

By: Duncan

S.B. No. 121

A BILL TO BE ENTITLED

AN ACT

relating to a requestor's right of access to investment information of governmental bodies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 552, Government Code, is amended by adding Section 552.0225 to read as follows:

Sec. 552.0225. RIGHT OF ACCESS TO INVESTMENT INFORMATION.

(a) Under the fundamental philosophy of American government described by Section 552.001, it is the policy of this state that investments of government are investments of and for the people and the people are entitled to information regarding those investments. The provisions of this section shall be liberally construed to implement this policy.

(b) The following categories of information held by a governmental body relating to its investments are public information and not excepted from disclosure under this chapter:

(1) the name of any fund or investment entity the governmental body is or has invested in;

(2) the date that a fund or investment entity described by Subdivision (1) was established;

(3) each date the governmental body invested in a fund or investment entity described by Subdivision (1);

(4) the amount of money, expressed in dollars, the governmental body has committed to a fund or investment entity;

1 (5) the amount of money, expressed in dollars, the
2 governmental body is investing or has invested in any fund or
3 investment entity;

4 (6) the total amount of money, expressed in dollars,
5 the governmental body received from any fund or investment entity
6 in connection with an investment;

7 (7) the internal rate of return or other standard used
8 by a governmental body in connection with each fund or investment
9 entity it is or has invested in and the date on which the return or
10 other standard was calculated;

11 (8) the remaining value of any fund or investment
12 entity the governmental body is or has invested in;

13 (9) the total amount of fees, including expenses,
14 charges, and other compensation, assessed against the governmental
15 body by, or paid by the governmental body to, any fund or investment
16 entity or principal of any fund or investment entity in which the
17 governmental body is or has invested;

18 (10) the names of the principals responsible for
19 managing any fund or investment entity in which the governmental
20 body is or has invested;

21 (11) each recusal filed by a member of the governing
22 board in connection with a deliberation or action of the
23 governmental body relating to an investment;

24 (12) a description of all of the types of businesses a
25 governmental body is or has invested in through a fund or investment
26 entity;

27 (13) the minutes and audio or video recordings of each

1 open portion of a meeting of the governmental body at which an item
2 described by this subsection was discussed;

3 (14) the governmental body's percentage ownership
4 interest in a fund or investment entity the governmental body is or
5 has invested in;

6 (15) any annual ethics disclosure report submitted to
7 the governmental body by a fund or investment entity the
8 governmental body is or has invested in; and

9 (16) the cash-on-cash return realized by the
10 governmental body for a fund or investment entity the governmental
11 body is or has invested in.

12 (c) This section does not apply to the Texas Mutual
13 Insurance Company or a successor to the company.

14 (d) This section does not apply to a private investment
15 fund's investment in restricted securities, as defined in Section
16 552.143.

17 SECTION 2. Subchapter C, Chapter 552, Government Code, is
18 amended by adding Section 552.143 to read as follows:

19 Sec. 552.143. CONFIDENTIALITY OF CERTAIN INVESTMENT
20 INFORMATION. (a) All information prepared or provided by a
21 private investment fund and held by a governmental body that is not
22 listed in Section 552.0225(b) is confidential and excepted from the
23 requirements of Section 552.021.

24 (b) Unless the information has been publicly released,
25 pre-investment and post-investment diligence information,
26 including reviews and analyses, prepared or maintained by a
27 governmental body or a private investment fund is confidential and

1 excepted from the requirements of Section 552.021, except to the
2 extent it is subject to disclosure under Subsection (c).

3 (c) All information regarding a governmental body's direct
4 purchase, holding, or disposal of restricted securities that is not
5 listed in Section 552.0225(b)(2)-(9), (11), or (13)-(16) is
6 confidential and excepted from the requirements of Section 552.021.
7 This subsection does not apply to a governmental body's purchase,
8 holding, or disposal of restricted securities for the purpose of
9 reinvestment nor does it apply to a private investment fund's
10 investment in restricted securities. This subsection applies to
11 information regarding a direct purchase, holding, or disposal of
12 restricted securities by the Texas growth fund, created under
13 Section 70, Article XVI, Texas Constitution, that is not listed in
14 Section 552.0225(b).

15 (d) For the purposes of this chapter:

16 (1) "Private investment fund" means an entity, other
17 than a governmental body, that issues restricted securities to a
18 governmental body to evidence the investment of public funds for
19 the purpose of reinvestment.

20 (2) "Reinvestment" means investment in a person that
21 makes or will make other investments.

22 (3) "Restricted securities" has the meaning assigned
23 by 17 C.F.R. Section 230.144(a)(3).

24 (e) This section shall not be construed as affecting the
25 authority of the comptroller under Section 403.030.

26 (f) This section does not apply to the Texas Mutual
27 Insurance Company or a successor to the company.

1 SECTION 3. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2005.