

SUBJECT: Conflicts of interest disclosure by agency governing boards and officers

COMMITTEE: General Investigating and Ethics — committee substitute recommended

VOTE: 6 ayes — Kuempel, Collier, S. Davis, Hunter, Larson, C. Turner

0 nays

1 absent — Moody

WITNESSES: For — (*Registered, but did not testify*; Joanne Richards, Anti-Corruption Campaign; Liz Wally, Clean Elections Texas; Jesse Romero, Common Cause Texas; Tom “Smitty” Smith, Public Citizen, Inc.; Michael Schneider, Texas Association of Broadcasters; Karen Hadden; Todd Jagger)

Against – None

BACKGROUND: Government Code, ch. 572 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. Some have called for conflict-of-interest rules to be extended to governing officers and state agency governing board members who are not covered by existing law.

DIGEST: CSHB 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. The bill would include the following definitions:

- “state agency” would mean a board, commission, council, committee, department, office, agency, or other governmental entity in the state executive branch;
- “conflict of interest” would mean the conflict between an official decision made by a state agency governing board member or

governing officer in the individual's official capacity and the individual's private financial interest in which the individual realizes any pecuniary gain; and

- "financial interest" would mean ownership or control, directly or indirectly, of an ownership interest of at least 5 percent in a person, including the right to share in profits, proceeds, or capital gains, or an ownership interest that an individual could reasonably foresee could result in any financial benefit. The term would not include an interest in a retirement plan, a blind trust, insurance coverage, or capital gains.

In each matter before a governing board or governing officer for which a member had a conflict of interest, the individual would be required to disclose the conflict in writing to the agency and could not participate in the decision on the matter. If a majority of the governing board members or the governing officer had a conflict of interest, the board or officer could decide the matter only if:

- each member, or the officer, discloses the conflict in writing; and
- the board, or officer, makes a finding that an emergency exists that would require a decision despite the conflict of interest.

An individual who knowingly fails to disclose a conflict of interest and refrain from participation would commit a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000).

Disclosures would be public information and would be filed with the Texas Ethics Commission.

The bill would take effect September 1, 2015.