

By: Woolley

H.B. No. 1491

A BILL TO BE ENTITLED

1 AN ACT

2 relating to disclosure of certain relationships with local  
3 government officers.

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

5 SECTION 1. Section 176.001, Local Government Code, is  
6 amended by amending Subdivisions (1), (2), (3), (4), and (5) and  
7 adding Subdivisions (1-a), (1-b), (1-c), (1-d), (2-a), (2-b), and  
8 (6) to read as follows:

9 (1) "Agent" means a third party who undertakes to  
10 transact some business or manage some affair for another person by  
11 the authority or on account of the other person.

12 (1-a) "Business relationship" means a connection  
13 between two or more parties based on commercial activity of one of  
14 the parties. The term does not include a connection based on:

15 (A) a transaction that is subject to rate or fee  
16 regulation by a federal, state, or local governmental entity or an  
17 agency of a federal, state, or local governmental entity;

18 (B) a transaction conducted at a price and  
19 subject to terms available to the public; or

20 (C) a purchase or lease of goods or services from  
21 a person that is chartered by a state or federal agency and that is  
22 subject to regular examination by, and reporting to, that agency.

23 (1-b) "Charter school" means an open-enrollment  
24 charter school operating under Subchapter D, Chapter 12, Education

1 Code.

2 (1-c) "Commission" means the Texas Ethics Commission.

3 (1-d) "Contract" means a written agreement for the  
4 sale or purchase of real property, goods, or services.

5 (2) "Family member" means a person related to another  
6 person within the first degree by consanguinity or affinity, as  
7 described by Subchapter B, Chapter 573, Government Code, except  
8 that the term does not include a person who is considered to be  
9 related to another person by affinity only as described by Section  
10 573.024(b), Government Code.

11 (2-a) "Goods" means personal property.

12 (2-b) "Investment income" means dividends, capital  
13 gains, or interest income generated from:

14 (A) a personal or business:

15 (i) checking or savings account;

16 (ii) share draft or share account; or

17 (iii) other similar account;

18 (B) a personal or business investment; or

19 (C) a personal or business loan.

20 (3) "Local governmental entity" means a county,  
21 municipality, school district, charter school, junior college  
22 district, or other political subdivision of this state or a local  
23 government corporation, board, commission, district, or authority  
24 to which a member is appointed by the commissioners court of a  
25 county, the mayor of a municipality, or the governing body of a  
26 municipality. The term does not include an association,  
27 corporation, or organization of governmental entities organized to

1 provide to its members education, assistance, products, or services  
2 or to represent its members before the legislative, administrative,  
3 or judicial branches of the state or federal government.

4 (4) "Local government officer" means:

5 (A) a member of the governing body of a local  
6 governmental entity; ~~or~~

7 (B) a director, superintendent, administrator,  
8 president, or other person designated as the executive officer of  
9 the local governmental entity; or

10 (C) an employee of a local governmental entity  
11 with respect to whom the local governmental entity has, in  
12 accordance with Section 176.005, extended the requirements of  
13 Sections 176.003 and 176.004.

14 (5) "Records administrator" means the director,  
15 county clerk, municipal secretary, superintendent, or other person  
16 responsible for maintaining the records of the local governmental  
17 entity or another person designated by the local governmental  
18 entity to maintain statements and questionnaires filed under this  
19 chapter and perform related functions.

20 (6) "Services" means skilled or unskilled labor or  
21 professional services, as defined by Section 2254.002, Government  
22 Code.

23 SECTION 2. Section 176.002(a), Local Government Code, is  
24 amended to read as follows:

25 (a) This chapter applies to a person who:

26 (1) enters ~~[contracts]~~ or seeks to enter into a  
27 contract ~~[for the sale or purchase of property, goods, or services]~~

1 with a local governmental entity; or

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

4 SECTION 3. Section 176.003, Local Government Code, is  
5 amended by amending Subsections (a) and (d) and adding Subsection  
6 (a-1) to read as follows:

7 (a) A local government officer shall file a conflicts  
8 disclosure statement with respect to a person described by Section  
9 176.002(a) if:

10 (1) the person enters into a contract [~~has contracted~~]  
11 with the local governmental entity or the local governmental entity  
12 is considering entering into a contract [~~doing business~~] with the  
13 person; and

14 (2) the person:

15 (A) has an employment or other business  
16 relationship with the local government officer or a family member  
17 of the officer that results in the officer or family member  
18 receiving taxable income, other than investment income, that  
19 exceeds \$2,500 during the 12-month period preceding the date that  
20 the officer becomes aware that:

21 (i) a contract described by Subdivision (1)  
22 has been executed; or

23 (ii) the local governmental entity is  
24 considering entering into a contract with the person; or

25 (B) has given to the local government officer or  
26 a family member of the officer one or more gifts [~~other than gifts~~  
27 ~~of food, lodging, transportation, or entertainment accepted as a~~

1 ~~guest,~~] that have an aggregate value of more than \$250 in the  
2 12-month period preceding the date the officer becomes aware that:

3 (i) a contract described by Subdivision (1)  
4 has been executed; or

5 (ii) the local governmental entity is  
6 considering entering into a contract [~~doing business~~] with the  
7 person.

