

House Bill 3736
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subtitle B, Title 5, Government Code, is amended by adding Chapter 576 to read as follows:

CHAPTER 576. CONFLICT OF INTEREST BY STATE AGENCY GOVERNING BOARD MEMBER OR OFFICER
Sec. 576.001. DEFINITIONS. In this chapter:

(1) "Conflict of interest" means the conflict between an official decision made by a state agency governing board member or governing officer in the individual's official capacity and the individual's private financial interest in which the individual realizes any pecuniary gain.

(2) "Financial interest" means ownership or control, directly or indirectly, of an ownership interest of at least five percent in a person, including the right to share in profits, proceeds, or capital gains, or an ownership interest that an individual could reasonably foresee could result in any financial benefit to the individual. The term does not include an interest in a retirement plan, a blind trust, insurance coverage, or capital gains.

(3) "State agency" means a board, commission, council, committee, department, office, agency, or other governmental entity in the executive branch of state government.
Sec. 576.002. DUTY TO DISCLOSE AND REFRAIN FROM PARTICIPATION. (a) Except as provided by Subsection (b) or (c), in each matter before the governing

SENATE VERSION (IE)

SECTION 1. Subtitle B, Title 5, Government Code, is amended by adding Chapter 576 to read as follows:

CHAPTER 576. CONFLICT OF INTEREST BY STATE AGENCY GOVERNING BOARD MEMBER OR OFFICER
Sec. 576.001. DEFINITIONS. In this chapter:

(1) "Conflict of interest" means the conflict between an official decision made by a state agency governing board member or governing officer in the individual's official capacity and the individual's private financial interest in which the individual realizes any pecuniary gain, if the pecuniary gain accrued to the individual as a member of a class of persons, including an occupation, profession, or industry, to a greater extent than any other member of the class. [FA1(1)]

(2) "Financial interest" means ownership or control, directly or indirectly, of an ownership interest of at least five percent in a person, including the right to share in profits, proceeds, or capital gains, or an ownership interest that an individual could reasonably foresee could result in any financial benefit to the individual. The term does not include an interest in a retirement plan, a blind trust, insurance coverage, or capital gains.

(3) "Rule" means all or part of a statement of a state agency that is of general or particular applicability and of future effect designed to implement, interpret, or prescribe law or policy for the state agency or to describe the organization, procedure, or practice requirements of the state agency. [FA1(2)]

(4) "State agency" means a board, commission, council, committee, department, office, agency, or other governmental entity in the executive branch of state government. [FA1(3)]
Sec. 576.002. DUTY TO DISCLOSE AND REFRAIN FROM PARTICIPATION. (a) Except as provided by Subsection (b) or (c), in each matter before the governing

CONFERENCE

House Bill 3736
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

board of a state agency or, if the agency is not governed by a multimember governing board, the officer who governs the agency, for which a member of the board or officer, as applicable, has a conflict of interest, the individual:

(1) shall disclose in writing the conflict of interest to the agency; and

(2) may not participate in the decision on the matter.

(b) If a majority of the members of the governing board of a state agency has a conflict of interest related to a matter before the board or, if the agency is not governed by a multimember governing board, the officer who governs the agency has a conflict of interest on the matter, the board or officer may decide the matter only if:

(1) each member, or the officer, as applicable, who has a conflict of interest discloses in writing the conflict of interest to the agency; and

(2) the board, or officer, as applicable, makes a finding that an emergency exists that requires a decision on the matter despite the conflict of interest.

(c) The duty to disclose a conflict of interest and refrain from participation in the decision on a matter for a member of the governing board of an institution of higher education, as those terms are defined by Section 61.003, Education Code, is governed by Section 51.923, Education Code.

Sec. 576.003. PUBLIC INFORMATION. A written disclosure made under Section 576.002 is public information.

Sec. 576.004. REPORT TO TEXAS ETHICS COMMISSION; RULES. (a) A state agency that receives a written disclosure under Section 576.002 shall file a copy of the disclosure with the Texas Ethics Commission.

(b) The Texas Ethics Commission may adopt the rules necessary to implement this chapter, including rules on the

SENATE VERSION (IE)

board of a state agency or, if the agency is not governed by a multimember governing board, the officer who governs the agency, for which a member of the board or officer, as applicable, has a conflict of interest, the individual:

(1) shall disclose in writing the conflict of interest to the agency; and

(2) may not participate in the decision on the matter.

(b) If a majority of the members of the governing board of a state agency has a conflict of interest related to a matter before the board or, if the agency is not governed by a multimember governing board, the officer who governs the agency has a conflict of interest on the matter, the board or officer may decide the matter only if:

(1) each member, or the officer, as applicable, who has a conflict of interest discloses in writing the conflict of interest to the agency; and

(2) the board, or officer, as applicable, makes a finding that an emergency exists that requires a decision on the matter despite the conflict of interest.

