

By: Davis of Harris

H.B. No. 2473

A BILL TO BE ENTITLED

AN ACT

relating to the disclosure by vendors of gifts to certain local government officers and of certain relationships with local government officers; creating an 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," "family member," "goods," and "local governmental entity" 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;

(B) is not required to be reported under law other than under this chapter; and

(C) is not prohibited by law.

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

1 (A) a benefit offered based on kinship or a
2 personal, professional, or business relationship independent of
3 the official status of the local government officer accepting the
4 benefit; or

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

7 (4) "Local government officer" means:

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

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

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

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

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

23 (2) has given one or more gifts during the preceding
24 calendar quarter with an aggregate value of more than \$100 to a
25 local government officer of the local governmental entity.

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

1 (1) a statement that the vendor:

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

4 (B) has given one or more gifts during the
5 preceding calendar quarter with an aggregate value of more than
6 \$100 to a local government officer of the local governmental
7 entity; and

8 (2) the dollar amount of the gift or gifts described by
9 Subdivision (1)(B) given to a local government officer, stated as a
10 total amount for each officer that accepted a gift from the vendor.

11 (c) This section does not apply to a gift given by a vendor
12 directly as part of the vendor's sponsorship of or contribution to
13 an event that benefits a nonprofit organization, if the nonprofit
14 organization is exempt from federal income taxation under Section
15 501(a), Internal Revenue Code of 1986, by being listed as an exempt
16 entity under Section 501(c)(3) of that code.

17 Sec. 176A.003. EXTENSION OF DEADLINE TO SUBMIT VENDOR
18 DISCLOSURE FORM. (a) A local governmental entity shall mail
19 written notice to a vendor if the vendor has not submitted a
20 disclosure form as required to be submitted under this chapter as
21 soon as practicable after the local governmental entity discovers
22 the omission.

23 (b) Notwithstanding Section 176A.002(a), on notification by
24 the local governmental entity under this section, the deadline for
25 the vendor to submit the disclosure form is extended to the 30th day
26 after the date the notice is mailed.

27 Sec. 176A.004. LIST OF GOVERNMENT OFFICERS. A local

1 governmental entity shall:

2 (1) create a complete list of all local government
3 officers of the local governmental entity;

4 (2) update the list as needed to ensure the accuracy of
5 the list;

6 (3) provide the most recently updated list to each
7 vendor that enters or seeks to enter into a contract with the local
8 governmental entity; and

9 (4) post and maintain the most recently updated list
10 on the local governmental entity's Internet website, if the local
11 governmental entity maintains a website.

12 Sec. 176A.005. PROHIBITION. (a) This section does not
13 apply to a solicitation for contributions authorized by the
14 Election Code.

15 (b) A local government officer may not solicit from a vendor
16 a gift on behalf of the local government officer, a family member of
17 the local government officer, or another person, including a local
18 governmental entity or nonprofit charitable organization.

19 Sec. 176A.006. OFFENSE. (a) A vendor commits an offense if
20 the vendor:

21 (1) is required to submit a disclosure form under
22 Section 176A.002; and

23 (2) knowingly fails to submit the disclosure form with
24 the appropriate local governmental entity before the 31st day after
25 the date the local governmental entity mails notice to the vendor as
26 required by Section 176A.003, if that notice is mailed.

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

1 (c) It is a defense to prosecution under this section that
2 the local governmental entity to which the vendor is required to
3 submit the disclosure form failed to create or update a complete
4 list of all local government officers of the local governmental
5 entity required by Section 176A.004.

6 Sec. 176A.007. COMMISSION ADVISORY OPINION. (a) The
7 commission may prepare a written advisory opinion answering the
8 request of a person subject to this chapter for an advisory opinion
9 about the application of this chapter to the person regarding a
10 specified existing or hypothetical factual situation.

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

13 (c) If the commission prepares an advisory opinion under
14 this section, Sections 571.093, 571.096, and 571.097, Government
15 Code, apply to the request and advisory opinion in the same manner
16 as those sections apply to a request or advisory opinion issued
17 under Section 571.091 of that code.

