

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5-30-15

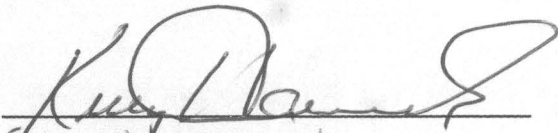
Date

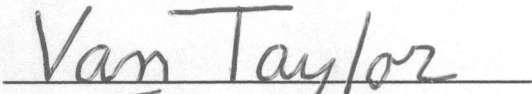
Honorable Dan Patrick
President of the Senate

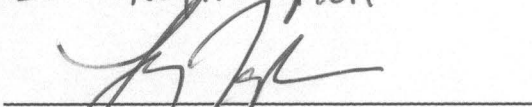
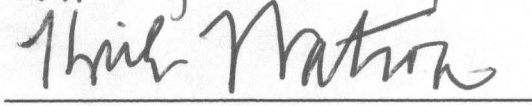
Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

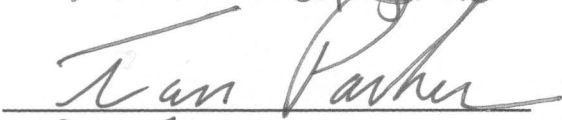
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 1295 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

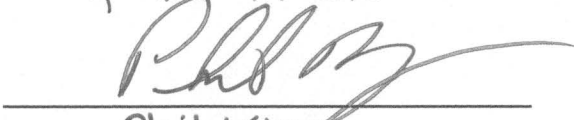

Sen. Hancock

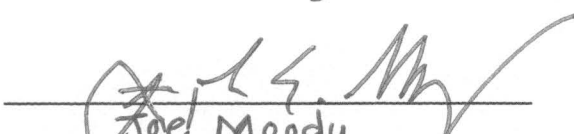
Sen. Campbell

Sen Taylor Van


Sen Taylor Larry

On the part of the Senate
Sen. Watson


Giovanni Capriglione


Rep. TAN PARKER


Phil King


Joel Moody

On the part of the House
Jim Keffer

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 1295

A BILL TO BE ENTITLED

AN ACT

relating to the disclosure of research, research sponsors, and 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.

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

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

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

5 (4) "Sponsored research" means research:

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

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

13 SECTION 2. Subchapter Z, Chapter 51, Education Code, is
14 amended by adding Section 51.955 to read as follows:

15 Sec. 51.955. PROHIBITED STATE AGENCY ACTIONS RELATED TO
16 DISCLOSURE OF PUBLICLY FUNDED RESEARCH. (a) In this section,
17 "institution of higher education" has the meaning assigned by
18 Section 61.003.

19 (b) A state agency that expends appropriated funds may
20 not:

21 (1) enter into a research contract with an
22 institution of higher education if that contract contains a
23 provision precluding public disclosure of any final data
24 generated or produced in the course of executing the contract
25 unless the agency reasonably determines that the premature
26 disclosure of such data would adversely affect public safety,
27 the protection of intellectual property rights of the

1 institution of higher education, publication rights in
2 professional scientific publications, or valuable confidential
3 information of the institution of higher education or a third
4 party; or

5 (2) adopt a rule that is based on research conducted
6 under a contract entered into with an institution of higher
7 education unless the agency:

8 (A) has made the results of the research and all
9 data supporting the research publicly available; or

10 (B) reasonably determines that the premature
11 disclosure of such data would adversely affect public safety,
12 the protection of intellectual property rights of the
13 institution of higher education, publication rights in
14 professional scientific publications, or valuable confidential
15 information of the institution of higher education or a third
16 party.

17 (c) Subsection (b)(1) does not apply to a research
18 contract between an institution of higher education and the
19 Cancer Prevention and Research Institute of Texas.

20 (d) A response to a request for information regarding
21 research described by Subsection (b) must be made in accordance
22 with Chapter 552, Government Code.

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

26 SECTION 3. Subchapter Z, Chapter 2252, Government Code, is
27 amended by adding Section 2252.908 to read as follows:

1 Sec. 2252.908. DISCLOSURE OF INTERESTED PARTIES. (a) In
2 this section:

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

6 (2) "Governmental entity" means a municipality,
7 county, public school district, or special-purpose district or
8 authority.

9 (3) "Interested party" means a person who has a
10 controlling interest in a business entity with whom a
11 governmental entity or state agency contracts or who actively
12 participates in facilitating the contract or negotiating the
13 terms of the contract, including a broker, intermediary,
14 adviser, or attorney for the business entity.

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

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

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

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

25 (c) Notwithstanding Subsection (b), this section does not
26 apply to:

27 (1) a sponsored research contract of an institution

1 of higher education;

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

4 (3) a contract related to health and human services
5 if:

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

8 (B) any qualified vendor is eligible for the
9 contract.

10 (d) A governmental entity or state agency may not enter
11 into a contract described by Subsection (b) with a business
12 entity unless the business entity, in accordance with this
13 section and rules adopted under this section, submits a
14 disclosure of interested parties to the governmental entity or
15 state agency at the time the business entity submits the signed
16 contract to the governmental entity or state agency.

