

By: Davis of Harris, Fallon

H.B. No. 3736

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to conflicts of interest by members of state agency  
3 governing boards and governing officers; creating a criminal  
4 offense.

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

6 SECTION 1. Subtitle B, Title 5, Government Code, is amended  
7 by adding Chapter 576 to read as follows:

8 CHAPTER 576. CONFLICT OF INTEREST BY STATE AGENCY GOVERNING BOARD  
9 MEMBER OR OFFICER

10 Sec. 576.001. DEFINITIONS. In this chapter:

11 (1) "Conflict of interest" means the conflict between  
12 an official decision made by a state agency governing board member  
13 or governing officer in the individual's official capacity and the  
14 individual's private financial interest in which the individual  
15 realizes any pecuniary gain.

16 (2) "Financial interest" means ownership or control,  
17 directly or indirectly, of an ownership interest of at least five  
18 percent in a person, including the right to share in profits,  
19 proceeds, or capital gains, or an ownership interest that an  
20 individual could reasonably foresee could result in any financial  
21 benefit to the individual. The term does not include an interest in  
22 a retirement plan, a blind trust, insurance coverage, or capital  
23 gains.

24 (3) "State agency" means a board, commission, council,

1 committee, department, office, agency, or other governmental  
2 entity in the executive branch of state government.

3 Sec. 576.002. DUTY TO DISCLOSE AND REFRAIN FROM  
4 PARTICIPATION. (a) Except as provided by Subsection (b) or (c), in  
5 each matter before the governing board of a state agency or, if the  
6 agency is not governed by a multimember governing board, the  
7 officer who governs the agency, for which a member of the board or  
8 officer, as applicable, has a conflict of interest, the individual:

9 (1) shall disclose in writing the conflict of interest  
10 to the agency; and

11 (2) may not participate in the decision on the matter.

12 (b) If a majority of the members of the governing board of a  
13 state agency has a conflict of interest related to a matter before  
14 the board or, if the agency is not governed by a multimember  
15 governing board, the officer who governs the agency has a conflict  
16 of interest on the matter, the board or officer may decide the  
17 matter only if:

18 (1) each member, or the officer, as applicable, who  
19 has a conflict of interest discloses in writing the conflict of  
20 interest to the agency; and

21 (2) the board, or officer, as applicable, makes a  
22 finding that an emergency exists that requires a decision on the  
23 matter despite the conflict of interest.

24 (c) The duty to disclose a conflict of interest and refrain  
25 from participation in the decision on a matter for a member of the  
26 governing board of an institution of higher education, as those  
27 terms are defined by Section 61.003, Education Code, is governed by

1 Section 51.923, Education Code.

2 Sec. 576.003. PUBLIC INFORMATION. A written disclosure  
3 made under Section 576.002 is public information.

4 Sec. 576.004. REPORT TO TEXAS ETHICS COMMISSION; RULES.

5 (a) A state agency that receives a written disclosure under Section  
6 576.002 shall file a copy of the disclosure with the Texas Ethics  
7 Commission.

8 (b) The Texas Ethics Commission may adopt the rules  
9 necessary to implement this chapter, including rules on the  
10 disclosure to be filed with the commission under Subsection (a).

11 Sec. 576.005. CRIMINAL PENALTY. (a) An individual commits  
12 an offense if the individual knowingly fails to comply with Section  
13 576.002.

14 (b) An offense under this section is a class B misdemeanor.

15 SECTION 2. Section 571.061(a), Government Code, is amended  
16 to read as follows:

17 (a) The commission shall administer and enforce:

18 (1) Chapters 302, 303, 305, 572, 576, and 2004;

19 (2) Subchapter C, Chapter 159, Local Government Code,  
20 in connection with a county judicial officer, as defined by Section  
21 159.051, Local Government Code, who elects to file a financial  
22 statement with the commission;

23 (3) Title 15, Election Code; and

24 (4) Sections 2152.064 and 2155.003.

25 SECTION 3. This Act takes effect September 1, 2015.