

## **BILL ANALYSIS**

C.S.H.J.R. 112  
By: Laubenberg  
Government Efficiency & Reform  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that state government agencies are increasingly becoming personal data collectors instead of service providers. As an example, these parties point to a court action against the state for collecting the identifiable DNA information of newborns without the parent's knowledge or consent. The parties contend that safeguards are needed to protect the personal financial data of private citizens from state government unless a citizen gives the state explicit permission to collect that information. C.S.H.J.R. 112 proposes to establish these safeguards.

### **RULEMAKING AUTHORITY**

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

### **ANALYSIS**

C.S.H.J.R. 112 proposes an amendment to the Texas Constitution to provide that an executive agency of the state has no compelling interest in the personal financial information of an individual engaging in private business and to prohibit an executive agency of the state from collecting, receiving, or storing personal financial information or data about any person, including financial information or data about a person's borrowing or spending habits or history, relationships with financial institutions or other lenders, credit card-related information, or income, other than financial information or data that an individual provides to the executive agency regarding the individual or a person related to the individual or other than financial information or data that is obtained for purposes of performing an audit of an entity regulated by the executive agency, if the executive agency does not store the information or data after the audit is complete. The resolution prohibits an executive agency from sharing this personal financial information and data with a third party if the individual to whom the information or data pertains has no knowledge of the collection, receipt, or storage of the information or data. The resolution's provisions do not apply to financial information or data collected, received, stored, or shared for purposes of enforcing criminal, child support, or tax laws or to financial information or data provided by an individual to seek or obtain a benefit, a privilege, an office, or employment or to enter into a transaction with the state or an agency of the state.

### **ELECTION DATE**

The constitutional amendment proposed by this joint resolution will be submitted to the voters at an election to be held November 5, 2013.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.J.R. 112 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the resolution.

## INTRODUCED

SECTION 1. Article XVI, Texas Constitution, is amended by adding Section 74 to read as follows:

Sec. 74. (a) In this section, "consumer-related information" means information that relates to a sale or purchase made or obligation incurred by an individual for personal, family, or household purposes and that documents an individual's:

- (1) personal or family income;
- (2) outstanding debts;
- (3) purchasing history; or
- (4) creditworthiness.

(b) This state or an agency of this state may collect, receive, or store, regardless of the method or source, consumer-related information specific to an individual only if the individual provides written authorization for the collection, receipt, and storage of the information.

(c) For purposes of Subsection (b) of this section, consumer-related information is specific to an individual if the information is collected or received from the individual at the same time as or stored with information that identifies the individual by name, address, social security number, driver's license or personal identification card number, or unique number assigned to the individual by the person or entity collecting, receiving, or storing the information.

(d) Information collected, received, or stored in violation of this section may not be used or stored by this state or an agency of this state for any purpose.

(e) This section does not apply to the collection of information for a purpose relating to an investigation of a violation of law or the enforcement of a law.

No equivalent provision, but see Sec. 74(b) above.

## HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Article I, Texas Constitution, is amended by adding Section 34 to read as follows:

No equivalent provision.

No equivalent provision, but see Sec. 34(a) below.

No equivalent provision.

No equivalent provision, but see Sec. 34(b) below.

No equivalent provision, but see Sec. 34(c) below.

Sec. 34. (a) An executive agency of this state has no compelling interest in the personal financial information of an individual engaging in private business, and, therefore, an executive agency of this state may not collect, receive, or store personal financial information or data about

No equivalent provision, but see Sec. 74(d) above.

No equivalent provision, but see Sec. 74(e) above.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 2013. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment providing that the state must receive permission from an individual to collect, receive, or store consumer-related information specific to the individual in connection with a purchase or loan for personal, family, or household purposes."

any person, including financial information or data about a person's borrowing or spending habits or history, relationships with financial institutions or other lenders, credit card-related information, or income, other than:

(1) financial information or data that an individual provides to the executive agency regarding the individual or a person related to the individual; or

(2) financial information or data that is obtained for purposes of performing an audit of an entity regulated by the executive agency, if the executive agency does not store the information or data after the audit is complete.

(b) Financial information and data collected, received, or stored by an executive agency of this state in the course of business of the agency and in accordance with this section may not be shared with a third party if the individual to whom the information or data pertains has no knowledge of the collection, receipt, or storage of the information or data.

(c) Subsections (a) and (b) of this section do not apply to:

(1) financial information or data collected, received, stored, or shared for purposes of enforcing criminal, child support, or tax laws; or

(2) financial information or data provided by an individual to seek or obtain a benefit, a privilege, an office, or employment, or to enter into a transaction with this state or an agency of this state.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 2013. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment limiting the authority of the state to collect, receive, store, or share certain personal financial information."