

Conflicts of Interest

OR: BEING INTERESTED IN CONFLICTS

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Philip J Boedeker
pboedeker@olsonllp.com

Conflicts of Interest

To strengthen the faith
and confidence of the
people of this state in
state government

- Chapter 572 of Government Code

Same sentiment at the local government



Relevant Codes

- Chapter 171 Local Government Code
- Chapter 176 Local Government Code
- Chapter 553 Government Code
- Chapter 145 Local Government Code
- Section 2252.908 Government Code
- Others

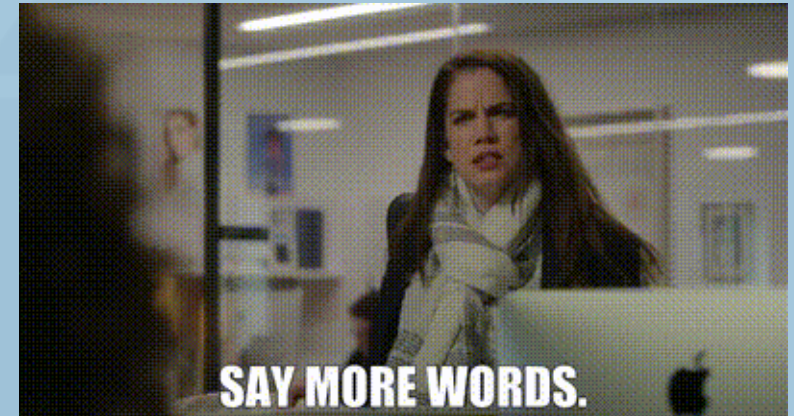
Chapter 171

Local Government Code

Title 5. Matters Affecting Public Offices and Employees

Subtitle C. Matters Affecting Public Officers and Employees of More than One Type of Local Government

Chapter 171. Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Governments

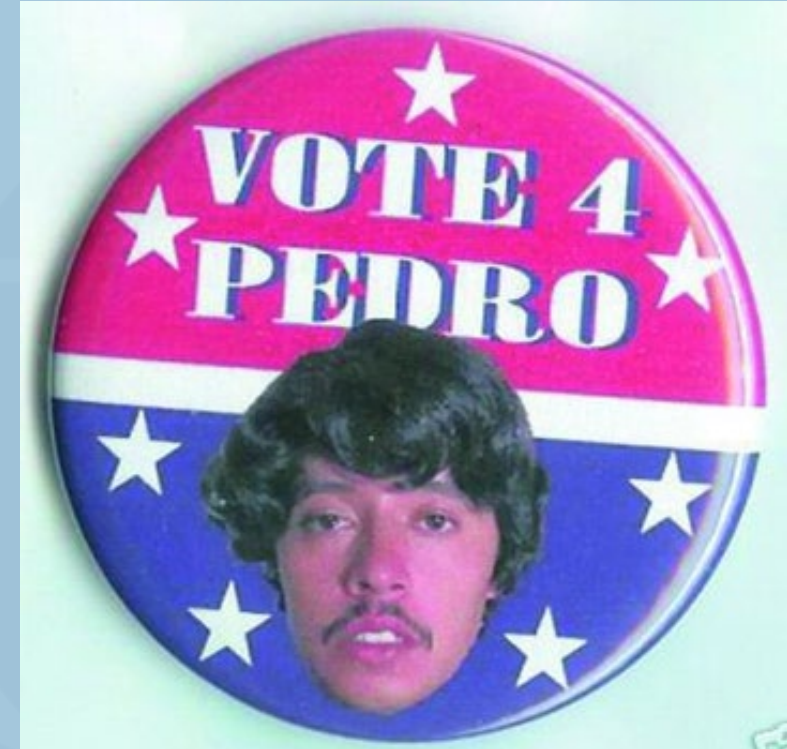


“local public official”

Chapter 171 LGC

“local public official” – Sec. 171.001

1. A member of the governing body or another officer, whether
 - a. Elected
 - b. Appointed
 - c. Paid, or
 - d. Unpaid
 2. Of any ... local governmental entity who exercises responsibility beyond those that are advisory in nature
- This includes members of the planning and zoning commission — Tex. Att’y Gen. Op. Nos. KP-0105 (2016), DM-309 (1994)



“substantial interest”

