

New Disclosure Requirements for Dealing with Public Entities

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Disciplinary Rules of Professional Conduct

- ▶ Rule 1.01 Competent and Diligent Representation
- ▶ Comment 8 (“Maintaining Competence”):

Because of the vital role lawyers play in the legal process, each lawyer should strive to become and remain proficient in the practice of law.

House Bill 1295

- ▶ Applies to a contract of a governmental entity or state agency that:
 - ▶ Requires an action or vote by the governing body of the entity or agency before the contract may be signed; or
 - ▶ Has a value of at least \$1 million.

House Bill 1295

- ▶ A governmental entity may not enter into a covered contract with a business entity unless the business entity 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.

House Bill 1295

- ▶ “Contract” includes an amended, extended, or renewed contract.
- ▶ A contract does not require a vote of the governing body if:
 - ▶ the governing body has the legal authority to delegate to its staff the authority to execute the contract;
 - ▶ the governing body has delegated authority to its staff; and
 - ▶ the governing body does not participate in the selection of the business entity with which the contract is entered.

House Bill 1295

- ▶ “Governmental entity” means municipality, county, public school district, or special-purpose district or authority;
- ▶ “Business entity” means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership, or corporation.
- ▶ “Interested party” means a person who has a controlling interest in a business entity with whom a governmental entity contracts or who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity.

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