

AN ACT

relating to confidentiality of information held by a public retirement system.

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

SECTION 1. Subchapter A, Chapter 552, Government Code, is amended by adding Section 552.0038 to read as follows:

Sec. 552.0038. PUBLIC RETIREMENT SYSTEMS SUBJECT TO LAW.

(a) In this section, "governing body of a public retirement system" and "public retirement system" have the meanings assigned those terms by Section 802.001.

(b) Except as provided by Subsections (c) through (i), the governing body of a public retirement system is subject to this chapter in the same manner as a governmental body.

(c) Records of individual members, annuitants, retirees, beneficiaries, alternate payees, program participants, or persons eligible for benefits from a retirement system under a retirement plan or program administered by the retirement system that are in the custody of the system or in the custody of an administering firm, a carrier, or another governmental agency, including the comptroller, acting in cooperation with or on behalf of the retirement system are confidential and not subject to public disclosure. The retirement system, administering firm, carrier, or governmental agency is not required to accept or comply with a request for a record or information about a record or to seek an

1 opinion from the attorney general because the records are exempt
2 from the provisions of this chapter, except as otherwise provided
3 by this section.

4 (d) Records may be released to a member, annuitant, retiree,
5 beneficiary, alternate payee, program participant, or person
6 eligible for benefits from the retirement system or to an
7 authorized attorney, family member, or representative acting on
8 behalf of the member, annuitant, retiree, beneficiary, alternate
9 payee, program participant, or person eligible for benefits. The
10 retirement system may release the records to:

11 (1) an administering firm, carrier, or agent or
12 attorney acting on behalf of the retirement system;

13 (2) another governmental entity having a legitimate
14 need for the information to perform the purposes of the retirement
15 system; or

16 (3) a party in response to a subpoena issued under
17 applicable law.

18 (e) A record released or received by the retirement system
19 under this section may be transmitted electronically, including
20 through the use of an electronic signature or certification in a
21 form acceptable to the retirement system. An unintentional
22 disclosure to, or unauthorized access by, a third party related to
23 the transmission or receipt of information under this section is
24 not a violation by the retirement system of any law, including a law
25 or rule relating to the protection of confidential information.

26 (f) The records of an individual member, annuitant,
27 retiree, beneficiary, alternate payee, program participant, or

1 person eligible for benefits from the retirement system remain
2 confidential after release to a person as authorized by this
3 section. The records may become part of the public record of an
4 administrative or judicial proceeding related to a contested case,
5 and the member, annuitant, retiree, beneficiary, alternate payee,
6 program participant, or person eligible for benefits waives the
7 confidentiality of the records, including medical records, unless
8 the records are closed to public access by a protective order issued
9 under applicable law.

10 (g) The retirement system may require a person to provide
11 the person's social security number as the system considers
12 necessary to ensure the proper administration of all services,
13 benefits, plans, and programs under the retirement system's
14 administration, oversight, or participation or as otherwise
15 required by state or federal law.

16 (h) The retirement system has sole discretion in
17 determining whether a record is subject to this section. For
18 purposes of this section, a record includes any identifying
19 information about a person, living or deceased, who is or was a
20 member, annuitant, retiree, beneficiary, alternate payee, program
21 participant, or person eligible for benefits from the retirement
22 system under any retirement plan or program administered by the
23 retirement system.

24 (i) To the extent of a conflict between this section and any
25 other law with respect to the confidential information held by a
26 public retirement system or other entity described by Subsection
27 (c) concerning an individual member, annuitant, retiree,

1 beneficiary, alternate payee, program participant, or person
2 eligible for benefits from the retirement system, the prevailing
3 provision is the provision that provides the greater substantive
4 and procedural protection for the privacy of information concerning
5 that individual member, annuitant, retiree, beneficiary, alternate
6 payee, program participant, or person eligible for benefits.

7 SECTION 2. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 2460 was passed by the House on May 12, 2011, by the following vote: Yeas 143, Nays 0, 3 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2460 was passed by the Senate on May 25, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor