

- SUBJECT:** Expanding disclosure requirements in state ethics reporting
- COMMITTEE:** General Investigating and Ethics — committee substitute recommended
- VOTE:** 6 ayes — S. Davis, Moody, Capriglione, Price, Shine, Turner
- 0 nays
- 1 absent — Nevárez
- WITNESSES:** For — Dave Jones, Clean Elections Texas; (*Registered, but did not testify:* Tony McDonald and Michael Sullivan, Empower Texans; Grace Chimene, League of Women Voters of Texas; Donnis Baggett, Texas Press Association; Michael Openshaw)
- Against — (*Registered, but did not testify:* Craig McDonald, Texans for Public Justice)
- On — JC Dufresne, Common Cause Texas; Carol Birch, Public Citizen Texas; (*Registered, but did not testify:* Joanne Richards, Common Ground for Texans; Lon Burnam)
- BACKGROUND:** Government Code, ch. 572 requires members of the Legislature, statewide elected officials, judges, district attorneys, political candidates, and state party chairs to file an annual personal financial statement with the Texas Ethics Commission. The statements require disclosure of income sources, business and real estate interests, investments and earnings, and certain loans and gifts.
- DIGEST:** CSHB 501 would expand the financial disclosure requirements for legislators and other officials to include certain contracts with governmental entities, including those for bond counsel services and referral fees.
- Contracts.** The bill would require filers to disclose certain contracts with a governmental entity or a person who contracted with a governmental

entity if the filer, his or her spouse or dependent child, or any business entity for which any of those individuals had at least a 50 percent ownership interest was a party. A governmental entity would include the state, a political subdivision, or an agency or department of the state or a political subdivision. Disclosure would not be required for an employment contract between a school district or charter school and an employee.

If the aggregate cost of goods or services sold under one or more written contracts exceeded \$10,000 in the year covered by the report, the filer would have to identify each contract in the amount of \$2,500 or more and parties to the contract.

Bond counsel. If the filer was a member of the Legislature and provided bond counsel services to an issuer covered by the Public Security Procedures Act, the following information would be required:

- the name of the issuer and the date and amount of the issuances; and
- the amount and reporting category of fees paid to the filer or the filer's firm.

Referral fees. A filer who made or received any referral fee would be required to report:

- the date the referral was made or received;
- the style of the case referred, if applicable; and
- the percentage of the fee that was agreed to between the parties or, if the fee was not a percentage, the agreed fee amount.

Effective date. The bill would take effect January 8, 2019, and would apply only to a financial statement filed on or after that date.

SUPPORTERS
SAY:

CSHB 501 would expand transparency by requiring members of the Legislature and others who file personal financial statements with the Texas Ethics Commission to disclose contracts with governmental entities entered into by themselves, their spouses, or their dependent children.

Disclosure of contracts for goods and services, including bond counsel services and referral fees, would alert the public to potential conflicts of interest involving legislators and other elected officials. The bill would not prohibit elected officials or political candidates from entering into these contracts but would require the arrangements to be publicly disclosed.

The bill would include disclosure requirements related to referral fees for any type of services, not just legal services, to address criticism of previous proposals that the legal profession was being singled out for disclosure.

Having an earlier effective date, as some have suggested, could prompt some legislators to retire before their terms expired to avoid the change in requirements. This could result in special elections at taxpayer expense.

OPPONENTS
SAY:

CSHB 501 would fail to provide meaningful disclosure of public officials' business interests by setting the threshold for disclosing a business interest at 50 percent. An elected official could have a much smaller stake in a valuable business that would constitute a substantial financial interest. Legislators are in a position to enact laws that benefit certain businesses, and the public should be aware if there are any in which they have a substantial interest. Reducing the threshold for disclosure to 5 percent would provide meaningful and relevant information needed to highlight potential conflicts of interest.

The bill's effective date of January 8, 2019, means that only contracts legislators enter into after that date would have to be disclosed on their personal financial statements, which are due May 1 of each year. The bill should be made effective September 1, 2017, so the public could learn of legislators' contracts with governmental entities before the beginning of the 2019 legislative session.

NOTES:

A companion bill, SB 501 by V. Taylor, was approved by the Senate on February 8 and referred to the House Committee on General Investigating and Ethics on March 7.