

BILL ANALYSIS

Senate Research Center

H.B. 1491
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Intergovernmental Relations
5/1/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Chapter 176, Local Government Code, was enacted by the 79th Legislature to provide access to information concerning business relationships between local government officials and vendors that contract with local government entities. The manner by which information about these business relationships are disclosed was further clarified by attorney general opinion GA-0446.

H.B. 1491 codifies the issues addressed in GA-0446 to ensure that the disclosure requirements are clear and comprehensible while providing the public with access to information concerning business relationships between local government officials and the vendors that contract with local governmental entities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 176.001, Local Government Code, by amending Subdivisions (1)-(5) and adding Subdivisions (1-a), (1-b), (1-c), (1-d), (2-a), (2-b), and (6), as follows:

- (1) Defines "agent."
- (1-a) Defines "business relationship."
- (1-b) Defines "charter school."
- (1-d) Defines "contract."
- (2) Redefines "family member."
- (2-a) Defines "goods."
- (2-b) Defines "investment income."
- (3) Redefines "local governmental entity."
- (4) Redefines "local government officer."
- (5) Redefines "records administrator."
- (6) Defines "services."

SECTION 2. Amends Section 176.002(a), Local Government Code, to provide that this chapter (Disclosure of Certain Relationships Between Local Government Officers; Providing Public Access to Certain Information) applies to a person who enters or seeks to enter into a contract with a local governmental entity, rather than a person who contracts or seeks to contract for the sale or purchase of property, goods, or services with a local governmental entity.

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

(a) Requires a local government officer to file a conflicts disclosure statement with respect to a person described by Section 176.002(a) under certain circumstances.

(a-1) Provides that 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 under certain circumstances.

(d) Provides that it is an exception to the application of Subsection (c), rather than 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. Amends Section 176.004, Local Government Code, as follows:

Sec. 176.004. CONTENTS OF DISCLOSURE STATEMENT. Requires the Texas Ethics Commission (TEC) to adopt the conflicts disclosure statement for local government officers. Sets forth certain provisions the conflicts of disclosure statement is required to include.

SECTION 5. Amends Sections 176.005(a), (b), and (d), Local Government Code, as follows:

(a) Authorizes the local governmental entity to extend the requirements of Sections 176.003 and 176.004 to any employee, rather than 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. Requires the local governmental entity to identify each employee made subject to Sections 176.003 and 176.004 under this subsection and provide a list of the identified employees on request to any person.

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

(d) Provides that it is an exception to the application of Subsection (c), rather than 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. Amends Section 176.006, Local Government Code, as follows:

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

(a-1) Requires the completed conflict of interest questionnaire to be filed with the appropriate records administrator not later than the seventh business day after the later of certain dates.

(b) Requires TEC to adopt a conflict of interest questionnaire for use under this section that requires disclosure of a person's business relationships with a local governmental entity, rather than affiliations that might cause a conflict of interest.

(c) Requires the questionnaire adopted under Subsection (b) to require, for the local governmental entity with respect to which the questionnaire is filed, that the person filing the questionnaire identify and report certain information.

(d) Deletes existing text requiring a person described by Subsection (a) to file an updated completed questionnaire with the appropriate records administrator not later September 1 of each year in which an activity described by Subsection (a) is pending.

(e) Makes no changes to this subsection.

(f) Provides that it is an offense if the person knowingly violates, rather than violates, this section.

(g) Makes a conforming change.

(h) Exempts a local governmental entity from having a duty to ensure that a person described by Section 176.002 files a conflict of interest questionnaire.

(i) Provides that 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. Amends Section 176.009(a), Local Government Code, to provide that this subsection does not require a local governmental entity to maintain an Internet website. Makes conforming changes.

SECTION 8. Amends Chapter 176, Local Government Code, by adding Sections 176.011 and 176.012, as follows:

Sec. 176.011. MAINTENANCE OF RECORDS. Requires a records administrator to 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. Provides that this chapter does not require a local governmental entity to disclose any information that is excepted from disclosure by Chapter 552 (Public Information), Government Code.

SECTION 9. Repealer: Section 176.006(e) (relating to filling out an updated questionnaire), Local Government Code.

SECTION 10. Requires the Texas Ethics Commission to 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 not later than October 1, 2007.

SECTION 11. (a) Provides that 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, notwithstanding Chapter 176, Local Government Code.

(b) Requires 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 to file the statement or questionnaire in accordance with Chapter 176, Local Government Code, as amended by this Act, not later than the later of certain dates.

SECTION 12. Makes application of this Act prospective.

SECTION 13. Effective date: upon passage or September 1, 2007.