

## **BILL ANALYSIS**

H.B. 3801  
By: Davis, Sarah  
State Affairs  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Observers note that government employees and officials, including certain peace officers and corrections officers, may choose to restrict public access to certain personal information in order to protect personal privacy and that the information is exempt from required disclosure for other peace officers and corrections officers. This information, they note, includes home telephone numbers, home addresses, and social security numbers but does not include personal cellular telephone numbers, personal e-mail addresses, or dates of birth. In addition, an employee or official who chooses to restrict public access to personal information faces certain time restrictions in making that choice.

H.B. 3801 seeks to provide greater protection to government employees and officials, including peace officers and corrections officers, by providing for restricted public access to their personal cellular telephone numbers, personal e-mail addresses, and dates of birth. Among other provisions, the bill would allow a government employee or official to modify a choice regarding public access to personal information.

### **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**

H.B. 3801 amends the Government Code, in provisions authorizing each current or former employee or official of a governmental body to choose to allow public access to certain personal information in the custody of the governmental body, to include among that information the employee or official's personal cellular telephone number and personal e-mail address. The bill authorizes each current employee and official to state that the person chooses to allow public access to the personal information to the main personnel officer of the governmental body in a signed writing at any time during the employee's or official's service with the governmental body, rather than not later than the 14th day after the date on which the employee begins employment or the official is elected or appointed. The bill retains the 14-day deadline for each former employee or official to state that person's choice to the governmental body. The bill establishes that a choice remains valid until rescinded in writing by the individual.

H.B. 3801 adds a personal cellular telephone number, personal e-mail address, and date of birth to the information that is exempted from required disclosure, or that may not be disclosed if the person to whom the information relates chooses to restrict public access to the information, as applicable, in provisions relating to certain government employees and officials, including certain law enforcement and corrections personnel.

H.B. 3801 establishes that the date of birth of a living person is exempt from required disclosure, but is not confidential under the bill's provisions, and that the bill's provisions do not make the date of birth of a living person confidential under another provision of law. The bill authorizes a

governmental body to redact the date of birth of a living person from any information the governmental body discloses without the necessity of requesting a decision from the attorney general. The bill authorizes a county or district clerk to disclose in the ordinary course of business a date of birth that is contained in information held by the clerk's office and establishes that disclosure is not official misconduct and does not subject the clerk to civil or criminal liability of any kind under the law of this state, including any claim for damages in a lawsuit or the criminal penalty imposed by provisions relating to the distribution or misuse of confidential information.

H.B. 3801 requires a county or district clerk, unless another law requires a date of birth to be maintained in a government document, on written request from an individual or the individual's representative, to redact within a reasonable amount of time the individual's date of birth from information maintained in the clerk's official public records, including electronically stored information maintained by or under the control of the clerk. The bill requires the individual or the individual's representative to identify, using a form provided by the clerk, the specific document or documents from which the date of birth shall be redacted. The bill makes conforming and nonsubstantive changes.

**EFFECTIVE DATE**

September 1, 2011.