

1-1 By: Truitt (Senate Sponsor - Wentworth) H.B. No. 2460
1-2 (In the Senate - Received from the House May 13, 2011;
1-3 May 13, 2011, read first time and referred to Select Committee on
1-4 Open Government; May 19, 2011, reported favorably by the following
1-5 vote: Yeas 3, Nays 0; May 19, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to confidentiality of information held by a public
1-9 retirement system.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subchapter A, Chapter 552, Government Code, is
1-12 amended by adding Section 552.0038 to read as follows:

1-13 Sec. 552.0038. PUBLIC RETIREMENT SYSTEMS SUBJECT TO LAW.

1-14 (a) In this section, "governing body of a public retirement system"
1-15 and "public retirement system" have the meanings assigned those
1-16 terms by Section 802.001.

1-17 (b) Except as provided by Subsections (c) through (i), the
1-18 governing body of a public retirement system is subject to this
1-19 chapter in the same manner as a governmental body.

1-20 (c) Records of individual members, annuitants, retirees,
1-21 beneficiaries, alternate payees, program participants, or persons
1-22 eligible for benefits from a retirement system under a retirement
1-23 plan or program administered by the retirement system that are in
1-24 the custody of the system or in the custody of an administering
1-25 firm, a carrier, or another governmental agency, including the
1-26 comptroller, acting in cooperation with or on behalf of the
1-27 retirement system are confidential and not subject to public
1-28 disclosure. The retirement system, administering firm, carrier, or
1-29 governmental agency is not required to accept or comply with a
1-30 request for a record or information about a record or to seek an
1-31 opinion from the attorney general because the records are exempt
1-32 from the provisions of this chapter, except as otherwise provided
1-33 by this section.

1-34 (d) Records may be released to a member, annuitant, retiree,
1-35 beneficiary, alternate payee, program participant, or person
1-36 eligible for benefits from the retirement system or to an
1-37 authorized attorney, family member, or representative acting on
1-38 behalf of the member, annuitant, retiree, beneficiary, alternate
1-39 payee, program participant, or person eligible for benefits. The
1-40 retirement system may release the records to:

1-41 (1) an administering firm, carrier, or agent or
1-42 attorney acting on behalf of the retirement system;

1-43 (2) another governmental entity having a legitimate
1-44 need for the information to perform the purposes of the retirement
1-45 system; or

1-46 (3) a party in response to a subpoena issued under
1-47 applicable law.

1-48 (e) A record released or received by the retirement system
1-49 under this section may be transmitted electronically, including
1-50 through the use of an electronic signature or certification in a
1-51 form acceptable to the retirement system. An unintentional
1-52 disclosure to, or unauthorized access by, a third party related to
1-53 the transmission or receipt of information under this section is
1-54 not a violation by the retirement system of any law, including a law
1-55 or rule relating to the protection of confidential information.

1-56 (f) The records of an individual member, annuitant,
1-57 retiree, beneficiary, alternate payee, program participant, or
1-58 person eligible for benefits from the retirement system remain
1-59 confidential after release to a person as authorized by this
1-60 section. The records may become part of the public record of an
1-61 administrative or judicial proceeding related to a contested case,
1-62 and the member, annuitant, retiree, beneficiary, alternate payee,
1-63 program participant, or person eligible for benefits waives the
1-64 confidentiality of the records, including medical records, unless

2-1 the records are closed to public access by a protective order issued
2-2 under applicable law.

2-3 (g) The retirement system may require a person to provide
2-4 the person's social security number as the system considers
2-5 necessary to ensure the proper administration of all services,
2-6 benefits, plans, and programs under the retirement system's
2-7 administration, oversight, or participation or as otherwise
2-8 required by state or federal law.

2-9 (h) The retirement system has sole discretion in
2-10 determining whether a record is subject to this section. For
2-11 purposes of this section, a record includes any identifying
2-12 information about a person, living or deceased, who is or was a
2-13 member, annuitant, retiree, beneficiary, alternate payee, program
2-14 participant, or person eligible for benefits from the retirement
2-15 system under any retirement plan or program administered by the
2-16 retirement system.

2-17 (i) To the extent of a conflict between this section and any
2-18 other law with respect to the confidential information held by a
2-19 public retirement system or other entity described by Subsection
2-20 (c) concerning an individual member, annuitant, retiree,
2-21 beneficiary, alternate payee, program participant, or person
2-22 eligible for benefits from the retirement system, the prevailing
2-23 provision is the provision that provides the greater substantive
2-24 and procedural protection for the privacy of information concerning
2-25 that individual member, annuitant, retiree, beneficiary, alternate
2-26 payee, program participant, or person eligible for benefits.

2-27 SECTION 2. This Act takes effect immediately if it receives
2-28 a vote of two-thirds of all the members elected to each house, as
2-29 provided by Section 39, Article III, Texas Constitution. If this
2-30 Act does not receive the vote necessary for immediate effect, this
2-31 Act takes effect September 1, 2011.

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