

By: Middleton

H.B. No. 1473

A BILL TO BE ENTITLED

1 AN ACT
2 relating to disclosure of certain relationships with local
3 government officers and vendors.

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

5 SECTION 1. Sections 176.001(1), (1-a), and (2-d), Local
6 Government Code, are amended to read as follows:

7 (1) "Agent" means a third party who undertakes to
8 transact some business or manage some affair for another person by
9 the authority or on account of the other person. The term includes
10 a subcontractor and an employee.

11 (1-a) "Business relationship" means a connection
12 between two or more parties based on commercial activity of one of
13 the parties. ~~[The term does not include a connection based on:~~

14 ~~[(A) a transaction that is subject to rate or fee~~
15 ~~regulation by a federal, state, or local governmental entity or an~~
16 ~~agency of a federal, state, or local governmental entity;~~

17 ~~[(B) a transaction conducted at a price and~~
18 ~~subject to terms available to the public; or~~

19 ~~[(C) a purchase or lease of goods or services~~
20 ~~from a person that is chartered by a state or federal agency and~~
21 ~~that is subject to regular examination by, and reporting to, that~~
22 ~~agency.]~~

23 (2-d) "Investment income" means dividends, capital
24 gains, or interest income generated from:

- 1 (A) a personal or business:
2 (i) checking or savings account;
3 (ii) share draft or share account; or
4 (iii) other similar account;
- 5 (B) a personal or business investment other than
6 an investment in a:
7 (i) mutual fund; or
8 (ii) publicly traded company with a market
9 capitalization of \$2 billion or more; [~~or~~]
- 10 (C) a personal or business loan; or
11 (D) a trust.

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 considering
18 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
22 member of the officer, or a business entity in which the officer or
23 a family member of the officer holds an ownership interest or is an
24 employee, that results in the officer, [~~or~~] family member, or
25 business entity receiving taxable income, including [~~other than~~]
26 investment income, that exceeds \$2,500 during the 12-month period
27 preceding the date that the officer becomes aware that:

1 (i) a contract between the local
2 governmental entity and vendor has been executed; or

3 (ii) the local governmental entity is
4 considering entering into a contract with the vendor;

5 (B) has an employment or other business
6 relationship with the local government officer, a family member of
7 the officer, or a business entity in which the officer or a family
8 member of the officer holds an ownership interest or is an employee,
9 that the officer anticipates will result in the officer, family
10 member, or business entity receiving any amount of taxable income,
11 including investment income, in the future;

12 (C) has given to the local government officer,
13 [~~or~~] a family member of the officer, or a business entity in which
14 the officer or a family member of the officer holds an ownership
15 interest or is an employee, one or more gifts that have an aggregate
16 value of more than \$100 in the 12-month period preceding the date
17 the officer becomes aware that:

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

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

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

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

27 (1) a requirement that each local government officer

1 disclose:

2 (A) an employment or other business relationship
3 described by Subsection (a)(2)(A) or (B), including the nature and
4 extent of the relationship; and

5 (B) gifts accepted by the local government
6 officer, ~~and~~ any family member of the officer, and any business
7 entity in which the officer or a family member of the officer holds
8 an ownership interest or is an employee, from a vendor during the
9 12-month period described by Subsection (a)(2)(C) [~~(a)(2)(B)~~] if
10 the aggregate value of the gifts accepted by the officer, ~~or a~~
11 family member, or business entity from that vendor exceeds \$100;

12 (2) an acknowledgment from the local government
13 officer that:

14 (A) the disclosure applies to each:

15 (i) family member of the officer; and

16 (ii) business entity in which the officer
17 or a family member of the officer holds an ownership interest or is
18 an employee; and

19 (B) the statement covers the 12-month period
20 described by Subsection (a)(2)(C) [~~(a)(2)(B)~~]; and

21 (3) the signature of the local government officer
22 acknowledging that the statement is made under oath under penalty
23 of perjury.

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

26 (a) A vendor shall file a completed conflict of interest
27 questionnaire if the vendor has a business relationship with a

1 local governmental entity and:

2 (1) has an employment or other business relationship
3 described by Section 176.003(a)(2)(A) or (B) with a local
4 government officer of that local governmental entity, ~~[or]~~ a family
5 member of the officer, or a business entity in which the officer or
6 a family member of the officer holds an ownership interest or is an
7 employee ~~[described by Section 176.003(a)(2)(A)]~~;

8 (2) has given a local government officer of that local
9 governmental entity, ~~[or]~~ a family member of the officer, or a
10 business entity in which the officer or a family member of the
11 officer holds an ownership interest or is an employee, one or more
12 gifts with the aggregate value specified by Section
13 176.003(a)(2)(C) ~~[176.003(a)(2)(B)]~~, excluding any gift described
14 by Section 176.003(a-1); or

15 (3) has a family relationship with a local government
16 officer of that local governmental entity.

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

20 (1) the date that the vendor:

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

23 (B) submits to the local governmental entity an
24 application, response to a request for proposals or bids,
25 correspondence, or another writing related to a potential contract
26 with the local governmental entity; or

27 (2) the date the vendor becomes aware:

1 (A) of an employment or other business
2 relationship [~~with a local government officer, or a family member~~
3 ~~of the officer,~~] described by Subsection (a)(1) [~~(a)~~];

4 (B) that the vendor has given one or more gifts
5 described by Subsection (a)(2) [~~(a)~~]; or

6 (C) of a family relationship with a local
7 government officer.

8 (c) The questionnaire adopted under Subsection (b) must
9 require, for the local governmental entity with respect to which
10 the questionnaire is filed, that the vendor filing the
11 questionnaire:

12 (1) describe each employment or business [~~and family~~]
13 relationship described by Section 176.003(a)(2)(A) or (B) the
14 vendor has with each local government officer of the local
15 governmental entity, a family member of the officer, or a business
16 entity in which the officer or a family member of the officer holds
17 an ownership interest or is an employee;

18 (2) describe each family relationship the vendor has
19 with each local government officer of the local governmental
20 entity;

21 (3) identify each employment or business relationship
22 described by Subdivision (1) with respect to which the local
23 government officer, a family member of the officer, or a business
24 entity in which the officer or a family member of the officer holds
25 an ownership interest or is an employee, receives, or is likely to
26 receive, taxable income, including [~~other than~~] investment income,
27 from the vendor;

1 (4) [~~(3)~~] identify each employment or business
2 relationship described by Subdivision (1) with respect to which the
3 vendor receives, or is likely to receive, taxable income, including
4 [~~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, a family
7 member of the officer, or a business entity in which the officer or
8 a family member of the officer holds an ownership interest or is an
9 employee; and

10 (B) is not received from the local governmental
11 entity; and

12 (5) [~~(4)~~] describe each employment or business
13 relationship with a corporation or other business entity with
14 respect to which a local government officer of the local
15 governmental entity~~+~~

16 [~~(A)~~] serves as an officer or director~~+, or~~

17 [~~(B)~~ holds an ownership interest of one percent
18 ~~or more~~].

19 SECTION 4. Not later than December 1, 2019, the Texas Ethics
20 Commission shall adopt a conflicts disclosure statement consistent
21 with Section 176.003, Local Government Code, as amended by this
22 Act, and a conflict of interest questionnaire consistent with
23 Section 176.006, Local Government Code, as amended by this Act.

24 SECTION 5. The changes in law made by this Act apply only to
25 an event requiring disclosure that occurs on or after January 1,
26 2020. An event requiring disclosure that occurs before that date is
27 governed by the law applicable to the event immediately before that

1 date, and the former law is continued in effect for that purpose.

2 SECTION 6. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2019.