

BILL ANALYSIS

H.B. 1491
By: Woolley
Committee on Urban Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Chapter 176, Local Government Code, was enacted by the 79th Legislature to provide access to information concerning business relationships between local government officials and vendors that contract with local governmental entities. The manner by which information about these business relationships is disclosed was further clarified by Attorney General Greg Abbott in Opinion, GA-0446.

House Bill No. 1491 seeks to codify the issues addressed in GA-0446 to ensure that the disclosure requirements are clear and comprehensible while providing the public with access to information concerning business relationships between local government officials and the vendors who contract with local governmental entities.

RULEMAKING AUTHORITY

It is the opinion of the committee that this bill does not expressly grant any additional rulemaking authority to a State officer, agency, department, or institution.

SECTION-BY-SECTION ANALYSIS

SECTION 1. Amends Section 176.001, Local Government Code, as follows:

Sec. 176.001 DEFINITIONS. Adds definitions for "agent," "business relationship," "charter school," "contract," "goods," "investment income," and "services." Adds charter school to the definition of "local governmental entity." Provides that certain employees of a local governmental entity may be included in the definition of "local government officer" under certain circumstances. Provides that the definition of "records administrator" may include a person designated by a local governmental entity to maintain the statements and questionnaires filed under this chapter. Makes conforming changes.

SECTION 2. Amends Section 176.002(a), Local Government Code, to apply to a person who enters or seeks to enter into a contract with a local governmental entity. Deletes a modifying phrase to the term "contract" to conform with the added definition of "contract" in Section 176.001, Local Government Code.

SECTION 3. Amends Section 176.003, Local Government Code, to require a local government officer to file a conflicts disclosure statement if a business relationship exists, that is not the result of investment income and reflects more than \$2500 in taxable income in a 12-month period, with a person who enters or is considering entering into a contract with the local governmental entity or the local governmental entity is considering entering into a contract with that person.

Provides that a local government officer is not required to file a conflicts disclosure statement for a gift accepted by the officer or a family member of the officer if the gift is given by a family member of the person accepting the gift, a political contribution, or food, lodging, transportation or entertainment accepted as a guest.

Changes the defense to prosecution for a local government officer to an exception to application of subsection (c) if the local government officer files the required statement not later than the

seventh business day after the local government officer received notice from the local governmental entity of the alleged violation.

SECTION 4. Amends Section 176.004, Local Government Code, by providing that the conflicts disclosure statement for local government officers must include that a gift could trigger a disclosure requirement if it is accepted, deleting reference to whether the gift is received, and that certain gifts are excluded from the disclosure requirement by 176.003(a-1). Makes conforming changes.

SECTION 5. Amends Section 176.005, Local Government Code, by providing that a local governmental entity may extend the disclosure requirements of Chapter 176, Local Government Code, to any employee who has authority to approve contracts. States that upon a request by any person a list of aforementioned designated employees must be provided. Changes the defense to prosecution for an aforementioned designated employee of a local governmental entity to an exception to application of subsection (c) if the aforementioned designee files the required statement not later than the seventh business day after receiving notice from the local governmental entity of the alleged violation.

SECTION 6. Amends Section 176.006, Local Government Code, to provide that a completed conflict of interest questionnaire shall be filed if the person has a business relationship with a local governmental entity and has an employment or other business relationship with an officer of that local governmental entity or certain other persons; or if the person has given a local government officer or certain family members of the local government officer a gift or gifts with an aggregate value that exceeds \$2500, excluding certain gifts between family members, political contributions, and certain gifts related to food, lodging, transportation, or entertainment.

Provides that a completed conflict of interest questionnaire must be filed not later than the seventh day after the date the person begins discussions or negotiations to enter into a contract with the local governmental entity; the date the person submits to the local governmental entity an application, certain responses to proposal or bids or another writing to a potential contract; the date the person becomes aware of an employment or other business relationship with a local government officer or certain other persons; or the date the person becomes aware that the person has given one or more gifts described by Subsection(a). Makes conforming changes related, in part, to the conflict of interest questionnaire that the commission shall adopt.

Provides that the criminal intent standard of knowingly applies before a person violates this section. Changes the defense to prosecution for a person required to file a questionnaire under this chapter to an exception to application of subsection (f) if that person files the required questionnaire not later than the seventh business day after that person receives notice from the local governmental entity of the alleged violation.

Provides that a local governmental entity does not have a duty to ensure that a person described by Section 176.002 files a conflict of interest questionnaire.

Provides that the validity of a contract between a person described by Section 176.002 and a local governmental entity is not affected because of a failure to comply with this section.

SECTION 7. Amends Section 176.009(a), Local Government Code, by providing that Internet website access to statements and to questionnaires required under this chapter is required when a local governmental entity maintains an Internet website, but that this subsection does not require a local governmental entity to maintain an Internet website.

SECTION 8. Amends Chapter 176, Local Government Code, by adding the following sections:

Sec. 176.011. MAINTENANCE OF RECORDS. Provides that a records administrator shall maintain the statements and questionnaires required by this chapter in accordance with the local governmental entity's records retention schedule.

Sec. 176.012. APPLICATION OF PUBLIC INFORMATION LAW. Provides that this chapter does not require a local governmental entity to disclose information that is excepted from disclosure by Chapter 552, Government Code.

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SECTION 9. Repeals Section 176.006(e) related to certain filing requirements for questionnaires required to be filed under this chapter.

SECTION 10. Provides that the Texas Ethics Commission shall adopt the requisite conflicts disclosure statements and conflict of interest questionnaires consistent with this bill by October 1, 2007.

SECTION 11. Provides that no statements or questionnaires required to be filed by this chapter must be filed during the period between the effective date of this bill and September 30, 2007. If a person would have been required to file a questionnaire or statement under this chapter during the aforementioned time period, the statement or questionnaire must be filed not later than October 9, 2007 or the seventh day after the date the person receives notice from the local governmental entity that such statement or questionnaire is required to be filed.

SECTION 12. Provides that this Act only applies to an offense committed on or after the effective date of this Act.

SECTION 13. Effective date: upon passage or September 1, 2007.

EFFECTIVE DATE

Upon passage or September 1, 2007.