

SENATE AMENDMENTS

2nd Printing

By: Capriglione, Geren, Fallon

H.B. No. 1295

A BILL TO BE ENTITLED

AN ACT

relating to the disclosure of interested parties by persons
contracting with governmental entities and state agencies.

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

SECTION 1. Subchapter Z, Chapter 51, Education Code, is
amended by adding Section 51.954 to read as follows:

Sec. 51.954. DISCLOSURE OF SPONSORS OF RESEARCH IN PUBLIC
COMMUNICATIONS. (a) In any public communication the content of
which is based on the results of sponsored research, a faculty
member or other employee or appointee of an institution of higher
education who conducted or participated in conducting the research
shall conspicuously disclose the identity of each sponsor of the
research. This subsection does not require the disclosure of
interested parties in a contract that is exempt from disclosure
under Section 2252.908, Government Code.

(b) In this section:

(1) "Institution of higher education" has the meaning
assigned by Section 61.003.

(2) "Public communication" means oral or written
communication intended for public consumption or distribution,
including:

(A) testimony in a public administrative,
legislative, regulatory, or judicial proceeding;

(B) printed matter including a magazine,

1 journal, newsletter, newspaper, pamphlet, or report; or

2 (C) posting of information on a website or
3 similar Internet host for information.

4 (3) "Sponsor" means an entity that contracts for or
5 provides money or materials for research.

6 (4) "Sponsored research" means research:

7 (A) that is conducted under a contract with or a
8 grant from an individual or entity, other than the institution
9 conducting the research, for the purpose of the research; and

10 (B) in which payments received or the value of
11 materials received under that contract or grant, or under a
12 combination of more than one such contract or grant, constitutes at
13 least 50 percent of the cost of conducting the research.

14 SECTION 2. Subchapter Z, Chapter 2252, Government Code, is
15 amended by adding Section 2252.908 to read as follows:

16 Sec. 2252.908. DISCLOSURE OF INTERESTED PARTIES. (a) In
17 this section:

18 (1) "Business entity" means any entity recognized by
19 law through which business is conducted, including a sole
20 proprietorship, partnership, or corporation.

21 (2) "Governmental entity" means a municipality,
22 county, public school district, or special-purpose district or
23 authority.

24 (3) "Interested party" means a person who has a
25 controlling interest in a business entity with whom a governmental
26 entity or state agency contracts or who actively participates in
27 facilitating the contract or negotiating the terms of the contract,

1 including a broker, intermediary, adviser, or attorney for the
2 business entity.

3 (4) "State agency" means a board, commission, office,
4 department, or other agency in the executive, judicial, or
5 legislative branch of state government. The term includes an
6 institution of higher education as defined by Section 61.003,
7 Education Code.

8 (b) This section applies only to a contract of a
9 governmental entity or state agency that:

10 (1) requires an action or vote by the governing body of
11 the entity or agency before the contract may be signed; or

12 (2) has a value of at least \$1 million.

13 (c) Notwithstanding Subsection (b), this section does not
14 apply to:

15 (1) a sponsored research contract of an institution of
16 higher education;

17 (2) an interagency contract of a state agency or an
18 institution of higher education; or

19 (3) a contract related to health and human services
20 if:

21 (A) the value of the contract cannot be
22 determined at the time the contract is executed; and

23 (B) any qualified vendor is eligible for the
24 contract.

25 (d) A governmental entity or state agency may not enter into
26 a contract described by Subsection (b) with a business entity
27 unless the business entity, in accordance with this section and

1 rules adopted under this section, submits a disclosure of
2 interested parties to the governmental entity or state agency at
3 the time the business entity submits the signed contract to the
4 governmental entity or state agency.

5 (e) The disclosure of interested parties must be submitted
6 on a form prescribed by the Texas Ethics Commission that includes:

7 (1) a list of each interested party for the contract of
8 which the contracting business entity is aware; and

9 (2) the signature of the authorized agent of the
10 contracting business entity, acknowledging that the disclosure is
11 made under oath and under penalty of perjury.

12 (f) Not later than the 30th day after the date the
13 governmental entity or state agency receives a disclosure of
14 interested parties required under this section, the governmental
15 entity or state agency shall submit a copy of the disclosure to the
16 Texas Ethics Commission.

17 (g) The Texas Ethics Commission shall adopt rules necessary
18 to implement this section, prescribe the disclosure of interested
19 parties form, and post a copy of the form on the commission's
20 Internet website.

