

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), (3), (4), and (5) and adding
7 Subdivisions (1-a), (1-b), (1-c), (1-d), (2-a), (2-b), and (6) to
8 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-a) "Goods" means personal property.

6 (2-b) "Investment income" means dividends, capital
7 gains, or interest income generated from:

8 (A) a personal or business:

9 (i) checking or savings account;

10 (ii) share draft or share account; or

11 (iii) other similar account;

12 (B) a personal or business investment; or

13 (C) a personal or business loan.

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

25 (4) "Local government officer" means:

26 (A) a member of the governing body of a local
27 governmental entity; [~~or~~]

1 (B) a director, superintendent, administrator,
2 president, or other person designated as the executive officer of
3 the local governmental entity; or

4 (C) an employee of a local governmental entity
5 with respect to whom the local governmental entity has, in
6 accordance with Section 176.005, extended the requirements of
7 Sections 176.003 and 176.004.

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 or another person designated by the local governmental
12 entity to maintain statements and questionnaires filed under this
13 chapter and perform related functions.

14 (6) "Services" means skilled or unskilled labor or
15 professional services, as defined by Section 2254.002, Government
16 Code.

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

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

20 (1) enters [contracts] or seeks to enter into a
21 contract [for the sale or purchase of property, goods, or services]
22 with a local governmental entity; or

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

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

1 (a) A local government officer shall file a conflicts
2 disclosure statement with respect to a person described by Section
3 176.002(a) if:

4 (1) the person enters into a contract [~~has contracted~~]
5 with the local governmental entity or the local governmental entity
6 is considering entering into a contract [~~doing business~~] with the
7 person; and

8 (2) the person:

9 (A) has an employment or other business
10 relationship with the local government officer or a family member
11 of the officer that results in the officer or family member
12 receiving taxable income, other than investment income, that
13 exceeds \$2,500 during the 12-month period preceding the date that
14 the officer becomes aware that:

15 (i) a contract described by Subdivision (1)
16 has been executed; or

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

19 (B) has given to the local government officer or
20 a family member of the officer one or more gifts [~~other than gifts~~
21 ~~of food, lodging, transportation, or entertainment accepted as a~~
22 ~~guest,~~] that have an aggregate value of more than \$250 in the
23 12-month period preceding the date the officer becomes aware that:

24 (i) a contract described by Subdivision (1)
25 has been executed; or

26 (ii) the local governmental entity is
27 considering entering into a contract [~~doing business~~] with the

1 person.

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

5 (1) given by a family member of the person accepting
6 the gift;

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

9 (3) food, lodging, transportation, or entertainment
10 accepted as a guest.

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

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

18 Sec. 176.004. CONTENTS OF DISCLOSURE STATEMENT. The
19 commission shall adopt the conflicts disclosure statement for local
20 government officers. The conflicts disclosure statement must
21 include:

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

24 (A) an employment or other business relationship
25 described by Section 176.003(a), including the nature and extent of
26 the relationship; and

27 (B) gifts accepted [~~received~~] by the local

1 government officer and any family member of the officer from a
2 person described by Section 176.002(a) during the 12-month period
3 described by Section 176.003(a)(2)(B) if the aggregate value of the
4 gifts, excluding gifts described by Section 176.003(a-1), accepted
5 by the officer or a family member from that person exceed \$250;

6 (2) an acknowledgment from the local government
7 officer that:

8 (A) the disclosure applies to each family member
9 of the officer; and

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

12 (3) the signature of the local government officer
13 acknowledging that the statement is made under oath under penalty
14 of perjury.

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

17 (a) The local governmental entity may extend the
18 requirements of Sections 176.003 and 176.004 to any employee [~~all~~
19 ~~or a group of the employees~~] of the local governmental entity who
20 has the authority to approve contracts on behalf of the local
21 governmental entity, including a person designated as the
22 representative of the local governmental entity for purposes of
23 Chapter 271. The local governmental entity shall identify each
24 employee made subject to Sections 176.003 and 176.004 under this
25 subsection and shall provide a list of the identified employees on
26 request to any person.

