

AN ACT

relating to conflicts of interest by members of state agency governing boards and governing officers and the contents and amendment of financial statements filed by certain persons; creating a criminal offense.

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

SECTION 1. Section 572.023, Government Code, is amended by amending Subsections (a) and (b) and adding Subsection (e) to read as follows:

(a) A financial statement must include an account of the financial activity for the preceding calendar year of:

(1) any property characterized as separate property under Section 3.001, Family Code, of the individual required by this subchapter to file a financial statement;

(2) any community property of which the individual required by this subchapter to file a financial statement has sole management, control, and disposition as provided by Section 3.102(a), Family Code;

(3) any community property of the individual required by this subchapter to file a financial statement, if the individual exercised both factual and legal control over the activity; and

(4) [an account of the financial activity of] the individual's [spouse and] dependent children if the individual exercised or held the right to exercise any degree of legal or

1 factual [~~had actual~~] control over that activity [~~for the preceding~~
2 ~~calendar year~~].

3 (b) The account of financial activity consists of:

4 (1) a list of all sources of occupational income,
5 identified by employer, or if self-employed, by the nature of the
6 occupation, including identification of a person or other
7 organization from which the individual or a business in which the
8 individual has a substantial interest received a fee as a retainer
9 for a claim on future services in case of need, as distinguished
10 from a fee for services on a matter specified at the time of
11 contracting for or receiving the fee, if professional or
12 occupational services are not actually performed during the
13 reporting period equal to or in excess of the amount of the
14 retainer, and the category of the amount of the fee;

15 (2) identification by name and the category of the
16 number of shares of stock of any business entity held or acquired,
17 and if sold, the category of the amount of net gain or loss realized
18 from the sale;

19 (3) a list of all bonds, notes, and other commercial
20 paper held or acquired, and if sold, the category of the amount of
21 net gain or loss realized from the sale;

22 (4) identification of each source and the category of
23 the amount of income in excess of \$500 derived from each source from
24 interest, dividends, royalties, and rents;

25 (5) identification of each guarantor of a loan and
26 identification of each person or financial institution to whom a
27 personal note or notes or lease agreement for a total financial

1 liability in excess of \$1,000 existed at any time during the year
2 and the category of the amount of the liability;

3 (6) identification by description of all beneficial
4 interests in real property and business entities held or acquired,
5 and if sold, the category of the amount of the net gain or loss
6 realized from the sale;

7 (7) identification of a person or other organization
8 from which the individual or the individual's spouse or dependent
9 children received a gift of anything of value in excess of \$250 and
10 a description of each gift, except:

11 (A) a gift received from an individual related to
12 the individual at any time within the second degree by
13 consanguinity or affinity, as determined under Subchapter B,
14 Chapter 573;

15 (B) a political contribution that was reported as
16 required by Chapter 254, Election Code; and

17 (C) an expenditure required to be reported by a
18 person required to be registered under Chapter 305;

19 (8) identification of the source and the category of
20 the amount of all income received as beneficiary of a trust, other
21 than a blind trust that complies with Subsection (c), and
22 identification of each trust asset, if known to the beneficiary,
23 from which income was received by the beneficiary in excess of \$500;

24 (9) identification by description and the category of
25 the amount of all assets and liabilities of a corporation, firm,
26 partnership, limited partnership, limited liability partnership,
27 professional corporation, professional association, joint venture,

1 or other business association in which 50 percent or more of the
2 outstanding ownership was held, acquired, or sold;

3 (10) a list of all boards of directors of which the
4 individual is a member and executive positions that the individual
5 holds in corporations, firms, partnerships, limited partnerships,
6 limited liability partnerships, professional corporations,
7 professional associations, joint ventures, or other business
8 associations or proprietorships, stating the name of each
9 corporation, firm, partnership, limited partnership, limited
10 liability partnership, professional corporation, professional
11 association, joint venture, or other business association or
12 proprietorship and the position held;