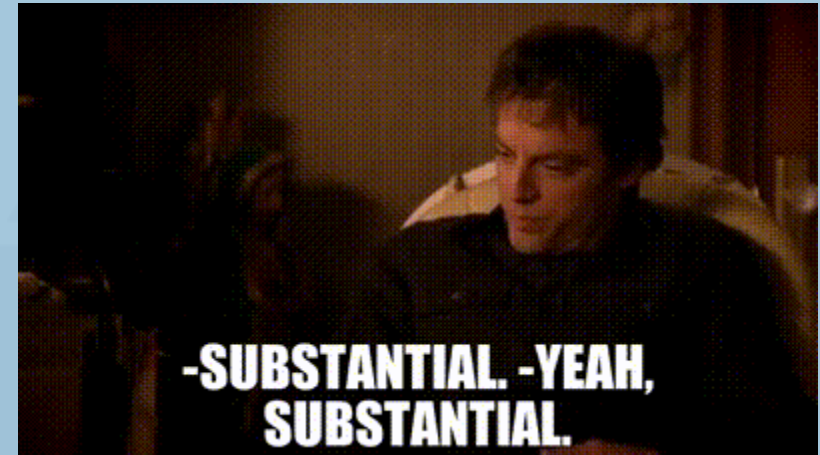
Chapter 171 LGC

“Substantial Interest” – Section 171.002

1. Business Entity –

- a. owns 10% or more of the voting shares, or
- b. owns 10% or more or \$15,000 or more of the fair market value of the entity; or
- c. Receives funds from the business entity exceed 10% of the person’s gross income for the previous year

2. Real Property – Person owns an equity interest of \$2,500 or more



- Weeds, S05E08 Crimes

“related”

Chapter 171 LGC

“related” – Section 171.002(c) Local Government Code

1. 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**...has a substantial interest

a. **Consanguinity*** (by blood)

- i. Parent
- ii. Child

b. **Affinity***

- a. Spouse
- b. Spouse of one individual is related by consanguinity to the other individual (brother-in-law)



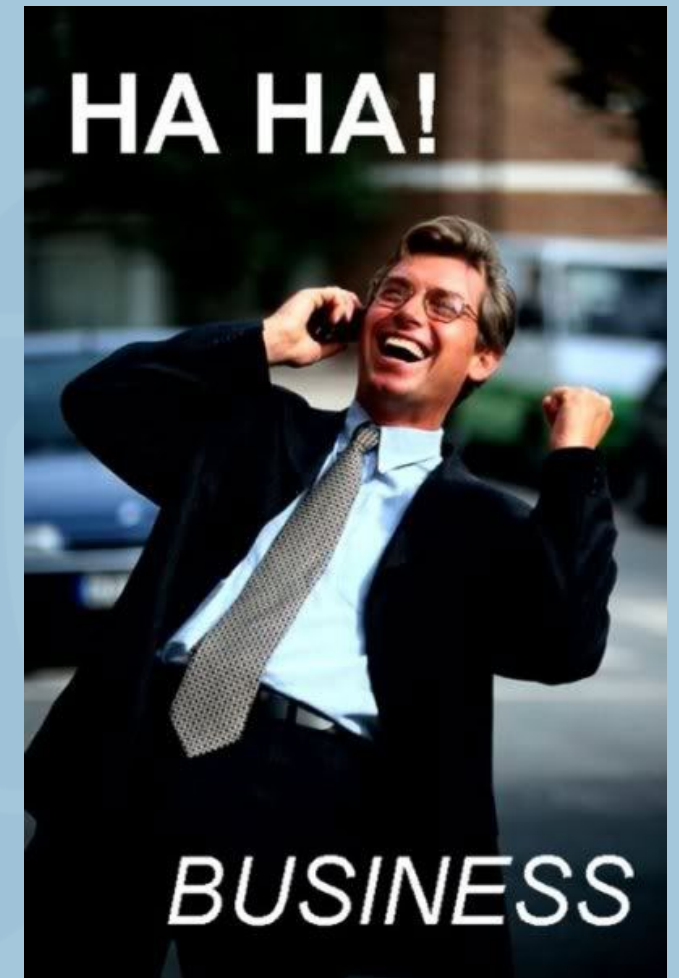
*Chapter 573 of Government Code

“business entity”

Chapter 171 LGC

Business Entity –

- a) Sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law – LGC 171.001(2)
- b) Nonprofit corporation - Tex. Att’y Gen. Op. No. JM-424 (1986), at 2.
- c) NOT public entities such as a city, state university or school district – Tex. Att’y Gen. Op. Nos. GA-0826 (2010), at 1, DM-267 (1993), at 2, JM-852 (1988), at 2.



So...Am I Conflicted?

The City is acquiring pickup trucks as a budgeted item for fleet replacement.

The City has negotiated with “Famous Football Player” GM Dealership for seven new vehicles (all within the budget).

