

BILL ANALYSIS

Senate Research Center

H.B. 3736
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Chapter 572 of the Government Code prohibits state officers or state employees from having a direct or indirect interest, including financial interests, or engaging in a business transaction or professional activity that is in substantial conflict with the officer's or employee's public duties. These conflict-of-interest laws are not currently extended to governing officers and state agency governing board members.

H.B. 3736 would require state agency governing board members and governing officers to disclose conflicts of interest and refrain from participating in decisions on matters for which they had a conflict of interest.

H.B. 3736 amends current law relating to conflicts of interest by members of state agency governing boards and governing officers and creates a criminal offense.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Ethics Commission in SECTION 1 (Section 571.004, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle B, Title 5, Government Code, by adding Chapter 576, as follows:

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

Sec. 576.001. DEFINITIONS. Defines "conflict of interest," "financial interest," and "state agency."

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

- (1) shall disclose in writing the conflict of interest to the agency; and
- (2) may not participate in the decision on the matter.

(b) Authorizes the board or officer, if a majority of the members of the governing board of a state agency has a conflict of interest related to a matter before the board or, if the agency is not governed by a multimember governing board, the officer who governs the agency has a conflict of interest on the matter, to decide the matter only if:

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

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

(c) Provides that the duty to disclose a conflict of interest and refrain from participation in the decision on a matter for a member of the governing board of an institution of higher education, as those terms are defined by Section 61.003 (Definitions), Education Code, is governed by Section 51.923 (Qualifications of Certain Business Entities to Enter Into Contracts With an Institution of Higher Education), Education Code.

Sec. 576.003. PUBLIC INFORMATION. Provides that a written disclosure made under Section 576.002 is public information.

Sec. 576.004. REPORT TO TEXAS ETHICS COMMISSION; RULES. (a) Requires a state agency that receives a written disclosure under Section 576.002 to file a copy of the disclosure with the Texas Ethics Commission (TEC).

(b) Authorizes TEC to adopt the rules necessary to implement this chapter, including rules on the disclosure to be filed with TEC under Subsection (a).

Sec. 576.005. CRIMINAL PENALTY. (a) Provides that an individual commits an offense if the individual knowingly fails to comply with Section 576.002.

(b) Provides that an offense under this section is a Class B misdemeanor.

SECTION 2. Amends Section 571.061(a), Government Code, to add a reference to Chapter 576 in a list of chapters that TEC is required to enforce.

SECTION 3. Effective date: September 1, 2015.