

- SUBJECT:** Contracts in which a school district trustee has a business interest
- COMMITTEE:** Public Education — committee substitute recommended
- VOTE:** 7 ayes — Grusendorf, Branch, Dawson, Dutton, Eissler, Griggs, Madden
0 nays
1 present not voting — Hochberg
1 absent — Oliveira
- WITNESSES:** For — Ted Melina Raab, Texas Federation of Teachers; JoHannah Whitsett, Association of Texas Professional Educators
Against — Cathy Douglass, Texas Association of School Boards; David Thompson, Texas Association of School Administrators
On — Betty Ressel, Comptroller's Office
- BACKGROUND:** Local Government Code, ch. 171 regulates conflicts of interest for officials of cities, counties, and certain other local governmental entities. It requires that an official with a substantial interest in an entity about which the official is asked to make a decision file an affidavit stating the nature of the interest and abstain from participation in the decision, under certain conditions. The term substantial interest is defined in Government Code, sec. 171.002, and includes interests by means of first degree relation by consanguinity or affinity, such as a parent, child, or spouse, as determined by Government Code, Ch. 573.
Education Code, ch. 44, subch. B governs purchasing contracts for school districts and requires that they generally must seek competitive bids for purchases over \$25,000.
- DIGEST:** CSHB 758 would add a section to the Local Government Code, Ch. 171 to prohibit a school district from contracting with a business entity in which a district trustee had a substantial interest, unless:
- the board of trustees determined in an open meeting that the goods or services at issue were reasonably priced and that no other business

- within a 50-mile radius had offered to provide the same or better quality goods or services at the same or lower cost;
- the school district complied with competitive bidding requirements in the Education Code; and
 - each trustee who had a substantial interest in the entity complied with the affidavit and abstention requirements in the Local Government Code.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

This bill would implement a recommendation from the comptroller's e-Texas report, *Limited Government, Unlimited Opportunity*, to prohibit school board members from abusing their positions to benefit from business dealings. In many communities across the state, there is the perception of impropriety among school board trustees, and in some instances there are clear violations of existing statutes meant to curb such impropriety. Even in cases where other options are available, board members in some communities tend to contract with companies to which a board member is connected. Some school boards allege that they are confused about when trustees have to file an affidavit and abstain from voting, and this bill would help end that confusion.

School districts always should be fiscally responsible to their taxpayers and students. However, now that state and local governments are experiencing widespread budget shortfalls, it is even more important that school districts get value for their money, and assure that contracts always go to companies that offer the highest quality for the best price. This bill would help keep school boards fiscally accountable to the public whose interest they were elected to promote.

In some smaller districts with few vendors and few individuals willing to serve on school boards, it is sensible to make exceptions for school boards contracting with a school board trustee's company. CSHB 758 adequately would provide for such circumstances so that these school boards were not unduly hampered from the efficient conduct of business.

**OPPONENTS
SAY:**

Though a few violations of conflict of interest laws have been discovered, most school boards and trustees are diligent in following the law, filing affidavits, and abstaining from votes when necessary. The few violations that

have occurred do not merit singling out for differential treatment this particular group of public officials from all of those covered under Local Government Code, ch. 171. Uniform treatment of all local public officials is better public policy than carving out specific provisions for each category of officials in the various codes, which could lead to inconsistent application of penalties and confusion about expectations, both for the public and for officials themselves.

NOTES:

The committee substitute removed language from the bill as introduced that would have criminalized a violation of the bill's provisions. The substitute also would require that any alternate business within a 50-mile radius would have to "offer" to provide a good or service of equal or better quality and cost, instead of merely being "capable" to do so.

The companion bill, SB 335 by Wentworth, has been left pending in the Senate Education Committee. HB 444 by Denny, which contains the same language as the introduced version of this bill, has been referred to the House Public Education Committee.