21 SECTION 3. (a) Not later than December 1, 2015, the Texas
22 Ethics Commission shall adopt the rules, prescribe the disclosure
23 of interested parties form, and post the form on the commission's
24 Internet website as required by Section 2252.908, Government Code,
25 as added by this Act.

26 (b) Section 2252.908, Government Code, as added by this Act,
27 applies only to a contract entered into on or after January 1, 2016.

1 SECTION 4. This Act takes effect September 1, 2015.

ADOPTED

MAY 25 2015

Lotay Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY:

Kelly Harmon

1 Amend H.B. No. 1295 (senate committee printing) in SECTION 1
2 of the bill, in proposed Section 51.954(a), Education Code (page 1,
3 lines 31-33), by striking the second sentence of that subsection.

ADOPTED

FLOOR AMENDMENT NO. 2

MAY 25 2015

BY: Kelly Harrison

Patry Spaw
Secretary of the Senate

1 Amend H.B. No. 1295 by adding the following appropriately
2 numbered SECTION to the bill and by renumbering existing
3 SECTIONS of the bill accordingly:

4 SECTION _____. Subchapter Z, Chapter 51, Education Code, is
5 amended by adding Section 51.955 to read as follows:

6 Sec. 51.955. DISCLOSURE OF PUBLICLY FUNDED RESEARCH. (a)

7 In this section, "institution of higher education" has the
8 meaning assigned by Section 61.003.

9 (b) A contract for research that is conducted by an
10 institution of higher education and supported by appropriated
11 funds must provide that any data generated or produced in the
12 course of executing the research contract must be available to
13 the public on request.

14 (c) A state agency that expends appropriated funds may
15 not:

16 (1) enter into a research contract with an
17 institution of higher education if that contract contains a
18 provision precluding public disclosure of any data generated or
19 produced in the course of executing the contract; or

20 (2) adopt a rule that is based on research conducted
21 under a contract entered into with an institution of higher
22 education unless the agency has made the results of the research
23 and all data supporting the research publicly available.

24 (d) An institution of higher education shall respond to
25 requests for information under this section in accordance with
26 Chapter 552, Government Code.

27 (e) This section does not require the public disclosure of
28 personal identifying information or any other information the
29 disclosure of which is otherwise prohibited by law.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 27, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1295 by Capriglione (Relating to the disclosure of interested parties by persons contracting with governmental entities and state agencies.), **As Passed 2nd House**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Education Code to require institutions of higher education to disclose upon public request data generated or produced in the course of executing research supported by appropriated funds. The institutions would not be required to disclose personal identifying information but would be required to disclose all information which is not otherwise prohibited from disclosure by law.

Some higher education system offices indicated that the disclosure of research data could impact intellectual property revenue and could result in a significant loss in competitively sponsored awards due to concerns about an institution's ability to ensure the protection of a sponsoring entity's data. No significant fiscal impact to state funds is expected, however, the impact on research activities and intellectual property revenue at institutions of higher education could be significant.

The bill would amend the Government Code to require state agencies and governmental entities, including school districts and local governments, to collect and disclose to the Texas Ethics Commission a list of interested parties for certain contracts. Agencies estimate that the costs to implement this process and collect the required data could be absorbed within existing resources and the bill would have no significant fiscal impact.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 768 Texas Tech University System Administration, 783 University of Houston System Administration, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 313 Department of Information Resources, 356 Texas Ethics Commission, 515 Board of Pharmacy, 529 Health and Human Services Commission, 701 Central Education Agency

LBB Staff: UP, KMc, CL, JI, FR, JBi, KVe

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 13, 2015

TO: Honorable Kevin Eltife, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1295 by Capriglione (Relating to the disclosure of interested parties by persons contracting with governmental entities and state agencies.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

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Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 313 Department of Information Resources, 356 Texas Ethics Commission, 515 Board of Pharmacy, 529 Health and Human Services Commission, 701 Central Education Agency

LBB Staff: UP, CL, JI, KMc, FR, JBi, KVe

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 7, 2015

TO: Honorable John Kuempel, Chair, House Committee on General Investigating & Ethics

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1295 by Capriglione (Relating to the disclosure of interested parties by persons contracting with governmental entities and state agencies.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code to require state agencies and governmental entities, including school districts and local governments, to collect and disclose to the Texas Ethics Commission a list of interested parties for certain contracts. Agencies estimate that the costs to implement this process and collect the required data could be absorbed within existing resources and the bill would have no significant fiscal impact.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 313 Department of Information Resources, 356 Texas Ethics Commission, 515 Board of Pharmacy, 529 Health and Human Services Commission, 701 Central Education Agency, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

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