You are a City Council member. Your daughter works as a graphic designer full time at “Famous Football Player” GM Dealership.

Are you Conflicted?

I am Conflicted!!! NOW WHAT?!?



First: do NOT discuss, decide, or vote

Second: File an affidavit with the City Secretary, if:

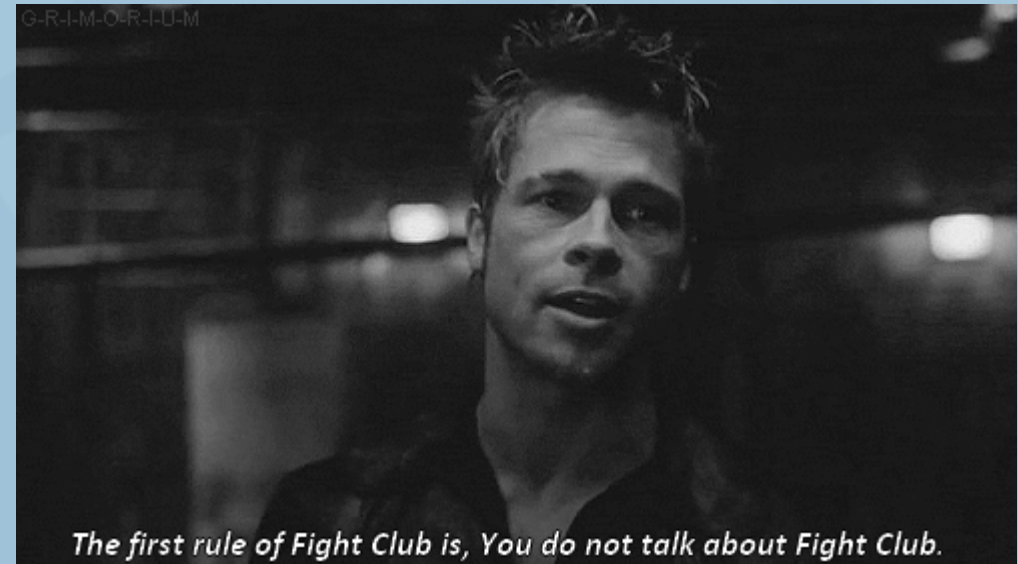
- a. Business Entity – the action to be taken will have a special economic effect on the business entity that is distinguishable from the effect on the public
- b. Real Property – it is reasonably foreseeable that the action to be taken will have a special economic effect on the value of the real property that is distinguishable from the effect on the public

I am Conflicted!!! NOW WHAT?!? (cont.)

Third: Abstain from **further participation** in the matter – Vote of Abstain will be recorded

Official can still...

- a. Attend the meeting
- b. Attend an executive session relevant to the matter...

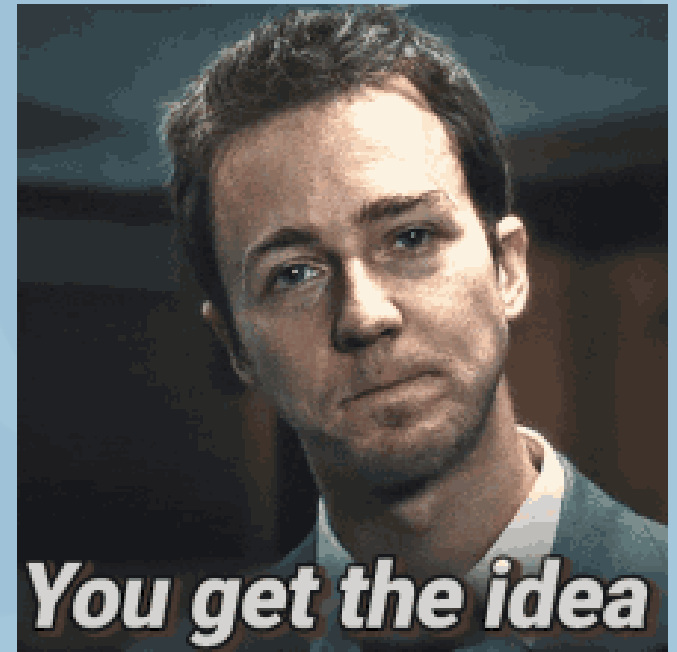


... But must remain **silent** on the matter

But what if I do talk about fight club?