8 (a-1) A local government officer is not required to file a  
9 conflicts disclosure statement in relation to a gift accepted by  
10 the officer or a family member of the officer if the gift is:

11 (1) given by a family member of the person accepting  
12 the gift;

13 (2) a political contribution as defined by Title 15,  
14 Election Code; or

15 (3) food, lodging, transportation, or entertainment  
16 accepted as a guest.

17 (d) It is an exception to the application of [~~a defense to~~  
18 ~~prosecution under~~] Subsection (c) that the person filed the  
19 required conflicts disclosure statement not later than the seventh  
20 business day after the date the person received notice from the  
21 local governmental entity of the alleged violation.

22 SECTION 4. Section 176.004, Local Government Code, is  
23 amended to read as follows:

24 Sec. 176.004. CONTENTS OF DISCLOSURE STATEMENT. The  
25 commission shall adopt the conflicts disclosure statement for local  
26 government officers. The conflicts disclosure statement must  
27 include:

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

3 (A) an employment or other business relationship  
4 described by Section 176.003(a), including the nature and extent of  
5 the relationship; and

6 (B) gifts accepted [~~received~~] by the local  
7 government officer and any family member of the officer from a  
8 person described by Section 176.002(a) during the 12-month period  
9 described by Section 176.003(a)(2)(B) if the aggregate value of the  
10 gifts, excluding gifts described by Section 176.003(a-1), accepted  
11 by the officer or a family member from that person exceed \$250;

12 (2) an acknowledgment from the local government  
13 officer that:

14 (A) the disclosure applies to each family member  
15 of the officer; and

16 (B) the statement covers the 12-month period  
17 described by Section 176.003(a) [~~176.003(a)(2)(B)~~]; and

18 (3) the signature of the local government officer  
19 acknowledging that the statement is made under oath under penalty  
20 of perjury.

21 SECTION 5. Sections 176.005(a), (b), and (d), Local  
22 Government Code, are amended to read as follows:

23 (a) The local governmental entity may extend the  
24 requirements of Sections 176.003 and 176.004 to any employee [~~all~~  
25 ~~or a group of the employees~~] of the local governmental entity who  
26 has the authority to approve contracts on behalf of the local  
27 governmental entity, including a person designated as the

1 representative of the local governmental entity for purposes of  
2 Chapter 271. The local governmental entity shall identify each  
3 employee made subject to Sections 176.003 and 176.004 under this  
4 subsection and shall provide a list of the identified employees on  
5 request to any person.

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

9 (d) It is an exception to the application of [~~a defense to~~  
10 ~~prosecution under~~] Subsection (c) that the person filed the  
11 required conflicts disclosure statement not later than the seventh  
12 business day after the date the person received notice from the  
13 local governmental entity of the alleged violation.

14 SECTION 6. Section 176.006, Local Government Code, is  
15 amended to read as follows:

16 Sec. 176.006. DISCLOSURE REQUIREMENTS FOR VENDORS AND OTHER  
17 PERSONS; QUESTIONNAIRE. (a) A person described by Section  
18 176.002(a) shall file a completed conflict of interest  
19 questionnaire if the person has a business relationship with a  
20 local governmental entity and:

21 (1) has an employment or other business relationship  
22 with an officer of that local governmental entity, or a family  
23 member of the officer, described by Section 176.003(a)(2)(A); or

24 (2) has given an officer of that local governmental  
25 entity, or a family member of the officer, one or more gifts with  
26 the aggregate value specified by Section 176.003(a)(2)(B),  
27 excluding any gift described by Section 176.003(a-1).

1           (a-1) The completed conflict of interest questionnaire must  
2 be filed with the appropriate records administrator not later than  
3 the seventh business day after the later of:

4           (1) the date that the person:

5                   (A) [~~(1)~~] begins [~~contract~~] discussions or  
6 negotiations to enter into a contract with the local governmental  
7 entity; or

8                   (B) [~~(2)~~] submits to the local governmental  
9 entity an application, response to a request for proposals or bids,  
10 correspondence, or another writing related to a potential contract  
11 [~~agreement~~] with the local governmental entity; or

12           (2) the date the person becomes aware:

13                   (A) of an employment or other business  
14 relationship with a local government officer, or a family member of  
15 the officer, described by Subsection (a); or

16                   (B) that the person has given one or more gifts  
17 described by Subsection (a).

