

6 (c) A vendor shall file a completed conflict of interest  
7 questionnaire with the secretary of the governing body not later  
8 than the seventh day after the date the vendor:

9 (1) begins contract discussions or negotiations with  
10 the port authority or navigation district; or

11 (2) forwards an application, a response to a request  
12 for proposal, correspondence, or other writings related to an  
13 agreement or potential agreement with the port authority or  
14 navigation district.

15 (d) A vendor shall file an updated completed questionnaire  
16 with the secretary of the governing body:

17 (1) on September 1 of each year if the vendor took an  
18 action described by Subsection (a) in the preceding 12 months; and

19 (2) after each event that would make a statement in the  
20 questionnaire filed under Subsection (c) or Subdivision (1) of this  
21 subsection incomplete or inaccurate.

22 (e) Each contract entered into between a port authority or  
23 navigation district and a vendor shall contain a provision stating  
24 that the contract is voidable if the vendor violates this section.

25 A contract entered into between a port authority or navigation  
26 district and a vendor is voidable if the vendor violates this  
27 section.

1       Sec. 60.484. DISCLOSURE OF VENDOR RELATIONSHIP BY MEMBERS  
2 OF GOVERNING BODY. (a) The governing body by rule shall design a  
3 conflicts disclosure statement for members of the governing body  
4 that includes:

5           (1) a requirement that each member of the governing  
6 body disclose:

7                   (A) an employment or other business relationship  
8 with a vendor that results in the member receiving taxable income,  
9 including the nature and extent of the relationship; and

10                   (B) any gifts received in a 12-month period by  
11 that member from a vendor that have a total value of more than \$250;

12           (2) an acknowledgment from the member that:

13                   (A) the disclosure applies to a person related to  
14 that member within the first degree by consanguinity or by  
15 affinity, as defined by Subchapter B, Chapter 573, Government Code;  
16 and

17                   (B) the statement covers the preceding 12 months;  
18 and

19           (3) a signature by the member acknowledging execution  
20 of the statement under penalty of perjury.

21       (b) The disclosure requirement applies to a member of the  
22 governing body and requires disclosure for a person related to that  
23 member within the first degree by consanguinity or by affinity, as  
24 defined by Subchapter B, Chapter 573, Government Code.

25       (c) A member of a governing body shall file a conflicts  
26 disclosure statement with the Texas Ethics Commission and the  
27 secretary of the governing body not later than the end of the fifth

1 business day after the date the member became aware of the  
2 relationship between the port authority or navigation district and  
3 the vendor if:

4 (1) the vendor has contracted with the port authority  
5 or navigation district;

6 (2) the port authority or navigation district is  
7 considering conducting business with the vendor; or

8 (3) a vendor offered one or more gifts to that member  
9 in the preceding 12-month period that have a total value of more  
10 than \$250.

11 (d) A member of the governing body may request in writing  
12 that the general counsel of the port authority or navigation  
13 district advise the member with respect to a potential violation of  
14 this section. If the request provides detailed information about  
15 an alleged violation or hypothetical situation, the member is  
16 entitled to rely in good faith on the general counsel's advisory  
17 opinion written in response to the member's request.

18 (e) If, after notice and hearing, the Texas Ethics  
19 Commission finds that a member of the governing body has violated  
20 this section, the Texas Ethics Commission:

21 (1) may impose a civil penalty against the member, in  
22 an amount not to exceed \$2,000, for the violation; and

23 (2) shall notify the entity that appointed the member  
24 to the governing body of the finding.

25 SECTION 2. Subchapter O, Chapter 60, Water Code, as added by  
26 Chapter 249, Acts of the 78th Legislature, Regular Session, 2003,  
27 is repealed.

1           SECTION 3. A vendor is required to file a completed conflict  
2 of interest questionnaire under Section 60.483(c), Water Code, as  
3 added by this Act, only if the vendor takes an action described by  
4 Subdivision (1) or (2) of that subsection on or after the effective  
5 date of this Act.

6           SECTION 4. Section 60.483(e), Water Code, as added by this  
7 Act, applies only to:

8                   (1) a contract entered into by a vendor on or after  
9 September 1, 2005; or

10                   (2) a renewal or extension of a contract entered into  
11 by a vendor before September 1, 2005, that begins on or after  
12 September 1, 2005.

13           SECTION 5. A member of the governing body of a port  
14 authority or navigation district is required to file a conflicts  
15 disclosure statement under Section 60.484(c), Water Code, as added  
16 by this Act, only if the port authority or navigation district or a  
17 vendor, as applicable, takes an action described by Subdivision  
18 (1), (2), or (3) of that subsection on or after the effective date  
19 of this Act.

20           SECTION 6. This Act takes effect September 1, 2005.