

BILL ANALYSIS

Senate Research Center
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S.B. 945
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current disclosure provisions under Subchapter O (Financial Disclosure by Members of Governing Body), Chapter 60, Water Code, as added by Chapter 249, Acts of the 78th Legislature, Regular Session, 2003, are burdensome and costly for volunteer members of governing bodies of port authorities and districts.

As proposed, S.B. 945 repeals Subchapter O and provides a similar but less onerous means of assuring the public that a member of the governing body does not have a conflict of interest in the work done by the port or district. The bill provides for conflicts disclosure by vendors and members of governing bodies of port authorities and navigation districts.

A vendor, using a locally designated form, would be required to file a notification of the vendor's affiliations or business relationships that might cause a conflict of interest; failure to do so could void a vendor's contract. A member of a governing body would also be required to file a conflicts disclosure if the member of the governing body or a family member had a business relationship with a vendor or had received more than \$250 in gifts from the vendor. The member's statement would be filed with the Texas Ethics Commission, which would have the authority to impose a civil penalty against the member.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the governing body of a port authority or navigation district in SECTION 1 (Sections 60.483 and 60.484, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 60, Water Code, by adding Subchapter P, as follows:

SUBCHAPTER P. DISCLOSURE REQUIREMENTS FOR VENDORS AND MEMBERS OF GOVERNING BODIES

Sec. 60.481. DEFINITIONS. Defines "governing body" and "vendor."

Sec. 60.482. APPLICABILITY OF SUBCHAPTER. Applies this subchapter only to certain port authorities and navigation districts.

Sec. 60.483. VENDOR REQUIREMENTS. (a) Sets forth to which vendors this section applies.

(b) Requires the governing body of a port authority or navigation district (governing body), by rule, to design a conflict of interest questionnaire that requires disclosure of a vendor's affiliations or business relationships that might cause a conflict of interest.

(c) Requires a vendor to file a completed conflict of interest questionnaire within a certain timeframe if the vendor begins contract discussions or negotiations with, or forwards certain correspondence related to an agreement or potential agreement to, the port authority or navigation district.

(d) Sets forth the circumstances under which a vendor is required to file an updated completed questionnaire.

(e) Requires each contract entered into between a port authority or navigation district and a vendor to contain a provision stating that the contract is voidable if the vendor violates this section. Provides that a contract entered into between a port authority or navigation district and a vendor is voidable if the vendor violates this section.

Sec. 60.484. DISCLOSURE OF VENDOR RELATIONSHIP BY MEMBERS OF GOVERNING BODY. (a) Requires the governing body, by rule, to design a conflicts disclosure statement for the members of the governing body that includes certain requirements and provisions.

(b) Provides that the disclosure requirement applies to a member of the governing body and requires disclosure for certain persons related to that member.

(c) Sets forth the conditions under which a member of the governing body is required to file a conflicts disclosure statement.

(d) Authorizes a member of the governing body to request in writing that the general counsel of the port authority or navigation district advise the member with respect to a potential violation of this section. Entitles the member to rely in good faith upon the advisory opinion written in response to the member's request if the request provided detailed enough information.

(e) Authorizes the Texas Ethics Commission (commission), if it finds that a member of the governing body has violated this section, to impose a certain civil penalty and requires the commission to notify the entity that appointed the member to the governing body.

SECTION 2. Repealer: Subchapter O (Financial Disclosure by Members of Governing Body), Chapter 60, Water Code, as added by Chapter 249, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 3. Makes application of the requirement of a vendor to file a completed conflict of interest questionnaire under Section 60.483(c), Water Code, as added by this Act, prospective.

SECTION 4. Makes application of Section 60.483(e), Water Code, as added by this Act, prospective to contracts entered into by a vendor on or after September 1, 2005, or to a renewal or extension of a contract entered into by a vendor before September 1, 2005, that begins on or after September 1, 2005.

SECTION 5. Makes the application of the requirement of a member of the governing body to file a conflicts disclosure statement under Section 60.484(c), Water Code, as added by this Act, prospective.

SECTION 6. Effective date: September 1, 2005.