13 (11) identification of any person providing
14 transportation, meals, or lodging expenses permitted under Section
15 36.07(b), Penal Code, and the amount of those expenses, other than
16 expenditures required to be reported under Chapter 305;

17 (12) any corporation, firm, partnership, limited
18 partnership, limited liability partnership, professional
19 corporation, professional association, joint venture, or other
20 business association, excluding a publicly held corporation, in
21 which both the individual and a person registered under Chapter 305
22 have an interest;

23 (13) identification by name and the category of the
24 number of shares of any mutual fund held or acquired, and if sold,
25 the category of the amount of net gain or loss realized from the
26 sale; ~~and~~

27 (14) identification of each blind trust that complies

1 with Subsection (c), including:

2 (A) the category of the fair market value of the
3 trust;

4 (B) the date the trust was created;

5 (C) the name and address of the trustee; and

6 (D) a statement signed by the trustee, under
7 penalty of perjury, stating that:

8 (i) the trustee has not revealed any
9 information to the individual, except information that may be
10 disclosed under Subdivision (8); and

11 (ii) to the best of the trustee's knowledge,
12 the trust complies with this section;

13 (15) if the aggregate cost of goods or services sold
14 under one or more written contracts described by this subdivision
15 exceeds \$10,000 in the year covered by the report, identification
16 of each written contract, including the name of each party to the
17 contract:

18 (A) for the sale of:

19 (i) goods in the amount of \$2,500 or more;

20 or

21 (ii) services, including professional
22 services as defined by Section 2254.002, consulting services as
23 defined by Section 2254.021, or legal counsel, in the amount of
24 \$5,000 or more;

25 (B) to which the individual or any business
26 entity of which the individual has at least a 50 percent ownership
27 interest is a party; and

1 (C) with:

2 (i) a governmental entity; or

3 (ii) a person who contracts with a
4 governmental entity, to fulfill one or more of the person's
5 obligations to the governmental entity under that contract;

6 (16) if the individual is a member of the legislature
7 and provides bond counsel services to an issuer, as defined by
8 Section 1201.002(1), identification of the following for each
9 issuance for which the individual served as bond counsel:

10 (A) the amount of the issuance;

11 (B) the name of the issuer;

12 (C) the date of the issuance;

13 (D) the amount of fees paid to the individual,
14 and whether the amount is:

15 (i) less than \$5,000;

16 (ii) at least \$5,000 but less than \$10,000;

17 (iii) at least \$10,000 but less than
18 \$25,000; or

19 (iv) \$25,000 or more; and

20 (E) the amount of fees paid to the individual's
21 firm, if applicable, and whether the amount is:

22 (i) less than \$5,000;

23 (ii) at least \$5,000 but less than \$10,000;

24 (iii) at least \$10,000 but less than
25 \$25,000; or

26 (iv) \$25,000 or more; and

27 (17) identification of any other source of earned or

1 unearned income not reported under another provision of this
2 subsection, including public benefits or a pension, individual
3 retirement account, or other retirement plan, and the category of
4 the amount of income derived from each source.

5 (e) In this section, "governmental entity" means the state,
6 a political subdivision of the state, or an agency or department of
7 the state or a political subdivision of the state.

8 SECTION 2. Subchapter B, Chapter 572, Government Code, is
9 amended by adding Section 572.0295 to read as follows:

10 Sec. 572.0295. AMENDMENT OF STATEMENT. (a) A person who
11 files a financial statement under this chapter may amend the
12 statement.

13 (b) A financial statement that is amended before the eighth
14 day after the date the original statement was filed is considered to
15 have been filed on the date on which the original statement was
16 filed.