(c) The duty to disclose a conflict of interest and refrain from participation in the decision on a matter for a member of the governing board of an institution of higher education, as those terms are defined by Section 61.003, Education Code, is governed by Section 51.923, Education Code.

Sec. 576.003. PUBLIC INFORMATION. A written disclosure made under Section 576.002 is public information.

Sec. 576.004. REPORT TO TEXAS ETHICS COMMISSION; RULES. (a) A state agency that receives a written disclosure under Section 576.002 shall file a copy of the disclosure with the Texas Ethics Commission.

(b) The Texas Ethics Commission may adopt the rules necessary to implement this chapter, including rules on the

CONFERENCE

House Bill 3736
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

disclosure to be filed with the commission under Subsection (a).

Sec. 576.005. CRIMINAL PENALTY. (a) An individual commits an offense if the individual knowingly fails to comply with Section 576.002.

(b) An offense under this section is a class B misdemeanor.

SECTION 2. Section 571.061(a), Government Code, is amended to read as follows:

(a) The commission shall administer and enforce:

- (1) Chapters 302, 303, 305, 572, 576, and 2004;
- (2) Subchapter C, Chapter 159, Local Government Code, in connection with a county judicial officer, as defined by Section 159.051, Local Government Code, who elects to file a financial statement with the commission;
- (3) Title 15, Election Code; and
- (4) Sections 2152.064 and 2155.003.

SECTION 3. This Act takes effect September 1, 2015.

No equivalent provision.

SENATE VERSION (IE)

disclosure to be filed with the commission under Subsection (a).

Sec. 576.005. CRIMINAL PENALTY. (a) An individual commits an offense if the individual knowingly fails to comply with Section 576.002.

(b) An offense under this section is a class B misdemeanor.

Sec. 576.006. EXEMPTION. This chapter does not apply to:

- (1) the consideration of a proposed rule; or
- (2) a vote to adopt a proposed rule. [FA1(4)]

SECTION 2. Same as House version.

SECTION 3. Same as House version.

SECTION __. Section 572.023, Government Code, is amended by Subsections (a) and (b) and adding Subsection (e) to read as follows:

(a) A financial statement must include an account of the financial activity for the preceding calendar year of:

- (1) any property characterized as separate property under Section 3.001, Family Code, of the individual required by this subchapter to file a financial statement;
- (2) any community property of which the individual required

CONFERENCE

House Bill 3736
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

by this subchapter to file a financial statement has sole management, control, and disposition as provided by Section 3.102(a), Family Code;

(3) any community property of the individual required by this subchapter to file a financial statement, if the individual exercised both factual and legal control over the activity; and

(4) [an account of the financial activity of] the individual's [spouse and] dependent children if the individual exercised or held the right to exercise any degree of legal or factual [had actual] control over that activity [for the preceding calendar year].

(b) The account of financial activity consists of:

(1) a list of all sources of occupational income, identified by employer, or if self-employed, by the nature of the occupation, including identification of a person or other organization from which the individual or a business in which the individual has a substantial interest received a fee as a retainer for a claim on future services in case of need, as distinguished from a fee for services on a matter specified at the time of contracting for or receiving the fee, if professional or occupational services are not actually performed during the reporting period equal to or in excess of the amount of the retainer, and the category of the amount of the fee;

(2) identification by name and the category of the number of shares of stock of any business entity held or acquired, and if sold, the category of the amount of net gain or loss realized from the sale;

(3) a list of all bonds, notes, and other commercial paper held or acquired, and if sold, the category of the amount of net gain or loss realized from the sale;

(4) identification of each source and the category of the amount of income in excess of \$500 derived from each source

House Bill 3736
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

from interest, dividends, royalties, and rents;

(5) identification of each guarantor of a loan and identification of each person or financial institution to whom a personal note or notes or lease agreement for a total financial liability in excess of \$1,000 existed at any time during the year and the category of the amount of the liability;

(6) identification by description of all beneficial interests in real property and business entities held or acquired, and if sold, the category of the amount of the net gain or loss realized from the sale;

(7) identification of a person or other organization from which the individual or the individual's spouse or dependent children received a gift of anything of value in excess of \$250 and a description of each gift, except:

(A) a gift received from an individual related to the individual at any time within the second degree by consanguinity or affinity, as determined under Subchapter B, Chapter 573;

(B) a political contribution that was reported as required by Chapter 254, Election Code; and

(C) an expenditure required to be reported by a person required to be registered under Chapter 305;

(8) identification of the source and the category of the amount of all income received as beneficiary of a trust, other than a blind trust that complies with Subsection (c), and identification of each trust asset, if known to the beneficiary, from which income was received by the beneficiary in excess of \$500;

