

BILL ANALYSIS

H.B. 18
By: Davis, Sarah
General Investigating & Ethics
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that a member of a governing board or the governing officer of a state agency in the executive branch should be required to identify and disclose conflicts of interest and abstain from participating in related board decisions. H.B. 18 seeks to address this issue by providing for such requirements.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Ethics Commission in SECTION 1 of this bill.

ANALYSIS

H.B. 18 amends the Government Code to require an individual, in each matter before the governing body 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 to disclose the conflict of interest in writing to the agency and to prohibit the individual from participating in the decision on the matter. The bill defines "conflict of interest" as 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. The bill defines "financial interest" as 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, excluding an interest in a retirement plan, a blind trust, insurance coverage, or capital gains. The bill defines "state agency" as a board, commission, council, committee, department, office, agency, or other governmental entity in the executive branch of state government.

H.B. 18 authorizes a governing board of a state agency, if a majority of the members of the board have a conflict of interest related to a matter before the board, or an officer, if the agency is not governed by a multimember governing board and the officer who governs the agency has a conflict of interest on the matter, to decide the matter only if each member, or the officer, as applicable, who has a conflict of interest discloses in writing the conflict of interest to the agency and 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. The bill establishes that 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 is governed by Education Code provisions relating to qualifications of certain business entities to enter into contracts with an institution of higher education.

H.B. 18 specifies that a written disclosure of a conflict of interest under the bill's provisions is public information and requires a state agency that receives such a written disclosure to file a copy of the disclosure with the Texas Ethics Commission. The bill authorizes the commission to adopt rules as necessary to implement the bill's provisions, including rules on the disclosure to be filed with the commission. The bill creates a Class B misdemeanor offense for an individual who knowingly fails to comply with the bill's conflict of interest requirements relating to the duty to disclose and refrain from participation. The bill requires the commission to administer and enforce its provisions regarding the conflict of interest of a state agency governing board member or officer.

EFFECTIVE DATE

December 1, 2017.