

BILL ANALYSIS

S.B. 408
By: Carona
Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that open records requests for documentation regarding a Texas Department of Licensing and Regulation (TDLR) complaint investigation often delay the investigation and the resolution of the complaint because TDLR must work with the office of the attorney general to protect certain records from being released to prevent disclosure that would jeopardize the investigation. The parties further contend that information relating to an open investigation that is made public as a result of an open records request has the potential to bias the proceedings and possibly damage the reputation of a person who is subject to the investigation, even if the person eventually is cleared of wrongdoing. S.B. 408 seeks to remedy this issue by amending the applicable law to make certain complaints to and investigations by TDLR confidential.

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

S.B. 408 amends the Occupations Code to establish that, except as otherwise provided and notwithstanding any other law, a complaint against a person filed with the Texas Department of Licensing and Regulation (TDLR) or an investigation of a person conducted by TDLR and all information and material compiled by TDLR related to the complaint or investigation are confidential and not subject to disclosure under the state's public information law and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for release to anyone. The bill requires such information regarding the complaint or the investigation to be disclosed on request to a law enforcement agency, a member of the legislature, or a legislative agency and requires the member of the legislature or the legislative agency to maintain the confidentiality of any information identifying a specific person.

S.B. 408 authorizes disclosure of information regarding a complaint filed with TDLR or a TDLR investigation to the following: TDLR or a TDLR employee or agent involved in a disciplinary or other administrative proceeding; a party to the proceeding or the party's designated agent; a licensing or disciplinary board in another jurisdiction; or a person engaged in bona fide research, if all information identifying a specific person is deleted. The bill establishes that the filing of formal proceedings against a person by TDLR, the nature of those proceedings, disciplinary proceedings of TDLR, and final disciplinary actions by TDLR are not confidential and are subject to disclosure in accordance with the state's public information law.

EFFECTIVE DATE

September 1, 2013.