

SUBJECT: Public officer and employee information under Public Information Law

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 11 ayes — Solomons, Cook, Craddick, Farabee, Gallego, Geren, Harless, Hilderbran, Jones, Lucio, Swinford

0 nays

4 absent — Menendez, Maldonado, Oliveira, S. Turner

SENATE VOTE: On final passage, May 1 — 29-0

WITNESSES: No public hearing

BACKGROUND: The Public Information Act, Government Code, ch. 552, requires governmental bodies to disclose public information upon request by the public, unless that information is excepted from disclosure by one of a number of enumerated exceptions. If a governmental body wishes to withhold information from a request for disclosure based on one of the exceptions, the body must ask for a decision from the attorney general about whether the information is within that exception.

Under Government Code, sec. 552.024, each current or former employee or official of a governmental body must choose whether to allow public access to their home address, home telephone number, or social security number, or information that reveals whether the person has family members and notify the governmental body of the decision within a certain time period. Failure to do so would result in public access to the information. A current or former employee or official who wishes to close or open public access to the information may request in writing that the main personnel officer of the governmental body close or open access.

Government Code, sec. 552.008 provides that, on request for legislative purposes by individual members, agencies, or committees of the Legislature, a governmental body shall provide public information, including confidential information, to the requesting entity. The governmental body may require individuals in the requesting entity to sign

a confidentiality agreement.

DIGEST:

SB 331 would amend Government Code, sec. 552.024 by providing that information in the custody of the governmental body that related to the home address, home telephone number, or social security number of a current or former employee or official of the governmental body, or that revealed whether the person had family members, would be excepted from disclosure under the Public Information Act. A current or former employee or official who wished to open public access to the information could request in writing that the main personnel officer of the governmental body open access.

Government Code, sec. 552.150 would be added and would provide that employee or officer information in the custody of a governmental body would be excepted from public disclosure if:

- it was information that, if disclosed, could reasonably be expected to compromise the individual's safety, such as a description of the individual or the individual's vehicle; and
- the employee or officer applied in writing to have the information withheld from public disclosure and included a description of the information, and the circumstances why disclosure could compromise the individual's safety.

Upon receiving a written request for information described in the application for withholding, the officer for public information would request an attorney general's decision on withholding the information, and include a copy of the employee or officer's withholding application.

It would be presumed that disclosure of information that pertained to certain biological agents or toxins to which access was restricted under federal law would compromise the safety of an individual authorized to possess, use, or access the information.

Government Code, sec. 552.150 would expire September 1, 2013.

Government Code, sec. 552.008 would be amended by adding that a member, committee, or agency of the Legislature required to sign a confidentiality agreement could request a decision from the attorney general about whether the information covered by the confidentiality agreement was confidential under law, and the attorney general would be

required to render a decision no later than the 45th business day after receiving the request. The attorney general would issue a written decision and provide a copy of it to the requestor, governmental body, and any interested person who submitted necessary information or a brief on the matter.

The requestor could appeal a decision to a Travis County district court. A person could appeal a decision if the person claimed a proprietary interest in the information affected by the decision or a privacy interest in the information that a confidentiality law or judicial decision was designed to protect.

The attorney general by rule would establish procedures and deadlines for receiving information necessary to decide the matter, and briefs from the interested parties. A confidentiality agreement would be void to the extent that it covered information finally determined to not be confidential under law.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009, except that the changes to sec. 552.008 would take effect September 1, 2010.