

## AN ACT

relating to disclosure of certain relationships with local government officers.

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

SECTION 1. Section 176.001, Local Government Code, is amended by amending Subdivisions (1), (2), (3), (4), and (5) and adding Subdivisions (1-a), (1-b), (1-c), (1-d), (2-a), (2-b), and (6) 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.

(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.

(1-b) "Charter school" means an open-enrollment charter school operating under Subchapter D, Chapter 12, Education Code.

(1-c) "Commission" means the Texas Ethics Commission.

(1-d) "Contract" means a written agreement for the sale or purchase of real property, goods, or services.

(2) "Family member" means a person related to another person within the first degree by consanguinity or affinity, as described by Subchapter B, Chapter 573, Government Code, except that the term does not include a person who is considered to be related to another person by affinity only as described by Section 573.024(b), Government Code.

(2-a) "Goods" means personal property.

(2-b) "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; or

(C) a personal or business loan.

(3) "Local governmental entity" means a county, municipality, school district, charter school, junior college district, or other political subdivision of this state or a local government corporation, board, commission, district, or authority to which a member is appointed by the commissioners court of a county, the mayor of a municipality, or the governing body of a municipality. The term does not include an association, corporation, or organization of governmental entities organized to provide to its members education, assistance, products, or services or to represent its members before the legislative, administrative, or judicial branches of the state or federal government.

(4) "Local government officer" means:

(A) a member of the governing body of a local governmental entity; [or]

(B) a director, superintendent, administrator, president, or other person designated as the executive officer of the local governmental entity; or

(C) an employee of a local governmental entity with respect to whom the local governmental entity has, in accordance with Section 176.005, extended the requirements of Sections 176.003 and 176.004.

(5) "Records administrator" means the director, county clerk, municipal secretary, superintendent, or other person responsible for maintaining the records of the local governmental entity or another person designated by the local governmental entity to maintain statements and questionnaires filed under this chapter and perform related functions.

(6) "Services" means skilled or unskilled labor or professional services, as defined by Section 2254.002, Government Code.

SECTION 2. Section 176.002(a), Local Government Code, is amended to read as follows:

(a) This chapter applies to a person who:

(1) enters [contracts] or seeks to enter into a contract [for the sale or purchase of property, goods, or services] with a local governmental entity; or

(2) is an agent of a person described by Subdivision (1) in the person's business with a local governmental entity.

SECTION 3. Section 176.003, Local Government Code, is amended by amending Subsections (a) and (d) and adding Subsection (a-1) to read as follows:

(a) A local government officer shall file a conflicts disclosure statement with respect to a person described by Section 176.002(a) if:

(1) the person enters into a contract [has contracted] with the local governmental entity or the local governmental entity is considering entering into a contract [doing business] with the person; and

(2) the person:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, 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 described by Subdivision (1) has been executed; or

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

(B) has given to the local government officer or a family member of the officer one or more gifts [~~other than gifts of food, lodging, transportation, or entertainment accepted as a guest,~~] that have an aggregate value of more than \$250 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract described by Subdivision (1) has been executed; or

(ii) the local governmental entity is considering entering into a contract [doing business] with the person.

(a-1) A local government officer is not required to file a conflicts disclosure statement in relation to a gift accepted by the officer or a family member of the officer if the gift is:

(1) given by a family member of the person accepting the gift;

(2) a political contribution as defined by Title 15, Election Code; or

(3) food, lodging, transportation, or entertainment accepted as a guest.

(d) It is an exception to the application of [~~a defense to prosecution under~~] Subsection (c) that the person filed the required conflicts disclosure statement not later than the seventh business day after the date the person received notice from the local governmental entity of the alleged violation.

SECTION 4. Section 176.004, Local Government Code, is amended to read as follows:

Sec. 176.004. CONTENTS OF DISCLOSURE STATEMENT. The commission shall adopt the conflicts disclosure statement for local government officers. The conflicts disclosure statement must include:

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

(A) an employment or other business relationship described by Section 176.003(a), including the nature and extent of the relationship; and

(B) gifts accepted [~~received~~] by the local government officer and any family member of the officer from a person described by Section 176.002(a) during the 12-month period described by Section 176.003(a)(2)(B) if the aggregate value of the gifts, excluding gifts described by Section 176.003(a-1), accepted by the officer or a family member from that person exceed \$250;

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

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

(B) the statement covers the 12-month period described by Section 176.003(a) [~~176.003(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 5. Sections 176.005(a), (b), and (d), Local Government Code, are amended to read as follows:

(a) The local governmental entity may extend the requirements of Sections 176.003 and 176.004 to any employee [~~all or a group of the employees~~] of the local governmental entity who has the authority to approve contracts on behalf of the local governmental entity, including a person designated as the representative of the local governmental entity for purposes of Chapter 271. The local governmental entity shall identify each employee made subject to Sections 176.003 and 176.004 under this subsection and shall provide a list of the identified employees on request to any person.

(b) A local governmental entity may reprimand, suspend, or terminate the employment of an employee who knowingly fails to comply with a requirement adopted under this section.

(d) It is an exception to the application of [~~a defense to prosecution under~~] Subsection (c) that the person filed the required conflicts disclosure statement not later than the seventh business day after the date the person received notice from the local governmental entity of the alleged violation.

