

By: Miles

H.B. No. 268

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the retention of and the required disclosure under the
3 public information law of certain complaints alleging official
4 oppression.

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

6 SECTION 1. Subchapter A, Chapter 143, Local Government
7 Code, is amended by adding Section 143.017 to read as follows:

8 Sec. 143.017. RETENTION OF COMPLAINT ALLEGING OFFICIAL
9 OPPRESSION. (a) A complaint filed against a fire fighter or
10 police officer alleging conduct by the fire fighter or police
11 officer constituting official oppression under Section 39.03,
12 Penal Code, must be retained by the employing department of the
13 municipality as long as the fire fighter or police officer remains
14 employed by the municipality.

15 (b) The complaint is public information and may not be
16 excepted from disclosure under Section 552.108, Government Code.

17 (c) This section prevails over:

18 (1) any other provision of law; and

19 (2) any conflicting provision in a collective
20 bargaining agreement entered into under this chapter.

21 SECTION 2. Subchapter A, Chapter 174, Local Government
22 Code, is amended by adding Section 174.009 to read as follows:

23 Sec. 174.009. RETENTION OF COMPLAINT ALLEGING OFFICIAL
24 OPPRESSION. (a) A complaint filed against a fire fighter or

1 police officer alleging conduct by the fire fighter or police
2 officer constituting official oppression under Section 39.03,
3 Penal Code, must be retained by the employing department of the
4 political subdivision as long as the fire fighter or police officer
5 remains employed by the political subdivision.

6 (b) The complaint is public information and may not be
7 excepted from disclosure under Section 552.108, Government Code.

8 (c) This section prevails over:

9 (1) any other provision of law; and

10 (2) any conflicting provision in a collective
11 bargaining agreement entered into under this chapter.

12 SECTION 3. Section 552.108(c), Government Code, is amended
13 to read as follows:

14 (c) This section does not:

15 (1) except from the requirements of Section 552.021
16 information that is basic information about an arrested person, an
17 arrest, or a crime; or

18 (2) apply to a complaint described by Section 143.017
19 or 174.009, Local Government Code, or by Section 614.024 of this
20 code that is used by a law enforcement agency or prosecutor in the
21 detection, investigation, or prosecution of a crime.

22 SECTION 4. Subchapter B, Chapter 614, Government Code, is
23 amended by adding Section 614.024 to read as follows:

24 Sec. 614.024. RETENTION OF COMPLAINT ALLEGING OFFICIAL
25 OPPRESSION. (a) If a complaint alleges conduct by a law
26 enforcement officer of this state or by a fire fighter, detention
27 officer, county jailer, or peace officer appointed or employed by a

1 political subdivision of this state constituting official
2 oppression under Section 39.03, Penal Code, the complaint must be
3 retained on file by the employing state agency or employing or
4 appointing department of the political subdivision as long as the
5 person remains employed by the state or employed or appointed by the
6 political subdivision.

7 (b) The complaint is public information and may not be
8 excepted from disclosure under Section 552.108.

9 SECTION 5. Sections 143.017 and 174.009, Local Government
10 Code, as added by this Act, apply only to a collective bargaining
11 agreement executed on or after the effective date of this Act. A
12 collective bargaining agreement executed before the effective date
13 of this Act is governed by the law as it existed on the date the
14 agreement was executed, and the former law is continued in effect
15 for that purpose.

16 SECTION 6. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2013.