Class A Misdemeanor, fine and/or confinement

Potentially voidable action of the governing body – if the conflicted had a deciding vote



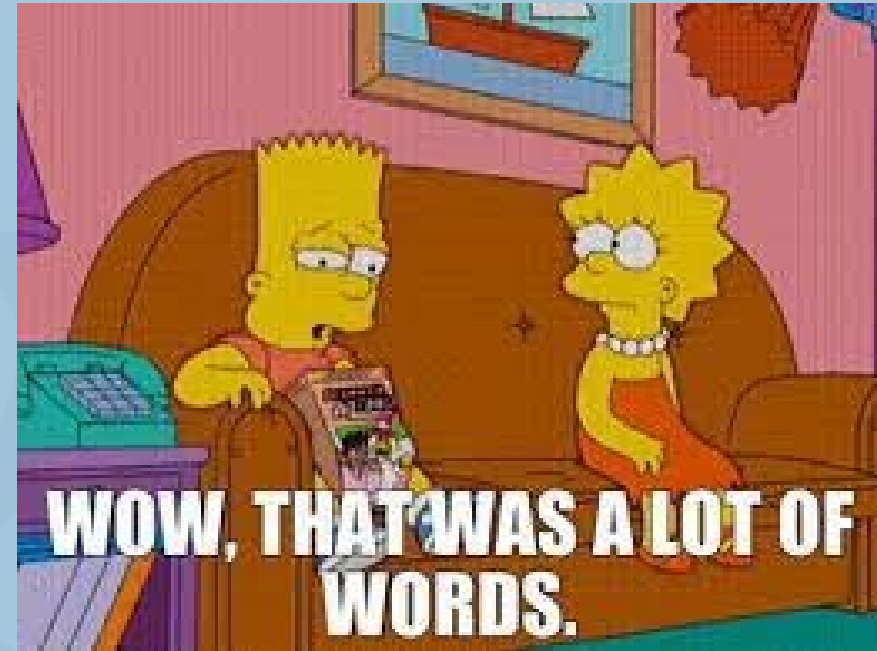
Chapter 176

Local Government Code

Title 5. Matters Affecting Public Offices and Employees

Subtitle C. Matters Affecting Public Officers and Employees of More than One Type of Local Government

Chapter 176. Disclosure of Certain Relationships with Local Government Officers; Providing Public Access to Certain Information



“vendor” and “local gov’t officer” Chapter 176

“vendor”

a person who enters or seeks to enter into a contract with a local governmental entity

“local government officer”

- a. A member of the governing body of a local governmental entity;
- b. A director, superintendent, administrator, president, or other person designated as the executive officer of a local governmental entity; or
- c. An agent (**includes employee**) of a local governmental entity who exercises discretion in the planning, recommending, selecting, or contracting of a vendor



Applies to... *Chapter 176*

Written contract for the sale or purchase of

1. Real property
2. Goods (personal property)
3. Services

A contract for services includes one for skilled or unskilled labor, as well as professional services



I'm an Officer and I'm Conflicted...again! What do I do?

File a conflicts disclosure statement with the City Secretary, if...

1. Officer or officer's family member* has an employment or other business **relationship with a vendor** that results in the officer or officer's family member receiving taxable income of **more than \$2,500** in the preceding twelve months
2. Officer or officer's family member **accepts one or more gifts** (including lodging, transportation, and entertainment) from a vendor that has an aggregate value of **more than \$100** in the preceding twelve months
3. Officer has a **family relationship with the vendor**

No later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require a filing of the statement

I'm a vendor and I'm Conflicted. What do I do?

File a conflicts of interest questionnaire, if...

1. An employment or other business relationship with an officer or an officer's family member that results in the officer receiving taxable income that is more than \$2,500 in the preceding twelve months
2. Has given an officer or an officer's family member one or more gifts totaling more than \$100 in the preceding twelve months; or
3. Has a family relationship with the officer

No later than 5 p.m. on the seventh business day after the later:

1. The date that the vendor begins discussions or negotiations to enter into a contract with the city or submits an application or response to a bid proposal; or
2. The date that the vendor becomes aware of a relationships or gives a gift

Still Following?



Vendor Conflict of Interest Violation

FORM CIQ- Maintained by the Texas Ethics Commission

<https://www.ethics.state.tx.us/forms/conflict/>

Violation

An officer or vendor who knowingly fails to file a statement or disclosure when required to do so commits a

Class A misdemeanor – contract amount is at least \$5 million

Class B – contract is at least \$1 million but less than \$5 million

Class C – contract is less than \$1 million OR if there is no contract amount for the contract



Thank you for being...

Interested in Conflicts*!!

Philip J Boedeker
pboedeker@olsonlp.com

***Presenter does not warrant that presentee will actually be interested in conflicts.**