17 SECTION 3. Subtitle B, Title 5, Government Code, is amended
18 by adding Chapter 576 to read as follows:

19 CHAPTER 576. CONFLICT OF INTEREST BY STATE AGENCY GOVERNING BOARD
20 MEMBER OR OFFICER

21 Sec. 576.001. DEFINITIONS. In this chapter:

22 (1) "Conflict of interest" means the conflict between
23 an official decision made by a state agency governing board member
24 or governing officer in the individual's official capacity and the
25 individual's private financial interest in which the individual
26 realizes any pecuniary gain, if the pecuniary gain accrued to the
27 individual as a member of a class of persons, including an

1 occupation, profession, or industry, to a greater extent than any
2 other member of the class.

3 (2) "Financial interest" means ownership or control,
4 directly or indirectly, of an ownership interest of at least five
5 percent in a person, including the right to share in profits,
6 proceeds, or capital gains, or an ownership interest that an
7 individual could reasonably foresee could result in any financial
8 benefit to the individual. The term does not include an interest in
9 a retirement plan, a blind trust, insurance coverage, or capital
10 gains.

11 (3) "Rule" means all or part of a statement of a state
12 agency that is of general or particular applicability and of future
13 effect designed to implement, interpret, or prescribe law or policy
14 for the state agency or to describe the organization, procedure, or
15 practice requirements of the state agency.

16 (4) "State agency" means a board, commission, council,
17 committee, department, office, agency, or other governmental
18 entity in the executive branch of state government.

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

25 (1) shall disclose in writing the conflict of interest
26 to the agency; and

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

1 (b) If a majority of the members of the governing board of a
2 state agency has a conflict of interest related to a matter before
3 the board or, if the agency is not governed by a multimember
4 governing board, the officer who governs the agency has a conflict
5 of interest on the matter, the board or officer may decide the
6 matter only if:

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

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

13 (c) The duty to disclose a conflict of interest and refrain
14 from participation in the decision on a matter for a member of the
15 governing board of an institution of higher education, as those
16 terms are defined by Section 61.003, Education Code, is governed by
17 Section 51.923, Education Code.

18 Sec. 576.003. PUBLIC INFORMATION. A written disclosure
19 made under Section 576.002 is public information.

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

21 (a) A state agency that receives a written disclosure under Section
22 576.002 shall file a copy of the disclosure with the Texas Ethics
23 Commission.

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

27 Sec. 576.005. CRIMINAL PENALTY. (a) An individual commits

1 an offense if the individual knowingly fails to comply with Section
2 576.002.

3 (b) An offense under this section is a Class B misdemeanor.

4 Sec. 576.006. EXEMPTION. This chapter does not apply to:

5 (1) the consideration of a proposed rule; or

6 (2) a vote to adopt a proposed rule.

7 SECTION 4. Section 571.061(a), Government Code, is amended
8 to read as follows:

9 (a) The commission shall administer and enforce:

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

11 (2) Subchapter C, Chapter 159, Local Government Code,
12 in connection with a county judicial officer, as defined by Section
13 159.051, Local Government Code, who elects to file a financial
14 statement with the commission;

15 (3) Title 15, Election Code; and

16 (4) Sections 2152.064 and 2155.003.

17 SECTION 5. The changes in law made by this Act apply only to
18 a financial statement filed under Subchapter B, Chapter 572,
19 Government Code, as amended by this Act, on or after September 1,
20 2015. A financial statement filed before September 1, 2015, is
21 governed by the law in effect on the date of filing, and the former
22 law is continued in effect for that purpose.

23 SECTION 6. This Act takes effect September 1, 2015.

President of the Senate

Speaker of the House

I certify that H.B. No. 3736 was passed by the House on May 11, 2015, by the following vote: Yeas 135, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3736 on May 28, 2015, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3736 on May 31, 2015, by the following vote: Yeas 141, Nays 0, 2 present, not voting.

Chief Clerk of the House

H.B. No. 3736

I certify that H.B. No. 3736 was passed by the Senate, with amendments, on May 26, 2015, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3736 on May 31, 2015, by the following vote: Yeas 28, Nays 3.

Secretary of the Senate

APPROVED: _____

Date

Governor