87R931 TJB-D

By:  Middleton H.B. No. 1703

A BILL TO BE ENTITLED

AN ACT

relating to disclosure of certain relationships with local government officers and vendors.

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

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

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

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

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

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

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

(2)  "Family member" means a person related to another person within the third [~~first~~] degree by consanguinity or the second degree by affinity, as determined under [~~described by~~] Subchapter B, Chapter 573, Government Code.

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

(A)  a personal or business:

(i)  checking or savings account;

(ii)  share draft or share account; or

(iii)  other similar account;

(B)  a personal or business investment other than an investment in a:

(i)  mutual fund; or

(ii)  publicly traded company with a market capitalization of $2 billion or more; [~~or~~]

(C)  a personal or business loan; or

(D)  a trust.

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

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

(1)  the vendor enters into a contract with the local governmental entity or the local governmental entity is considering entering into a contract with the vendor; and

(2)  the vendor:

(A)  has an employment or other business relationship with the local government officer, [~~or~~] a family member of the officer, or a business entity in which the officer or a family member of the officer holds an ownership interest or is an employee, that results in the officer, [~~or~~] family member, or business entity receiving taxable income, including [~~other than~~] investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that:

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

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

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

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

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

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

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

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

(1)  a requirement that each local government officer disclose:

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

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

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

(A)  the disclosure applies to each:

(i)  family member of the officer; and

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

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

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

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

(a)  A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

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

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

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

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

(1)  the date that the vendor:

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

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

(2)  the date the vendor becomes aware:

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

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

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

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

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

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

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

(4) [~~(3)~~]  identify each employment or business relationship described by Subdivision (1) with respect to which the vendor receives, or is likely to receive, taxable income, including [~~other than~~] investment income, that:

(A)  is received from, or at the direction of, a local government officer of the local governmental entity, a family member of the officer, or a business entity in which the officer or a family member of the officer holds an ownership interest or is an employee; and

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

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

[~~(A)~~]  serves as an officer or director[~~; or~~

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

SECTION 4.  Not later than December 1, 2021, the Texas Ethics Commission shall adopt a conflicts disclosure statement consistent with Section 176.003, Local Government Code, as amended by this Act, and a conflict of interest questionnaire consistent with Section 176.006, Local Government Code, as amended by this Act.

SECTION 5.  The changes in law made by this Act apply only to an event requiring disclosure that occurs on or after January 1, 2022. An event requiring disclosure that occurs before that date is governed by the law applicable to the event immediately before that date, and the former law is continued in effect for that purpose.

SECTION 6.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.