

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5-30-15

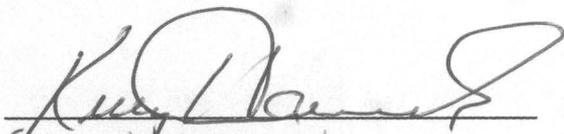
Date

Honorable Dan Patrick  
President of the Senate

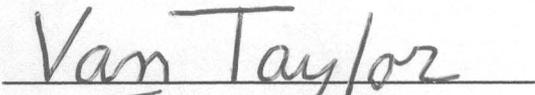
Honorable Joe Straus  
Speaker of the House of Representatives

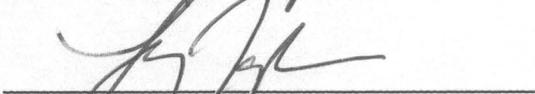
Sirs:

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  
Thiruk Mathan

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

3<sup>rd</sup> 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.

**House Bill 1295**  
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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:

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

HOUSE VERSION

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.

(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. [FA2]

(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.

SECTION 3. Same as House version.

SECTION 4. Same as House version.

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

**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)