27 (b) A local governmental entity may reprimand, suspend, or

1 terminate the employment of an employee who knowingly fails to
2 comply with a requirement adopted under this section.

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

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

10 Sec. 176.006. DISCLOSURE REQUIREMENTS FOR VENDORS AND OTHER
11 PERSONS; QUESTIONNAIRE. (a) A person described by Section
12 176.002(a) shall file a completed conflict of interest
13 questionnaire if the person has a business relationship with a
14 local governmental entity and:

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

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

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

25 (1) the date that the person:

26 (A) [~~(1)~~] begins [~~contract~~] discussions or
27 negotiations to enter into a contract with the local governmental

1 entity; or

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

6 (2) the date the person becomes aware:

7 (A) of an employment or other business
8 relationship with a local government officer, or a family member of
9 the officer, described by Subsection (a); or

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

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

16 (c) The questionnaire adopted under Subsection (b) must
17 require, for the local governmental entity with respect to which
18 the questionnaire is filed, that the person filing the
19 questionnaire:

20 (1) describe each employment ~~[affiliation]~~ or
21 business relationship the person has with each local government
22 officer of the local governmental entity;

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

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

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

7 (B) is not received from the local governmental
8 entity; and

9 (4) describe each employment [~~affiliation~~] or
10 business relationship with a corporation or other business entity
11 with respect to which a local government officer of the local
12 governmental entity:

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

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

16 ~~[(5) describe each affiliation or business~~
17 ~~relationship with an employee or contractor of the local~~
18 ~~governmental entity who makes recommendations to a local government~~
19 ~~officer of the local governmental entity with respect to the~~
20 ~~expenditure of money;~~

21 ~~[(6) describe each affiliation or business~~
22 ~~relationship with a person who:~~

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

24 ~~[(B) appoints or employs a local government~~
25 ~~officer of the local governmental entity that is the subject of the~~
26 ~~questionnaire; and~~

27 ~~[(7) describe any other affiliation or business~~

1 ~~relationship that might cause a conflict of interest.]~~

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

5 ~~[(1) September 1 of each year in which an activity~~
6 ~~described by Subsection (a) is pending, and~~

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

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

14 (f) A person commits an offense if the person knowingly
15 violates this section. An offense under this subsection is a Class
16 C misdemeanor.

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

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

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

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

3 (a) A local governmental entity that maintains an Internet
4 website shall provide access to the statements and to
5 questionnaires required to be filed under this chapter on that [~~the~~
6 ~~Internet~~] website [~~maintained by the local governmental entity~~].
7 This subsection does not require a local governmental entity to
8 maintain an Internet website.

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

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

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

19 SECTION 9. Section 176.006(e), Local Government Code, is
20 repealed.

21 SECTION 10. Not later than October 1, 2007, the Texas Ethics
22 Commission shall adopt a conflicts disclosure statement consistent
23 with Section 176.004, Local Government Code, as amended by this
24 Act, and a conflict of interest questionnaire consistent with
25 Section 176.006, Local Government Code, as amended by this Act.

26 SECTION 11. (a) Notwithstanding Chapter 176, Local
27 Government Code, a person is not required to file a conflicts

1 disclosure statement or a conflict of interest questionnaire under
2 that chapter during the period that begins on the effective date of
3 this Act and ends September 30, 2007.

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

10 (1) October 9, 2007; or

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

14 SECTION 12. The change in law made by this Act applies only
15 to an offense committed on or after the effective date of this Act.
16 An offense committed before the effective date of this Act is
17 covered by the law in effect when the offense was committed, and the
18 former law is continued in effect for that purpose. For purposes of
19 this section, an offense was committed before the effective date of
20 this Act if any element of the offense was committed before that
21 date.

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