

ETHICS
CONFLICT OF INTEREST DISCLOSURES

BBFA
(LEGAL)

SUBSTANTIAL
INTEREST AFFIDAVIT
AND ABSTENTION

If a local public official, such as a member of a college district board of trustees, has a substantial interest in a business entity or in real property, the official shall file, before a vote or decision on any matter involving the business entity or the real property, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter if:

1. In the case of a substantial interest in a business entity, the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or
2. In the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

The affidavit must be filed with the official record keeper of the governmental entity.

Local Gov't Code 171.004

DEFINITIONS

“SUBSTANTIAL
INTEREST”

A person has a substantial interest in a business entity if:

1. The person owns:
 - a. Ten percent or more of the voting stock or shares of the business entity, or
 - b. Either ten percent or more or \$15,000 or more of the fair market value of the business entity; or
2. Funds received by the person from the business entity exceed ten percent of the person's gross income for the previous year.

A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

A local public official is considered to have a substantial interest if a person related to the official in the first degree by consanguinity or affinity, as determined under Government Code Chapter 573 [see DBE], has a substantial interest as defined above.

Local Gov't Code 171.002

“LOCAL PUBLIC
OFFICIAL”

“Local public official” means a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), central appraisal district, or other local governmental entity, including a college district, who exer-

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	<p>cises responsibilities beyond those that are advisory in nature. <i>Local Gov't Code 171.001(1)</i></p>
"BUSINESS ENTITY"	<p>"Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law. <i>Local Gov't Code 171.001(2)</i></p> <p>A public entity, such as a city, school district, or state institution of higher education, that's purpose is not to produce financial benefits for private persons is not a business entity. <i>Atty. Gen. Op. GA-826 (2010), GA-31 (2003), DM-267 (1993), JM-852 (1988)</i></p>
MAJORITY CONFLICT	<p>If a local public official is required to file and does file an affidavit, the official is not required to abstain from further participation in the matter requiring the affidavit if a majority of the members of the governmental entity of which the official is a member is composed of persons who are likewise required to file and do file affidavits of similar interests on the same official action. <i>Local Gov't Code 171.004(c)</i></p>
SEPARATE VOTE ON BUDGET	<p>The governing body of a governmental entity shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a member of the governing body has a substantial interest. The affected member may not participate in that separate vote. The member may vote on a final budget if the member has complied with Local Government Code Chapter 171, described herein, and the matter in which the member is concerned has been resolved. <i>Local Gov't Code 171.005</i></p>
VIOLATIONS	<p>A local public official commits an offense if the official knowingly:</p> <ol style="list-style-type: none">1. Violates Local Government Code 171.004, above;2. Acts as surety for a business entity that has work, business, or a contract with the governmental entity; or3. Acts as surety on any official bond required of an officer of the governmental entity. <p><i>Local Gov't Code 171.003(a)</i></p>
VOIDABLE ACTIONS	<p>The finding by a court of a violation under Chapter 171 does not render an action of the governmental body voidable unless the measure that was the subject of an action involving a conflict of interest would not have passed the governing body without the vote of the person who violated the chapter. <i>Local Gov't Code 171.006</i></p>

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CONFLICTS
DISCLOSURE
STATEMENT

A local government officer shall file a conflicts disclosure statement with respect to a person who enters or seeks to enter into a contract with a local governmental entity or who is an agent of that person in the person's business with a local governmental entity if the person enters into a contract with the local governmental entity or the local governmental entity is considering entering into a contract with the person; and the person:

1. Has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that a contract has been executed or the local governmental entity is considering entering into a contract with the person; or
2. Has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$250 in the 12-month period preceding the date the officer becomes aware that a contract has been executed; or the local governmental entity is considering entering into a contract with the vendor.

A local government officer is not required to file a conflicts disclosure statement in relation to a gift accepted by the officer or a family member of the officer if the gift is:

1. Given by a family member of the person accepting the gift;
2. A political contribution as defined by Election Code Title 15; or
3. Food, lodging, transportation, or entertainment accepted as a guest.

A local government officer shall file the conflicts disclosure statement with the records administrator of the local governmental entity not later than 5:00 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement.

The Texas Ethics Commission shall adopt the conflicts disclosure statement for local government officers.

Local Gov't Code 176.002(a), .003(a)-(b), .004

VIOLATIONS

A local government officer commits an offense if the officer knowingly violates this law. It is an exception to the application of the penalty that the person filed the required conflicts disclosure statement not later than the seventh business day after the date

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the person received notice from the local governmental entity of the alleged violation. *Local Gov't Code 176.003(c)-(d)*

DEFINITIONS

"LOCAL
GOVERNMENT
OFFICER"

"Local government officer" means a member of the governing body of a local governmental entity, a director, superintendent, administrator, president, or other person designated as the executive officer of the local governmental entity; or an employee of a local governmental entity with respect to whom the local governmental entity has, in accordance with Local Government Code 176.005, extended the requirements of Local Government Code 176.003 and 176.004. *Local Gov't Code 176.001(4)*

"FAMILY
MEMBER"

"Family member" means a person related to another person within the first degree by consanguinity or affinity, as described by Government Code Chapter 573, Subchapter B except that the term does not include a person who is considered to be related to another person by affinity only as described by Government Code 573.024(b). *Local Gov't Code 176.001(2)*

"RECORDS
ADMINISTRATOR"

"Records administrator" means the director, county clerk, municipal secretary, superintendent, or other person responsible for maintaining the records of the local governmental entity or another person designated by the local governmental entity to maintain statements and questionnaires filed under Local Government Code Chapter 176 and perform related functions. *Local Gov't Code 176.001(5)*
[See CIA]

"INVESTMENT
INCOME"

"Investment income" means dividends, capital gains, or interest income generated from:

1. A personal or business:
 - a. Checking or savings account;
 - b. Share draft or share account; or
 - c. Other similar account;
2. A personal or business investment; or
3. A personal or business loan.

Local Gov't Code 176.001(2-b)

INTERNET POSTING
REQUIREMENT

A local governmental entity that maintains an Internet website shall provide access to the statements and questionnaires required to be filed under Chapter 176 on that website. *Local Gov't Code 176.009*

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AFFIDAVIT
DISCLOSING
INTEREST IN
PROPERTY

A public servant who has a legal or equitable interest in property that is to be acquired with public funds shall file an affidavit within ten days before the date on which the property is to be acquired by purchase or condemnation. The affidavit must:

1. State the name of the public servant;
2. State the public servant's office, public title, or job designation;
3. Fully describe the property;
4. Fully describe the nature, type, and amount of interest in the property, including the percentage of ownership interest;
5. State the date when the person acquired an interest in the property;
6. Include a verification as follows: "I swear that the information in this affidavit is personally known by me to be correct and contains the information required by Section 553.002, Government Code" [see BBFA(EXHIBIT)]; and
7. Contain an acknowledgment of the same type required for recording a deed in the deed records of the county.

The affidavit must be filed with the county clerk of the county in which the public servant resides and the county clerk of each county in which the property is located.

Gov't Code 553.002

VIOLATIONS

A person commits an offense if the person violates Government Code 553.002, above and the person has actual notice of the acquisition or intended acquisition of the legal or equitable interest in the property. A person who violates Section 553.002 by not filing the affidavit required by that section is presumed to have the intent to commit an offense. *Gov't Code 553.003(a)-(b)*

DEFINITION OF
"PUBLIC SERVANT"

"Public servant" means a person who is elected, appointed, employed, or designated, even if not yet qualified for or having assumed the duties of office, as:

1. A candidate for nomination or election to public office; or
2. An officer of government.

Gov't Code 553.001(2)