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

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

26                   (1) describe each employment [~~affiliation~~] or  
27 business relationship the person has with each local government



1 officer of the local governmental entity;

2 (2) identify each employment [~~affiliation~~] or  
3 business relationship described by Subdivision (1) with respect to  
4 which the local government officer receives, or is likely to  
5 receive, taxable income, other than investment income, from the  
6 person filing the questionnaire;

7 (3) identify each employment [~~affiliation~~] or  
8 business relationship described by Subdivision (1) with respect to  
9 which the person filing the questionnaire receives, or is likely to  
10 receive, taxable income, other than investment income, that:

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

13 (B) is not received from the local governmental  
14 entity; and

15 (4) describe each employment [~~affiliation~~] or  
16 business relationship with a corporation or other business entity  
17 with respect to which a local government officer of the local  
18 governmental entity:

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

20 (B) holds an ownership interest of 10 percent or  
21 more. [~~+~~

22 [~~(5) describe each affiliation or business~~  
23 ~~relationship with an employee or contractor of the local~~  
24 ~~governmental entity who makes recommendations to a local government~~  
25 ~~officer of the local governmental entity with respect to the~~  
26 ~~expenditure of money;~~

27 [~~(6) describe each affiliation or business~~

1 ~~relationship with a person who:~~

2 ~~[(A) is a local government officer; and~~

3 ~~[(B) appoints or employs a local government~~  
4 ~~officer of the local governmental entity that is the subject of the~~  
5 ~~questionnaire; and~~

6 ~~[(7) describe any other affiliation or business~~  
7 ~~relationship that might cause a conflict of interest.]~~

8 (d) A person described by Subsection (a) shall file an  
9 updated completed questionnaire with the appropriate records  
10 administrator not later than[+]

11 ~~[(1) September 1 of each year in which an activity~~  
12 ~~described by Subsection (a) is pending; and~~

13 ~~[(2)]~~ the seventh business day after the date of an  
14 event that would make a statement in the questionnaire incomplete  
15 or inaccurate.

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

20 (f) A person commits an offense if the person knowingly  
21 violates this section. An offense under this subsection is a Class  
22 C misdemeanor.

23 (g) It is an exception to the application of [~~a defense to~~  
24 ~~prosecution under~~] Subsection (f) that the person filed the  
25 required questionnaire not later than the seventh business day  
26 after the date the person received notice from the local  
27 governmental entity of the alleged violation.

1       (h) A local governmental entity does not have a duty to  
2 ensure that a person described by Section 176.002 files a conflict  
3 of interest questionnaire.

4       (i) The validity of a contract between a person described by  
5 Section 176.002 and a local governmental entity is not affected  
6 solely because the person fails to comply with this section.

7       SECTION 7. Section 176.009(a), Local Government Code, is  
8 amended to read as follows:

9       (a) A local governmental entity that maintains an Internet  
10 website shall provide access to the statements and to  
11 questionnaires required to be filed under this chapter on that [the  
12 Internet] website [maintained by the local governmental entity].  
13 This subsection does not require a local governmental entity to  
14 maintain an Internet website.

15       SECTION 8. Chapter 176, Local Government Code, is amended  
16 by adding Sections 176.011 and 176.012 to read as follows:

17       Sec. 176.011. MAINTENANCE OF RECORDS. A records  
18 administrator shall maintain the statements and questionnaires  
19 that are required to be filed under this chapter in accordance with  
20 the local governmental entity's records retention schedule.

21       Sec. 176.012. APPLICATION OF PUBLIC INFORMATION LAW. This  
22 chapter does not require a local governmental entity to disclose  
23 any information that is excepted from disclosure by Chapter 552,  
24 Government Code.

25       SECTION 9. Section 176.006(e), Local Government Code, is  
26 repealed.

27       SECTION 10. Not later than October 1, 2007, the Texas Ethics

1 Commission shall adopt a conflicts disclosure statement consistent  
2 with Section 176.004, Local Government Code, as amended by this  
3 Act, and a conflict of interest questionnaire consistent with  
4 Section 176.006, Local Government Code, as amended by this Act.

5 SECTION 11. (a) Notwithstanding Chapter 176, Local  
6 Government Code, a person is not required to file a conflicts  
7 disclosure statement or a conflict of interest questionnaire under  
8 that chapter during the period that begins on the effective date of  
9 this Act and ends September 30, 2007.

10 (b) A person who, in the absence of Subsection (a) of this  
11 section, would have been required to file a conflicts disclosure  
12 statement or a conflict of interest questionnaire during the period  
13 specified by that subsection shall file the statement or  
14 questionnaire in accordance with Chapter 176, Local Government  
15 Code, as amended by this Act, not later than the later of:

16 (1) October 9, 2007; or

17 (2) the seventh day after the date the person received  
18 notice from the local governmental entity that the statement or  
19 questionnaire was required to be filed.

20 SECTION 12. The change in law made by this Act applies only  
21 to an offense committed on or after the effective date of this Act.  
22 An offense committed before the effective date of this Act is  
23 covered by the law in effect when the offense was committed, and the  
24 former law is continued in effect for that purpose. For purposes of  
25 this section, an offense was committed before the effective date of  
26 this Act if any element of the offense was committed before that  
27 date.

1           SECTION 13. This Act takes effect immediately if it  
2 receives a vote of two-thirds of all the members elected to each  
3 house, as provided by Section 39, Article III, Texas Constitution.  
4 If this Act does not receive the vote necessary for immediate  
5 effect, this Act takes effect September 1, 2007.