

BILL ANALYSIS

H.B. 1817
By: Capriglione
State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In 2015, the Texas Legislature enacted legislation that required governmental entities to file a disclosure of interested parties, otherwise known as a Form 1295, with the Texas Ethics Commission for certain contracts. In 2022, a development company, Legacy Hutto LLC, sued the City of Hutto for breach of contract. The judge found that the city had not verified whether a Form 1295 was submitted and on file, therefore not complying with state government transparency laws. As such, the judge found that the contract had not been properly executed. With this ruling, the potential now exists for any government contract without a Form 1295 on file to be found void. H.B. 1817 seeks to prevent this from occurring by updating the disclosure of interested parties statute to allow for a cure period of 10 business days if a Form 1295 is found to not be on file.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 1817 amends the Government Code to limit the circumstances under which an applicable contract entered into by a governmental entity or state agency is considered voidable for the contracted business entity's failure to provide the requisite disclosure of interested parties to when the following occurs:

- the governmental entity or state agency submits to the business entity written notice of the business entity's failure to provide the disclosure; and
- the business entity fails to submit the disclosure to the governmental entity or state agency on or before the 10th business day after the date the business entity receives the written notice.

This limitation applies only to such a contract that is either for lobbying services, has a value of at least \$1 million, or requires an action or vote by the governing body of the entity or agency before the contract may be signed.

H.B. 1817 authorizes a court in which a suit challenging the validity of such a contract is pending on the bill's effective date to require the governmental entity or state agency to provide the required written notice if the court finds that failure to enforce that requirement would cause an inequitable or unjust result for the parties to the suit. The bill establishes that a contract executed before the bill's effective date is presumed to have been properly executed if an action to void or invalidate the contract has not been filed with a court in Texas before the bill's effective date.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.