

1-1 By: Duncan S.B. No. 121  
1-2 (In the Senate - Filed December 14, 2004; February 1, 2005,  
1-3 read first time and referred to Committee on State Affairs;  
1-4 April 25, 2005, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 8, Nays 0; April 25, 2005,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 121 By: Duncan

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to a requestor's right of access to investment information  
1-11 of governmental bodies.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter B, Chapter 552, Government Code, is  
1-14 amended by adding Section 552.0225 to read as follows:

1-15 Sec. 552.0225. RIGHT OF ACCESS TO INVESTMENT INFORMATION.

1-16 (a) Under the fundamental philosophy of American government  
1-17 described by Section 552.001, it is the policy of this state that  
1-18 investments of government are investments of and for the people and  
1-19 the people are entitled to information regarding those investments.  
1-20 The provisions of this section shall be liberally construed to  
1-21 implement this policy.

1-22 (b) The following categories of information held by a  
1-23 governmental body relating to its investments are public  
1-24 information and not excepted from disclosure under this chapter:

1-25 (1) the name of any fund or investment entity the  
1-26 governmental body is or has invested in;

1-27 (2) the date that a fund or investment entity  
1-28 described by Subdivision (1) was established;

1-29 (3) each date the governmental body invested in a fund  
1-30 or investment entity described by Subdivision (1);

1-31 (4) the amount of money, expressed in dollars, the  
1-32 governmental body has committed to a fund or investment entity;

1-33 (5) the amount of money, expressed in dollars, the  
1-34 governmental body is investing or has invested in any fund or  
1-35 investment entity;

1-36 (6) the total amount of money, expressed in dollars,  
1-37 the governmental body received from any fund or investment entity  
1-38 in connection with an investment;

1-39 (7) the internal rate of return or other standard used  
1-40 by a governmental body in connection with each fund or investment  
1-41 entity it is or has invested in and the date on which the return or  
1-42 other standard was calculated;

1-43 (8) the remaining value of any fund or investment  
1-44 entity the governmental body is or has invested in;

1-45 (9) the total amount of fees, including expenses,  
1-46 charges, and other compensation, assessed against the governmental  
1-47 body by, or paid by the governmental body to, any fund or investment  
1-48 entity or principal of any fund or investment entity in which the  
1-49 governmental body is or has invested;

1-50 (10) the names of the principals responsible for  
1-51 managing any fund or investment entity in which the governmental  
1-52 body is or has invested;

1-53 (11) each recusal filed by a member of the governing  
1-54 board in connection with a deliberation or action of the  
1-55 governmental body relating to an investment;

1-56 (12) a description of all of the types of businesses a  
1-57 governmental body is or has invested in through a fund or investment  
1-58 entity;

1-59 (13) the minutes and audio or video recordings of each  
1-60 open portion of a meeting of the governmental body at which an item  
1-61 described by this subsection was discussed;

1-62 (14) the governmental body's percentage ownership  
1-63 interest in a fund or investment entity the governmental body is or

2-1 has invested in;  
2-2 (15) any annual ethics disclosure report submitted to  
2-3 the governmental body by a fund or investment entity the  
2-4 governmental body is or has invested in; and

2-5 (16) the cash-on-cash return realized by the  
2-6 governmental body for a fund or investment entity the governmental  
2-7 body is or has invested in.

2-8 (c) This section does not apply to the Texas Mutual  
2-9 Insurance Company or a successor to the company.

2-10 (d) This section does not apply to a private investment  
2-11 fund's investment in restricted securities, as defined in Section  
2-12 552.143.

2-13 SECTION 2. Subchapter C, Chapter 552, Government Code, is  
2-14 amended by adding Section 552.143 to read as follows:

2-15 Sec. 552.143. CONFIDENTIALITY OF CERTAIN INVESTMENT  
2-16 INFORMATION. (a) All information prepared or provided by a  
2-17 private investment fund and held by a governmental body that is not  
2-18 listed in Section 552.0225(b) is confidential and excepted from the  
2-19 requirements of Section 552.021.

2-20 (b) Unless the information has been publicly released,  
2-21 pre-investment and post-investment diligence information,  
2-22 including reviews and analyses, prepared or maintained by a  
2-23 governmental body or a private investment fund is confidential and  
2-24 excepted from the requirements of Section 552.021, except to the  
2-25 extent it is subject to disclosure under Subsection (c).

2-26 (c) All information regarding a governmental body's direct  
2-27 purchase, holding, or disposal of restricted securities that is not  
2-28 listed in Section 552.0225(b)(2)-(9), (11), or (13)-(16) is  
2-29 confidential and excepted from the requirements of Section 552.021.  
2-30 This subsection does not apply to a governmental body's purchase,  
2-31 holding, or disposal of restricted securities for the purpose of  
2-32 reinvestment nor does it apply to a private investment fund's  
2-33 investment in restricted securities. This subsection does not  
2-34 apply to the Texas growth fund, created under Section 70, Article  
2-35 XVI, Texas Constitution.

2-36 (d) For the purposes of this section:

2-37 (1) "Private investment fund" means an entity, other  
2-38 than a governmental body, that issues restricted securities to a  
2-39 governmental body to evidence the investment of public funds for  
2-40 the purpose of reinvestment.

2-41 (2) "Reinvestment" means investment in a person that  
2-42 makes or will make other investments.

2-43 (3) "Restricted securities" has the meaning assigned  
2-44 by 17 C.F.R. Section 230.144(a)(3).

2-45 (e) This section shall not be construed as affecting the  
2-46 authority of the comptroller under Section 403.030.

2-47 (f) This section does not apply to the Texas Mutual  
2-48 Insurance Company or a successor to the company.

2-49 SECTION 3. This Act takes effect immediately if it receives  
2-50 a vote of two-thirds of all the members elected to each house, as  
2-51 provided by Section 39, Article III, Texas Constitution. If this  
2-52 Act does not receive the vote necessary for immediate effect, this  
2-53 Act takes effect September 1, 2005.

2-54 \* \* \* \* \*