SECTION 6. Section 176.006, Local Government Code, is amended to read as follows:

Sec. 176.006. DISCLOSURE REQUIREMENTS FOR VENDORS AND OTHER PERSONS; QUESTIONNAIRE. (a) A person described by Section 176.002(a) shall file a completed conflict of interest questionnaire if the person has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with an officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A); or

(2) has given an officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B),

excluding any gift described by Section 176.003(a-1).

(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 person:

(A) ~~(1)~~ begins ~~[contract]~~ discussions or negotiations to enter into a contract with the local governmental entity; or

(B) ~~(2)~~ 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 ~~[agreement]~~ with the local governmental entity; or

(2) the date the person 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); or

(B) that the person has given one or more gifts described by Subsection (a).

(b) The commission shall adopt a conflict of interest questionnaire for use under this section that requires disclosure of a person's ~~[affiliations or]~~ business relationships ~~[that might cause a conflict of interest]~~ with a local governmental entity.

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

(1) describe each employment ~~[affiliation]~~ or business relationship the person has with each local government officer of the local governmental entity;

(2) identify each employment ~~[affiliation]~~ or business relationship described by Subdivision (1) with respect to which the local government officer receives, or is likely to receive, taxable income, other than investment income, from the person filing the questionnaire;

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

(A) is received from, or at the direction of, a local government officer of the local governmental entity; and

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

(4) describe each employment ~~[affiliation]~~ 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 10 percent or more. ~~(7)~~

~~[(5) -- describe each affiliation or business relationship with an employee or contractor of the local governmental entity who makes recommendations to a local government officer of the local governmental entity with respect to the expenditure of money;~~

~~[(6) -- describe each affiliation or business relationship with a person who:~~

~~[(A) is a local government officer; and~~

~~[(B) -- appoints or employs a local government officer of the local governmental entity that is the subject of the questionnaire; and~~

~~[(7) -- describe any other affiliation or business relationship that might cause a conflict of interest.]~~

(d) A person described by Subsection (a) shall file an

updated completed questionnaire with the appropriate records administrator not later than[+]

~~[(1) - - September 1 of each year in which an activity described by Subsection (a) is pending; and~~

~~[(2)] the seventh business day after the date of an event that would make a statement in the questionnaire incomplete or inaccurate.~~

(e) A person is not required to file an updated completed questionnaire under Subsection (d)(1) in a year if the person has filed a questionnaire under Subsection (c) or (d)(2) on or after June 1, but before September 1, of that year.

(f) A person commits an offense if the person knowingly violates this section. An offense under this subsection is a Class C misdemeanor.

(g) It is an exception to the application of ~~[a defense to prosecution under]~~ Subsection (f) that the person filed the required questionnaire not later than the seventh business day after the date the person received notice from the local governmental entity of the alleged violation.

(h) A local governmental entity does not have a duty to ensure that a person described by Section 176.002 files a conflict of interest questionnaire.

(i) The validity of a contract between a person described by Section 176.002 and a local governmental entity is not affected solely because the person fails to comply with this section.

SECTION 7. Section 176.009(a), Local Government Code, is amended to read as follows:

(a) A local governmental entity that maintains an Internet website shall provide access to the statements and to questionnaires required to be filed under this chapter on that [the Internet] website [maintained by the local governmental entity]. This subsection does not require a local governmental entity to maintain an Internet website.

SECTION 8. Chapter 176, Local Government Code, is amended by adding Sections 176.011 and 176.012 to read as follows:

Sec. 176.011. MAINTENANCE OF RECORDS. A records administrator shall maintain the statements and questionnaires that are required to be filed under this chapter in accordance with the local governmental entity's records retention schedule.

Sec. 176.012. APPLICATION OF PUBLIC INFORMATION LAW. This chapter does not require a local governmental entity to disclose any information that is excepted from disclosure by Chapter 552, Government Code.

SECTION 9. Section 176.006(e), Local Government Code, is repealed.

SECTION 10. Not later than October 1, 2007, the Texas Ethics Commission shall adopt a conflicts disclosure statement consistent with Section 176.004, 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 11. (a) Notwithstanding Chapter 176, Local Government Code, a person is not required to file a conflicts disclosure statement or a conflict of interest questionnaire under that chapter during the period that begins on the effective date of this Act and ends September 30, 2007.

(b) A person who, in the absence of Subsection (a) of this section, would have been required to file a conflicts disclosure statement or a conflict of interest questionnaire during the period specified by that subsection shall file the statement or questionnaire in accordance with Chapter 176, Local Government Code, as amended by this Act, not later than the later of:

(1) October 9, 2007; or

(2) the seventh day after the date the person received notice from the local governmental entity that the statement or

questionnaire was required to be filed.

SECTION 12. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 13. 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, 2007.

\_\_\_\_\_  
President of the Senate

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Speaker of the House

I certify that H.B. No. 1491 was passed by the House on March 15, 2007, by the following vote: Yeas 144, Nays 0, 3 present, not voting.

\_\_\_\_\_  
Chief Clerk of the House

I certify that H.B. No. 1491 was passed by the Senate on May 10, 2007, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

APPROVED: \_\_\_\_\_  
Date

\_\_\_\_\_  
Governor