18 Sec. 176A.008. COMMISSION RULES. (a) The commission shall
19 adopt rules necessary to implement this chapter.

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

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

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

26 (1) the vendor enters into a contract with the local
27 governmental entity ~~[or the local governmental entity is~~

1 ~~considering entering into a contract with the vendor~~]; and

2 (2) the vendor:

3 (A) has an employment or other business
4 relationship with the local government officer or a family member
5 of the officer that results in the officer or family member
6 receiving taxable income, other than investment income, that
7 exceeds \$2,500 during the 12-month period preceding the date that
8 the officer becomes aware that[+:

9 [(i)] a contract between the local
10 governmental entity and vendor has been executed; or

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

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

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

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

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

23 (e) The commission shall adopt the conflicts disclosure
24 statement for local government officers for use under this
25 section. The conflicts disclosure statement must include:

26 (1) a requirement that each local government officer
27 disclose[+:

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

4 [~~(B) gifts accepted by the local government~~
5 ~~officer and any family member of the officer from a vendor during~~
6 ~~the 12-month period described by Subsection (a)(2)(B) if the~~
7 ~~aggregate value of the gifts accepted by the officer or a family~~
8 ~~member from that vendor exceeds \$100];~~

9 (2) an acknowledgment from the local government
10 officer that:

11 (A) the disclosure applies to each family member
12 of the officer; and

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

15 (3) the signature of the local government officer
16 acknowledging that the statement is made under oath under penalty
17 of perjury.

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

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

23 (1) [~~has~~] an employment or other business relationship
24 with a local government officer of that local governmental entity,
25 or a family member of the officer, described by Section
26 176.003(a)(2)(A); or

27 (2) [~~has given a local government officer of that~~

1 ~~local governmental entity, or a family member of the officer, one or~~
2 ~~more gifts with the aggregate value specified by Section~~
3 ~~176.003(a)(2)(B), excluding any gift described by Section~~
4 ~~176.003(a-1); or~~

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

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

10 (1) the date that the vendor:

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

13 (B) submits to the local governmental entity an
14 application, response to a request for proposals or bids,
15 correspondence, or another writing related to a potential contract
16 with the local governmental entity; or

17 (2) the date the vendor becomes aware:

18 (A) of an employment or other business
19 relationship with a local government officer, or a family member of
20 the officer, described by Subsection (a); or

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

23 ~~[(C)]~~ of a family relationship with a local
24 government officer.

25 SECTION 4. Section 176.009, Local Government Code, is
26 amended to read as follows:

27 Sec. 176.009. POSTING ON INTERNET. ~~[(a)]~~ A local

1 governmental entity that maintains an Internet website shall post
2 each statement and questionnaire [~~provide access to the statements~~
3 ~~and to questionnaires required to be~~] filed under this chapter on
4 the [that] website not later than the 30th day after the date the
5 statement or questionnaire is filed. The local governmental entity
6 shall maintain the posting at least until the date the entity is no
7 longer required to maintain the statement or questionnaire under
8 Section 176.0065(2). [~~This subsection does not require a local~~
9 ~~governmental entity to maintain an Internet website.~~]

10 SECTION 5. The following provisions of the Local Government
11 Code are repealed:

- 12 (1) Section 176.001(2-b);
- 13 (2) Sections 176.003(a-1) and (a-2); and
- 14 (3) Section 176.013(e).

15 SECTION 6. A local governmental entity, as defined by
16 Chapter 176A, Local Government Code, as added by this Act, shall
17 create and make available the complete list of all local government
18 officers required by Section 176A.004 of that chapter as soon as
19 practicable after the effective date of this Act, but not later than
20 January 1, 2018.

21 SECTION 7. 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 8. The changes in law made by Chapter 176, Local
27 Government Code, as amended by this Act, apply only to an event

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

6 SECTION 9. The changes in law made by Chapter 176A, Local
7 Government Code, as added by this Act, apply only to an event
8 requiring disclosure that occurs on or after January 1, 2018.

9 SECTION 10. This Act takes effect immediately if it
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas Constitution.
12 If this Act does not receive the vote necessary for immediate
13 effect, this Act takes effect September 1, 2017.