

1 AN ACT

2 relating to disclosure and availability of certain information
3 concerning certain local government officers and vendors;
4 providing criminal penalties.

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

6 SECTION 1. Subtitle C, Title 5, Local Government Code, is
7 amended by adding Chapter 176 to read as follows:

8 CHAPTER 176. DISCLOSURE OF CERTAIN RELATIONSHIPS WITH LOCAL
9 GOVERNMENT OFFICERS; PROVIDING PUBLIC ACCESS TO CERTAIN
10 INFORMATION

11 Sec. 176.001. DEFINITIONS. In this chapter:

12 (1) "Commission" means the Texas Ethics Commission.

13 (2) "Family member" means a person related to another
14 person within the first degree by consanguinity or affinity, as
15 described by Subchapter B, Chapter 573, Government Code.

16 (3) "Local governmental entity" means a county,
17 municipality, school district, junior college district, or other
18 political subdivision of this state or a local government
19 corporation, board, commission, district, or authority to which a
20 member is appointed by the commissioners court of a county, the
21 mayor of a municipality, or the governing body of a municipality.
22 The term does not include an association, corporation, or
23 organization of governmental entities organized to provide to its
24 members education, assistance, products, or services or to

1 represent its members before the legislative, administrative, or
2 judicial branches of the state or federal government.

3 (4) "Local government officer" means:

4 (A) a member of the governing body of a local
5 governmental entity; or

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

9 (5) "Records administrator" means the director,
10 county clerk, municipal secretary, superintendent, or other person
11 responsible for maintaining the records of the local governmental
12 entity.

13 Sec. 176.002. APPLICABILITY TO CERTAIN VENDORS AND OTHER
14 PERSONS. (a) This chapter applies to a person who:

15 (1) contracts or seeks to contract for the sale or
16 purchase of property, goods, or services with a local governmental
17 entity; or

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

20 (b) A person is not subject to the disclosure requirements
21 of this chapter if the person is:

22 (1) a state, a political subdivision of a state, the
23 federal government, or a foreign government; or

24 (2) an employee of an entity described by Subdivision
25 (1), acting in the employee's official capacity.

26 Sec. 176.003. CONFLICTS DISCLOSURE STATEMENT REQUIRED. (a)
27 A local government officer shall file a conflicts disclosure

1 statement with respect to a person described by Section 176.002(a)
2 if:

3 (1) the person has contracted with the local
4 governmental entity or the local governmental entity is considering
5 doing business with the person; and

6 (2) the person:

7 (A) has an employment or other business
8 relationship with the local government officer or a family member
9 of the officer that results in the officer or family member
10 receiving taxable income; or

11 (B) has given to the local government officer or
12 a family member of the officer one or more gifts, other than gifts
13 of food, lodging, transportation, or entertainment accepted as a
14 guest, that have an aggregate value of more than \$250 in the
15 12-month period preceding the date the officer becomes aware that:

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

18 (ii) the local governmental entity is
19 considering doing business with the person.

20 (b) A local government officer shall file the conflicts
21 disclosure statement with the records administrator of the local
22 governmental entity not later than 5 p.m. on the seventh business
23 day after the date on which the officer becomes aware of the facts
24 that require the filing of the statement under Subsection (a).

25 (c) A local government officer commits an offense if the
26 officer knowingly violates this section. An offense under this
27 subsection is a Class C misdemeanor.

1 (d) It is a defense to prosecution under Subsection (c) that
2 the person filed the required conflicts disclosure statement not
3 later than the seventh business day after the date the person
4 received notice of the violation.

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

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

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

14 (B) gifts received by the local government
15 officer and any family member of the officer from a person described
16 by Section 176.002(a) during the 12-month period described by
17 Section 176.003(a)(2)(B) if the aggregate value of the gifts from
18 that person exceed \$250;

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

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

23 (B) the statement covers the 12-month period
24 described by Section 176.003(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 Sec. 176.005. APPLICATION TO CERTAIN EMPLOYEES. (a) The
2 local governmental entity may extend the requirements of Sections
3 176.003 and 176.004 to all or a group of the employees of the local
4 governmental entity.

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

8 (c) An employee of a local governmental entity commits an
9 offense if the employee knowingly violates requirements imposed
10 under this section. An offense under this subsection is a Class C
11 misdemeanor.

12 (d) It is a defense to prosecution under Subsection (c) that
13 the person filed the required conflicts disclosure statement not
14 later than the seventh business day after the date the person
15 received notice of the violation.

