

By: Davis of Harris

H.B. No. 2473

A BILL TO BE ENTITLED

AN ACT

relating to the disclosure of gifts by vendors to certain local government officers and of certain relationships with local government officers; creating a criminal offense.

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

SECTION 1. Subtitle C, Title 5, Local Government Code, is amended by adding Chapter 176A to read as follows:

CHAPTER 176A. DISCLOSURE OF GIFTS TO CERTAIN LOCAL GOVERNMENT

OFFICERS

Sec. 176A.001. DEFINITIONS. In this chapter:

(1) "Agent," "commission," "contract," "family member," "goods," "local governmental entity," and "services" have the meanings assigned by Section 176.001.

(2) "Entertainment" includes transportation to, lodging for, and attendance at a function, event, or performance that:

(A) a local government officer accepts as the guest of a vendor; and

(B) is not required to be reported by a vendor under law other than under this chapter.

(3) "Gift" means a benefit, including entertainment, offered by a vendor and accepted by a local government officer. The term does not include:

(A) a benefit offered based on kinship or a

1 personal, professional, or business relationship independent of
2 the official status of the local government officer accepting the
3 benefit;

4 (B) food or beverages accepted by a local
5 government officer as the guest of a vendor; or

6 (C) a political contribution as defined by
7 Section 251.001, Election Code.

8 (4) "Local government officer" means:

9 (A) a member of the governing body of a local
10 governmental entity; or

11 (B) a director, superintendent, administrator,
12 president, or other executive officer of a local governmental
13 entity who exercises discretion in the planning, recommending,
14 selecting, or contracting of a vendor.

15 (5) "Vendor" means a person or agent of the person who
16 enters or seeks to enter into a contract with a local governmental
17 entity for the provision of goods or services.

18 Sec. 176A.002. VENDOR DISCLOSURE FORM REQUIRED. (a) Not
19 later than the 15th day of the first month of each calendar quarter,
20 a vendor shall submit a completed disclosure form created by the
21 commission to a local governmental entity if the vendor:

22 (1) has a contract or is seeking to enter into a
23 contract with the local governmental entity; and

24 (2) has given one or more gifts during the preceding
25 calendar quarter with an aggregate value of more than \$100 to:

26 (A) a local government officer of the local
27 governmental entity; or

1 (B) a family member of a local government officer
2 of the local governmental entity.

3 (b) A disclosure form submitted by a vendor under this
4 section must include:

5 (1) a statement that the vendor:

6 (A) has a contract or is seeking to enter into a
7 contract with the local governmental entity; and

8 (B) has given one or more gifts during the
9 preceding calendar quarter with an aggregate value of more than
10 \$100 to:

11 (i) a local government officer of the local
12 governmental entity; or

13 (ii) a family member of a local government
14 officer of the local governmental entity; and

15 (2) the dollar amount of the gift or gifts described by
16 Subdivision (1)(B) given to a local government officer or a family
17 member of a local government officer, stated as a total amount for
18 each officer and family member that accepted a gift from the vendor.

19 (c) For purposes of this section:

20 (1) the value or dollar amount of a gift for which a
21 receipt is issued, other than an admission ticket to an event, is
22 the price paid by the vendor for the gift; and

23 (2) the value or dollar amount of a gift that is an
24 admission ticket to an event is:

25 (A) the price printed on the admission ticket; or

26 (B) the initial price paid to the first seller of
27 the admission ticket if the price is not printed on the ticket.

1 (d) This section does not apply to a gift given by a vendor
2 directly as part of the vendor's sponsorship of or contribution to
3 an event that benefits:

4 (1) an organization that is exempt from federal income
5 taxation under Section 501(a), Internal Revenue Code of 1986, by
6 being listed as an exempt entity under Section 501(c) of that code;
7 or

8 (2) a political committee as defined by Section
9 251.001, Election Code.

10 (e) This section does not require the disclosure of a gift
11 made by a vendor who is a candidate or officeholder if the gift is
12 reported under Title 15, Election Code.

13 Sec. 176A.003. OFFENSE. (a) A vendor commits an offense if
14 the vendor:

15 (1) is required to submit a completed disclosure form
16 under Section 176A.002; and

17 (2) knowingly fails to submit the completed disclosure
18 form to the appropriate local governmental entity before the 15th
19 day of the first month of the calendar quarter following the
20 calendar quarter in which the form was required to be submitted
21 under Section 176A.002.

22 (b) An offense under this section is a Class C misdemeanor.

23 Sec. 176A.004. COMMISSION ADVISORY OPINION. (a) The
24 commission may prepare a written advisory opinion answering the
25 request of a person subject to this chapter for an advisory opinion
26 about the application of this chapter to the person regarding a
27 specified existing or hypothetical factual situation.

1 (b) A request for an advisory opinion must be made in
2 writing to the commission.

3 (c) If the commission prepares an advisory opinion under
4 this section, Sections 571.093, 571.096, and 571.097, Government
5 Code, apply to the request and advisory opinion in the same manner
6 as those sections apply to a request or advisory opinion issued
7 under Section 571.091 of that code.

8 Sec. 176A.005. COMMISSION RULES. (a) The commission shall
9 adopt rules necessary to implement this chapter.

10 (b) The commission by rule shall prescribe the disclosure
11 form required to be submitted under Section 176A.002.

12 SECTION 2. Sections 176.003(a) and (e), Local Government
13 Code, are amended to read as follows:

14 (a) A local government officer shall file a conflicts
15 disclosure statement with respect to a vendor if:

16 (1) the vendor enters into a contract with the local
17 governmental entity [~~or the local governmental entity is~~
18 ~~considering entering into a contract with the vendor~~]; and

19 (2) the vendor:

20 (A) has an employment or other business
21 relationship with the local government officer or a family member
22 of the officer that results in the officer or family member
23 receiving taxable income, other than investment income, that
24 exceeds \$2,500 during the 12-month period preceding the date that
25 the officer becomes aware that[+]

26 [~~(i)~~] a contract between the local
27 governmental entity and vendor has been executed; or

1 ~~[(ii) the local governmental entity is~~
2 ~~considering entering into a contract with the vendor,]~~

3 (B) ~~[has given to the local government officer or~~
4 ~~a family member of the officer one or more gifts that have an~~
5 ~~aggregate value of more than \$100 in the 12-month period preceding~~
6 ~~the date the officer becomes aware that:~~

7 ~~[(i) a contract between the local~~
8 ~~governmental entity and vendor has been executed; or~~

9 ~~[(ii) the local governmental entity is~~
10 ~~considering entering into a contract with the vendor; or~~

11 ~~[(C)]~~ has a family relationship with the local
12 government officer.

13 (e) The commission shall adopt the conflicts disclosure
14 statement for local government officers for use under this
15 section. The conflicts disclosure statement must include:

16 (1) a requirement that each local government officer
17 disclose~~[-~~

18 ~~[(A)]~~ an employment or other business
19 relationship described by Subsection (a)(2)(A), including the
20 nature and extent of the relationship~~[- and~~

21 ~~[(B) gifts accepted by the local government~~
22 ~~officer and any family member of the officer from a vendor during~~
23 ~~the 12-month period described by Subsection (a)(2)(B) if the~~
24 ~~aggregate value of the gifts accepted by the officer or a family~~
25 ~~member from that vendor exceeds \$100];~~

26 (2) an acknowledgment from the local government
27 officer that:

1 (A) the disclosure applies to each family member
2 of the officer; and

3 (B) the statement covers the 12-month period
4 described by Subsection (a)(2)(A) [~~(a)(2)(B)~~]; and

5 (3) the signature of the local government officer
6 acknowledging that the statement is made under oath under penalty
7 of perjury.

8 SECTION 3. Sections 176.006(a) and (a-1), Local Government
9 Code, are amended to read as follows:

10 (a) A vendor shall file a completed conflict of interest
11 questionnaire if the vendor has [~~a business relationship with a~~
12 ~~local governmental entity and~~]:

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

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

22 [~~(3) has~~] a family relationship with a local
23 government officer of that local governmental entity.

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

27 (1) the date that the vendor:

1 (A) begins discussions or negotiations to enter
2 into a contract with the local governmental entity; or

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

7 (2) the date the vendor becomes aware:

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

11 ~~(B) [that the vendor has given one or more gifts~~
12 ~~described by Subsection (a); or~~

13 ~~[(C)]~~ of a family relationship with a local
14 government officer.

15 SECTION 4. The following provisions of the Local Government
16 Code are repealed:

- 17 (1) Section 176.001(2-b);
18 (2) Sections 176.003(a-1) and (a-2);
19 (3) Section 176.006(i); and
20 (4) Section 176.013(e).

21 SECTION 5. The Texas Ethics Commission shall adopt rules
22 necessary to implement Chapter 176A, Local Government Code, as
23 added by this Act, and shall prescribe the disclosure form required
24 to be submitted under that chapter as soon as practicable after the
25 effective date of this Act, but not later than January 1, 2018.

26 SECTION 6. (a) Except as provided by Subsection (b) of this
27 section, the changes in law made by this Act to Chapter 176, Local

1 Government Code, as amended by this Act, apply only to an event
2 requiring disclosure that occurs on or after the effective date of
3 this Act. An event requiring disclosure that occurs before the
4 effective date of this Act is governed by the law applicable to the
5 event immediately before the effective date of this Act, and the
6 former law is continued in effect for that purpose.

7 (b) The change in law made by this Act by the repeal of
8 Section 176.006(i), Local Government Code, applies only to a
9 contract that is entered into on or after the effective date of this
10 Act. A contract entered into before the effective date of this Act
11 is governed by the law as it existed immediately before the
12 effective date of this Act, and that law is continued in effect for
13 that purpose.

14 SECTION 7. Chapter 176A, Local Government Code, as added by
15 this Act, applies only to an event requiring disclosure that occurs
16 on or after January 1, 2018.

17 SECTION 8. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2017.