

- SUBJECT:** Disclosing gifts by vendors to certain local government officers
- COMMITTEE:** General Investigating and Ethics — committee substitute recommended
- VOTE:** 7 ayes — S. Davis, Moody, Capriglione, Nevárez, Price, Shine, Turner
0 nays
- WITNESSES:** For — Amy Casto, American Council of Engineering Companies - Texas; *(Registered, but did not testify:* Trey Lary, Allen Boone Humphries Robinson LLP; Chris Young, Linebarger Goggan Blair and Sampson, LLP; Tom Forbes, Professional Advocacy Association of Texas; Howard Cohen, Schwartz, Page and Harding, L.L.P.; Christy Drake-Adams, Texas Municipal League; David Lancaster, Texas Society of Architects; Ross Fischer; Jack Gullahorn)

Against — None
- BACKGROUND:** Local Government Code, ch. 176 requires local government officers and vendors to file a conflict disclosure statement or questionnaire, respectively, if the vendor has given a local government officer or a family member of the officer one or more gifts that had an aggregate value of more than \$100 under certain circumstances if a business relationship between the vendor and entity was or is being executed.
- DIGEST:** CSHB 2473 would remove certain provisions in Local Government Code, ch. 176 relating to filing a conflicts disclosure statement or questionnaire in relation to a gift given by a vendor to a local government officer or family member. The bill would add a new chapter, ch. 176A, to the Government Code to govern the disclosure of gifts to certain local government officers.
- Vendor disclosure form.** A vendor would be required to submit within 15 days of the first month of each calendar quarter a completed disclosure form to a local governmental entity if the vendor had a contract or was seeking to enter into a contract with the entity and had given one or more

gifts during the preceding calendar quarter with an aggregate value of more than \$100 to a local government officer of the entity or an officer's family member.

The value or dollar amount of a gift for which a receipt was issued, other than an admission ticket to an event, would be the price paid for the gift. The value of an admission ticket would be the price printed on the admission ticket or the initial price paid to the first seller of the ticket.

The Texas Ethics Commission would be required to create the form by January 1, 2018. The form would include a statement relating to the conditions under which the form would have to be disclosed and the dollar amount of the gift or gifts given, stated as a total amount for each officer and family member that accepted a gift.

The disclosure form requirement would not apply to a gift given by a vendor directly as sponsorship of or contribution to an event that benefited a tax-exempt nonprofit organization or political committee.

Offense. It would be a class C misdemeanor (maximum fine of \$500) if a vendor knowingly failed to submit the completed disclosure form to the local governmental entity within 15 days of the first month of the calendar quarter following the calendar quarter in which the form was required to be submitted.

Commission advisory opinion and rules. In response to written request, the Texas Ethics Commission could provide an advisory opinion about whether the disclosure requirements applied to a specific existing or hypothetical situation. An advisory opinion prepared under the bill would be subject to laws governing advisory opinions by the commission.

The commission would be required to adopt rules necessary to implement the bill.

Contract validity provisions. The bill would repeal provisions that:

- prevented the validity of a contract between the vendor and a local governmental entity to be affected solely because the vendor failed to submit a conflict of interest questionnaire; and
- allowed the governing body of a governmental entity to declare a contract void if a vendor failed to file a questionnaire.

Effective date. The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017, and would apply only to an event requiring disclosure that occurred or a contract entered into on or after that date. Local Government Code, ch. 176A as created by the bill would apply only to an event requiring disclosure that occurred on or after January 1, 2018.