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Revolving Door and State Bar Rules

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House Bill 1295 (Bill Text & Bill Analysis)

BILL ANALYSIS

Senate Research Center

H.B. 1295
By: Capriglione et al. (Hancock)
Business & Commerce
5/20/2015
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In light of recent contracting concerns within government entities, it has been suggested that more transparency is necessary with regard to interested parties of the contract.

H.B. 1295 seeks to increase government transparency by requiring all contracts with government entities—municipalities, counties, school districts, or special purpose districts—to include a Certificate of Interested Parties, which is to be filed with the Texas Ethics Commission. The certificate will list everyone with a financial interest in the contract.

H.B. 1295 amends current law relating to the disclosure of interested parties by persons contracting with governmental entities and state agencies.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Ethics Commission in SECTION 2 (Section 2252.908, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter Z, Chapter 51, Education Code, by adding Section 51.954, as follows:

Sec. 51.954. DISCLOSURE OF SPONSORS OF RESEARCH IN PUBLIC COMMUNICATIONS. (a) Requires a faculty member or other employee or appointee of an institution of higher education who conducted or participated in conducting the research, in any public communication the content of which is based on the results of sponsored research, to conspicuously disclose the identity of each sponsor of the research. Provides that 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) Defines "institution of higher education," "public communication," "sponsor," and "sponsored research" in this section.

SECTION 2. Amends Subchapter Z, Chapter 2252, Government Code, by adding Section 2252.908, as follows:

Sec. 2252.908. DISCLOSURE OF INTERESTED PARTIES. (a) Defines "business entity," "governmental entity," "interested party," and "state agency" in this section.

(b) Provides that this section applies only to a contract of a governmental entity or state agency that:

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

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

(c) Provides that, notwithstanding Subsection (b), this section does not apply to:

- (1) a sponsored research contract of an institution of higher education;
- (2) an interagency contract of a state agency or an institution of higher education; or
- (3) a contract related to health and human services if:
 - (A) the value of the contract cannot be determined at the time the contract is executed; and
 - (B) any qualified vendor is eligible for the contract.

(d) Prohibits a governmental entity or state agency from entering into a contract described by Subsection (b) with a business entity unless the business entity, in accordance with this section and rules adopted under this section, submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency.

(e) Requires that the disclosure of interested parties be submitted on a form prescribed by the Texas Ethics Commission (TEC) that includes:

- (1) a list of each interested party for the contract of which the contracting business entity is aware; and
- (2) the signature of the authorized agent of the contracting business entity, acknowledging that the disclosure is made under oath and under penalty of perjury.

(f) Requires the governmental entity or state agency, not later than the 30th day after the date the governmental entity or state agency receives a disclosure of interested parties required under this section, to submit a copy of the disclosure to TEC.

(g) Requires TEC to adopt rules necessary to implement this section, prescribe the disclosure of interested parties form, and post a copy of the form on TEC's Internet website.

SECTION 3. (a) Requires TEC, not later than December 1, 2015, to adopt the rules, prescribe the disclosure of interested parties form, and post the form on TEC's Internet website as required by Section 2252.908, Government Code, as added by this Act.

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

SECTION 4. Effective date: September 1, 2015.

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

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"Revolving Door and State Bar Rules"