

BILL ANALYSIS

Senate Research Center
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S.B. 335
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Business & Commerce
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 335 provides that an officer of a county governmental body has a right of access to all information relating to the governmental body's business. This change reinforces that elected or appointed officials have unfettered access to information within their jurisdiction, including information that may be exempt from disclosure under the Public Information Act or otherwise confidential. S.B. 335 does not waive confidentiality of the information, and permits a county governmental body to require a requestor to sign a confidentiality agreement. If a requestor believes that the information requested is not confidential, they may request an opinion from the attorney general with regard to if the information is confidential. S.B. 335 does not infringe on the disclosure requirements under the Texas Public Information Act or otherwise exempt public information from disclosure.

As proposed, S.B. 335 amends current law relating to the right of officers of counties, county boards of school trustees, and county boards of education to obtain information, documents, and records.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the attorney general in SECTION 1 (Section 89.007, Local Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 89, Local Government Code, by adding Section 89.007, as follows:

Sec. 89.007. SPECIAL RIGHT OF ACCESS TO INFORMATION BY OFFICERS OF COUNTIES, COUNTY BOARDS OF SCHOOL TRUSTEES, AND COUNTY BOARDS OF EDUCATION. (a) Defines "county governmental body," "county officer," and "public information."

(b) Provides that a county officer has a right of access to information that is for purposes of Chapter 552 (Public Information), Government Code, public information of the county governmental body that the county officer oversees.

(c) Requires a county governmental body on request by the county officer who oversees the governmental body to provide public information, including confidential information or information otherwise excepted from disclosure, to the county officer in accordance with Chapter 552, Government Code.

(d) Provides that a county governmental body, by providing public information under this section that is confidential or otherwise excepted from required disclosure under law, does not waive or affect the confidentiality of the information for purposes of state or federal law or waive the right of the county governmental body to assert exceptions to required disclosure of the information in the future. Authorizes the county governmental body to require the requesting county officer or the employees of the requesting county officer who will view or handle information that is received under this section and that is confidential

under law or otherwise excepted from disclosure to sign a confidentiality agreement that covers the information and requires that:

- (1) the information not be disclosed outside the office of the requesting county officer, or within that office for purposes other than the purpose for which it was received;
- (2) the information be labeled as confidential;
- (3) the information be kept securely; or
- (4) the number of copies made of the information or the notes taken from the information that implicate the confidential nature of the information be controlled, with all copies or notes that are not destroyed or returned to the county governmental body remaining confidential and subject to the confidentiality agreement.

(e) Authorizes an individual required by a county governmental body to sign a confidentiality agreement under Subsection (d) to seek a decision as provided by Subsection (f) about whether the information covered by the confidentiality agreement is confidential under law or otherwise excepted from disclosure. Provides that a confidentiality agreement signed under Subsection (d) is void to the extent that the agreement covers information that is finally determined under Subsection (f) to not be confidential under law or otherwise excepted from disclosure.

(f) Authorizes a county officer to seek a decision from the attorney general about whether the information covered by the confidentiality agreement is confidential under law or otherwise excepted from disclosure. Requires the attorney general by rule to establish procedures and deadlines for receiving information necessary to determine whether the information covered by the confidentiality agreement is confidential under law or otherwise excepted from disclosure and for receiving briefs from the requesting county officer, the county governmental body, and any other interested person. Requires the attorney general to promptly render a decision requested under this subsection, determining whether the information covered by the confidentiality agreement is confidential under law or otherwise excepted from disclosure, not later than the 45th business day after the date the attorney general receives the request for a decision under this subsection. Requires the attorney general to issue a written decision and provide a copy of the decision to the requesting county officer, the county governmental body, and any interested person who submitted necessary information or a brief to the attorney general under this subsection. Authorizes the requesting county officer or the county governmental body to appeal a decision of the attorney general under this subsection to a district court in the county. Authorizes a person to appeal a decision of the attorney general under this subsection to a district court in the county if the person claims a proprietary interest in the information affected by the decision or a privacy interest in the information that a confidentiality law or judicial decision is designed to protect.

(g) Provides that this section does not affect:

- (1) the right of a county officer to obtain information from a county governmental body under other law;
- (2) the procedures under which the information is obtained under other law; or
- (3) the use that may be made of the information obtained under other law.

(h) Provides that this section does not grant authority to a county governmental body to withhold information from county officers.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2015.