

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

1 second degree by affinity, as determined under [~~described by~~]
2 Subchapter B, Chapter 573, Government Code.

3 (2-d) "Investment income" means dividends, capital
4 gains, or interest income generated from:

5 (A) a personal or business:

6 (i) checking or savings account;

7 (ii) share draft or share account; or

8 (iii) other similar account;

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

11 (i) mutual fund; or

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

14 (C) a personal or business loan; or

15 (D) a trust.

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

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

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

23 (2) the vendor:

24 (A) has an employment or other business
25 relationship with the local government officer, [or] a family
26 member of the officer, or a business entity in which the officer or
27 a family member of the officer holds an ownership interest or is an

1 employee, that results in the officer, ~~[or]~~ family member, or
2 business entity receiving taxable income, including ~~[other than]~~
3 investment income, that exceeds \$2,500 during the 12-month period
4 preceding the date that the officer becomes aware that:

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

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

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

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

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

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

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

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

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

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

9 (B) gifts accepted by the local government
10 officer, ~~and~~ any family member of the officer, and any business
11 entity in which the officer or a family member of the officer holds
12 an ownership interest or is an employee, from a vendor during the
13 12-month period described by Subsection (a)(2)(C) [~~(a)(2)(B)~~] if
14 the aggregate value of the gifts accepted by the officer, ~~or a~~
15 family member, or business entity from that vendor exceeds \$100;

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

18 (A) the disclosure applies to each:

19 (i) family member of the officer; and

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

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

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

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

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

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

12 (2) has given a local government officer of that local
13 governmental entity, ~~or~~ a family member of the officer, or a
14 business entity in which the officer or a family member of the
15 officer holds an ownership interest or is an employee, one or more
16 gifts with the aggregate value specified by Section
17 176.003(a)(2)(C) [~~176.003(a)(2)(B)~~], excluding any gift described
18 by Section 176.003(a-1); or

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

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

24 (1) the date that the vendor:
25 (A) begins discussions or negotiations to enter
26 into a contract with the local governmental entity; or

27 (B) submits to the local governmental entity an

1 application, response to a request for proposals or bids,
2 correspondence, or another writing related to a potential contract
3 with the local governmental entity; or

4 (2) the date the vendor becomes aware:

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

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

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

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

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

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

25 (3) identify each employment or business relationship
26 described by Subdivision (1) with respect to which the local
27 government officer, a family member of the officer, or a business

1 entity in which the officer or a family member of the officer holds
2 an ownership interest or is an employee, receives, or is likely to
3 receive, taxable income, including ~~[other than]~~ investment income,
4 from the vendor;

5 (4) ~~[(3)]~~ identify each employment or business
6 relationship described by Subdivision (1) with respect to which the
7 vendor receives, or is likely to receive, taxable income, including
8 ~~[other than]~~ investment income, that:

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

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

16 (5) ~~[(4)]~~ describe each employment or business
17 relationship with a corporation or other business entity with
18 respect to which a local government officer of the local
19 governmental entity~~+~~

20 ~~[(A)]~~ serves as an officer or director~~+, or~~
21 ~~[(B)] holds an ownership interest of one percent~~
22 ~~or more].~~

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

1 SECTION 5. The changes in law made by this Act apply only to
2 an event requiring disclosure that occurs on or after January 1,
3 2022. An event requiring disclosure that occurs before that date is
4 governed by the law applicable to the event immediately before that
5 date, and the former law is continued in effect for that purpose.

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