(9) identification by description and the category of the amount of all assets and liabilities of a corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other business association in which 50 percent or

House Bill 3736
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

more of the outstanding ownership was held, acquired, or sold;

(10) a list of all boards of directors of which the individual is a member and executive positions that the individual holds in corporations, firms, partnerships, limited partnerships, limited liability partnerships, professional corporations, professional associations, joint ventures, or other business associations or proprietorships, stating the name of each corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other business association or proprietorship and the position held;

(11) identification of any person providing transportation, meals, or lodging expenses permitted under Section 36.07(b), Penal Code, and the amount of those expenses, other than expenditures required to be reported under Chapter 305;

(12) any corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other business association, excluding a publicly held corporation, in which both the individual and a person registered under Chapter 305 have an interest;

(13) identification by name and the category of the number of shares of any mutual fund held or acquired, and if sold, the category of the amount of net gain or loss realized from the sale; ~~and~~

(14) identification of each blind trust that complies with Subsection (c), including:

(A) the category of the fair market value of the trust;

(B) the date the trust was created;

(C) the name and address of the trustee; and

(D) a statement signed by the trustee, under penalty of

House Bill 3736
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

perjury, stating that:(i) the trustee has not revealed any information to the individual, except information that may be disclosed under Subdivision (8); and(ii) to the best of the trustee's knowledge, the trust complies with this section;

(15) if the aggregate cost of goods or services sold under one or more written contracts described by this subdivision exceeds \$10,000 in the year covered by the report, identification of each written contract, including the name of each party to the contract:

(A) for the sale of:

(i) goods in the amount of \$2,500 or more; or

(ii) services, including professional services as defined by Section 2254.002, consulting services as defined by Section 2254.021, or legal counsel, in the amount of \$5,000 or more;

(B) to which the individual or any business entity of which the individual has at least a 50 percent ownership interest is a party; and

(C) with:

(i) a governmental entity; or

(ii) a person who contracts with a governmental entity, to fulfill one or more of the person's obligations to the governmental entity under that contract;

(16) if the individual is a member of the legislature and provides bond counsel services to an issuer, as defined by Section 1201.002(1), identification of the following for each issuance for which the individual served as bond counsel:

(A) the amount of the issuance;

(B) the name of the issuer;

(C) the date of the issuance;

(D) the amount of fees paid to the individual, and whether the amount is:

(i) less than \$5,000;

House Bill 3736
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(ii) at least \$5,000 but less than \$10,000;
(iii) at least \$10,000 but less than \$25,000; or
(iv) \$25,000 or more; and
(E) the amount of fees paid to the individual's firm, if applicable, and whether the amount is:
(i) less than \$5,000;
(ii) at least \$5,000 but less than \$10,000;
(iii) at least \$10,000 but less than \$25,000; or
(iv) \$25,000 or more; and
(17) identification of any other source of earned or unearned income not reported under another provision of this subsection, including public benefits or a pension, individual retirement account, or other retirement plan, and the category of the amount of income derived from each source.
(e) In this section, "governmental entity" means the state, a political subdivision of the state, or an agency or department of the state or a political subdivision of the state. [FA2]

No equivalent provision.

SECTION __. Section 572.0252, Government Code, is amended to read as follows:
Sec. 572.0252. INFORMATION ABOUT LEGAL REFERRALS. A state officer who is an attorney shall report on the financial statement:
(1) making or receiving any referral for compensation for legal services; ~~and~~
(2) the date the referral is made or received;
(3) the style of the case referred, if applicable; and
(4) the percentage of the legal fee paid or received that was agreed to between the parties to the referral, or, if the fee is not a percentage, the agreed amount of the fee paid or received ~~[the category of the amount of any fee accepted for making a referral for legal services]~~. [FA2]

House Bill 3736
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SENATE VERSION (IE)

SECTION __. Subchapter B, Chapter 572, Government Code, is amended by adding Section 572.0295 to read as follows:

Sec. 572.0295. PERSONAL FINANCIAL STATEMENT.

(a) A person who files a report under this chapter may amend the report.

(b) A report that is amended before the eighth day after the date the original report was filed is considered to have been filed on the date on which the original report was filed.

(c) A report that is amended on or after the eighth day after the original report was filed is considered to have been filed on the date on which the original report was filed if:

(1) the amendment is made before any complaint is filed with regard to the subject of the amendment; and

(2) the original report was made in good faith and without an intent to mislead or to misrepresent the information contained in the report. [FA2]

CONFERENCE

No equivalent provision.

SECTION __. The change in law made by this Act applies only to a financial statement filed under Subchapter B, Chapter 572, Government Code, as amended by this Act, on or after September 1, 2015. A financial statement filed before September 1, 2015, is governed by the law in effect on the date of filing, and the former law is continued in effect for that purpose. [FA2]