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

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

22 (2) the signature of the authorized agent of the
23 contracting business entity, acknowledging that the disclosure
24 is made under oath and under penalty of perjury.

25 (f) Not later than the 30th day after the date the
26 governmental entity or state agency receives a disclosure of
27 interested parties required under this section, the governmental

1 entity or state agency shall submit a copy of the disclosure to
2 the Texas Ethics Commission.

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

7 SECTION 4. (a) Not later than December 1, 2015, the Texas
8 Ethics Commission shall adopt the rules, prescribe the
9 disclosure of interested parties form, and post the form on the
10 commission's Internet website as required by Section 2252.908,
11 Government Code, as added by this Act.

12 (b) Section 2252.908, Government Code, as added by this
13 Act, applies only to a contract entered into on or after January
14 1, 2016.

15 SECTION 5. This Act takes effect September 1, 2015.

House Bill 1295
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

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

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

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

(4) "Sponsored research" means research:

(A) that is conducted under a contract with or a grant from an individual or entity, other than the institution conducting the

SENATE VERSION (IE)

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. [FA1]

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

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

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

(4) "Sponsored research" means research:

(A) that is conducted under a contract with or a grant from an individual or entity, other than the institution conducting the

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SECTION 1. Same as Senate version.

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Section-by-Section Analysis

HOUSE VERSION

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

No equivalent provision.

SENATE VERSION (IE)

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

SECTION __. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.955 to read as follows:
Sec. 51.955. DISCLOSURE OF PUBLICLY FUNDED RESEARCH. (a) In this section, "institution of higher education" has the meaning assigned by Section 61.003.

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

(c) A state agency that expends appropriated funds may not:
(1) enter into a research contract with an institution of higher education if that contract contains a provision precluding public disclosure of any data generated or produced in the course of executing the contract; or

(2) adopt a rule that is based on research conducted under a contract entered into with an institution of higher education unless the agency has made the results of the research and all

CONFERENCE

SECTION 2. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.955 to read as follows:
Sec. 51.955. PROHIBITED STATE AGENCY ACTIONS RELATED TO DISCLOSURE OF PUBLICLY FUNDED RESEARCH. (a) In this section, "institution of higher education" has the meaning assigned by Section 61.003.

(b) A state agency that expends appropriated funds may not:
(1) enter into a research contract with an institution of higher education if that contract contains a provision precluding public disclosure of any *final* data generated or produced in the course of executing the contract *unless the agency reasonably determines that the premature disclosure of such data would adversely affect public safety, the protection of intellectual property rights of the institution of higher education, publication rights in professional scientific publications, or valuable confidential information of the institution of higher education or a third party;* or
(2) adopt a rule that is based on research conducted under a contract entered into with an institution of higher education unless the agency:

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SENATE VERSION (IE)

CONFERENCE

data supporting the research publicly available.

(A) has made the results of the research and all data supporting the research publicly available; or
(B) reasonably determines that the premature disclosure of such data would adversely affect public safety, the protection of intellectual property rights of the institution of higher education, publication rights in professional scientific publications, or valuable confidential information of the institution of higher education or a third party.

(c) Subsection (b)(1) does not apply to a research contract between an institution of higher education and the Cancer Prevention and Research Institute of Texas.

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

(e) This section does not require the public disclosure of personal identifying information or any other information the disclosure of which is otherwise prohibited by law. [FA2]

(d) A response to a request for information regarding research described by Subsection (b) must be made in accordance with Chapter 552, Government Code.

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

SECTION 2. Subchapter Z, Chapter 2252, Government Code, is amended.

SECTION 2. Same as House version.

SECTION 3. Same as House version.

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

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

SECTION 3. Same as House version.

SECTION 4. Same as House version.

House Bill 1295
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SECTION 4. Effective date.

SENATE VERSION (IE)

SECTION 4. Same as House version.

CONFERENCE

SECTION 5. Same as House version.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 30, 2015

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
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 research, research sponsors, and interested parties by persons contracting with governmental entities and state agencies.),
Conference Committee Report

No significant fiscal implication to the State is anticipated.

The bill would amend the Education Code to require state agencies to disclose information produced through research contracts with institutions of higher education in certain circumstances.

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, SD, KMc, CL, JI, FR, JBi, KVe

**Certification of Compliance with
Rule 13, Section 6(b), House Rules of Procedure**

Rule 13, Section 6(b), House Rules of Procedure, requires a copy of a conference committee report signed by a majority of each committee of the conference to be furnished to each member of the committee in person or, if unable to deliver in person, by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Rule 13, Section 10(a). The paper copies of the report submitted to the chief clerk under Rule 13, Section 10(b), must contain a certificate that the requirement of Rule 13, Section 6(b), has been satisfied, and that certificate must be attached to the copy of the report furnished to each member under Rule 13, Section 10(d). Failure to comply with this requirement is not a sustainable point of order under Rule 13.

I certify that a copy of the conference committee report on HB 1295 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Rule 13, Section 10(b), House Rules of Procedure.



(name)

5/29/15

(date)