

BILL ANALYSIS

C.S.H.B. 2491
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Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, an employee of a local school district must, within the first 14 calendar days of employment, elect in writing to protect the confidentiality of personal information such as home address, phone number, date of birth, and driver's license number. Once the 14-day window has passed, the employee no longer is allowed to designate the confidentiality status of personal information. The personal information then is designated as public information and must be made available to anyone on request. This information is precisely the type of information used by criminals and scam artists to steal another's identity or perpetrate a crime. In this age of identity theft, providing such a narrow time frame to protect the confidentiality of personal information creates a substantial personal risk to public employees, while providing little public benefit.

C.S.H.B. 2491 amends the Education and Government Codes to designate certain personal information as confidential by default.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2491 amends the Education Code to provide that personal information in the custody of a school district, open-enrollment charter school, or shared services arrangement that concerns an applicant for employment with or a current or former employee of the district, school, or shared services arrangement, including a substitute teacher or student teacher, that pertains to the applicant's or employee's home address, home telephone number, personal cellular phone number, date of birth, criminal history record information, driver's license number, personal electronic mail address, or social security number; that reveals whether the applicant or employee has family members; or that reveals whether the district, school, or shared services arrangement has obtained the applicant's or employee's criminal history record information is not considered public information subject to disclosure under open government laws. The bill authorizes the information to be made accessible to the public by a district, school, or shared services arrangement only if the applicant or employee to whom the information applies provides written notice to the district, school, or shared services arrangement of the applicant's or employee's election to authorize public access to the information and does not provide written rescission of the authorization. The bill provides that, if a district, school, or shared services arrangement receives a public information request for access to this information and the applicant or employee to whom the information applies has not authorized public access to it, the district, school, or shared services arrangement is not required to accept or comply with the request or to seek an opinion from the attorney general regarding the information's disclosure. The bill exempts from the application of its provisions information filed with a county or district clerk and provides that the State Board of Educator Certification, the Texas Education Agency, the Department of Public Safety, or another party authorized under provisions relating to

criminal history records is not prohibited from conducting a criminal history record information review.

C.S.H.B. 2491 amends the Education Code and the Government Code to exempt the designated applicant or employee from open government provisions that require an employee and former employee of a governmental body to choose whether to allow public access to certain directory information and other personal information.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2491 adds a provision not in the original to include information relating to an applicant or employee that reveals whether the school district, open enrollment charter school, or shared services arrangement has obtained the applicant's or employee's criminal history record information among the other items of personal information protected from public disclosure under open government laws. The substitute adds a provision not in the original exempting a district, school, or shared services arrangement that receives a public information request for access to personal information for which the applicant or employee to whom the information applies has not authorized public access from being required to accept or comply with the request or to seek an opinion from the attorney general. The substitute adds provisions not in the original amending both the Education Code and the Government Code to exempt the designated applicant or employee from open government provisions that require an employee and former employee of a governmental body to choose whether to allow public access to personal information.