16 Sec. 176.006. DISCLOSURE REQUIREMENTS FOR VENDORS AND OTHER
17 PERSONS; QUESTIONNAIRE. (a) A person described by Section
18 176.002(a) shall file a completed conflict of interest
19 questionnaire with the appropriate records administrator not later
20 than the seventh business day after the date that the person:

21 (1) begins contract discussions or negotiations with
22 the local governmental entity; or

23 (2) 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 agreement
26 with the local governmental entity.

27 (b) The commission shall adopt a conflict of interest

1 questionnaire for use under this section that requires disclosure
2 of a person's affiliations or business relationships that might
3 cause a conflict of interest with a local governmental entity.

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

8 (1) describe each affiliation or business
9 relationship the person has with each local government officer of
10 the local governmental entity;

11 (2) identify each affiliation or business
12 relationship described by Subdivision (1) with respect to which the
13 local government officer receives, or is likely to receive, taxable
14 income from the person filing the questionnaire;

15 (3) identify each affiliation or business
16 relationship described by Subdivision (1) with respect to which the
17 person filing the questionnaire receives, or is likely to receive,
18 taxable income that:

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

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

23 (4) describe each affiliation or business
24 relationship with a corporation or other business entity with
25 respect to which a local government officer of the local
26 governmental entity:

27 (A) serves as an officer or director; or

1 (B) holds an ownership interest of 10 percent or
2 more;

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

8 (6) describe each affiliation or business
9 relationship with a person who:

10 (A) is a local government officer; and

11 (B) appoints or employs a local government
12 officer of the local governmental entity that is the subject of the
13 questionnaire; and

14 (7) describe any other affiliation or business
15 relationship that might cause a conflict of interest.

16 (d) A person described by Subsection (a) shall file an
17 updated completed questionnaire with the appropriate records
18 administrator not later than:

19 (1) September 1 of each year in which an activity
20 described by Subsection (a) is pending; and

21 (2) the seventh business day after the date of an event
22 that would make a statement in the questionnaire incomplete or
23 inaccurate.

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

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

3 (g) It is a defense to prosecution under Subsection (f) that
4 the person filed the required questionnaire not later than the
5 seventh business day after the date the person received notice of
6 the violation.

7 Sec. 176.007. LIST OF GOVERNMENT OFFICERS. The records
8 administrator for a local governmental entity shall maintain a list
9 of local government officers of the entity and shall make that list
10 available to the public and any person who may be required to file a
11 questionnaire under Section 176.006.

12 Sec. 176.008. ELECTRONIC FILING. The requirements of this
13 chapter, including signature requirements, may be satisfied by
14 electronic filing in a form approved by the commission.

15 Sec. 176.009. POSTING ON INTERNET. (a) A local
16 governmental entity shall provide access to the statements and
17 questionnaires filed under this chapter on the Internet website
18 maintained by the local governmental entity.

19 (b) This subsection applies only to a county with a
20 population of 800,000 or more or a municipality with a population of
21 500,000 or more. A county or municipality shall provide, on the
22 Internet website maintained by the county or municipality, access
23 to each report of political contributions and expenditures filed
24 under Chapter 254, Election Code, by a member of the commissioners
25 court of the county or the governing body of the municipality in
26 relation to that office as soon as practicable after the officer
27 files the report.

1 Sec. 176.010. REQUIREMENTS CUMULATIVE. The requirements of
2 this chapter are in addition to any other disclosure required by
3 law.

4 SECTION 2. The Texas Ethics Commission shall adopt the
5 conflicts disclosure statement and the conflict of interest
6 questionnaire required by Chapter 176, Local Government Code, as
7 added by this Act, not later than December 1, 2005.

8 SECTION 3. (a) A local government officer is not required
9 to file a conflicts disclosure statement under Chapter 176, Local
10 Government Code, as added by this Act, before January 1, 2006.

11 (b) A person described by Section 176.002(a), Local
12 Government Code, as added by this Act, is not required to file a
13 conflict of interest questionnaire under Chapter 176, Local
14 Government Code, as added by this Act, before January 1, 2006.

15 SECTION 4. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I certify that H.B. No. 914 was passed by the House on March 23, 2005, by the following vote: Yeas 145, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 914 on May 26, 2005, by the following vote: Yeas 131, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 914 was passed by the Senate, with amendments, on May 23, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor