

BILL ANALYSIS

Senate Research Center
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S.B. 336
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Business & Commerce
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 336 provides that an officer of a municipal governmental body has a right of access to all information relating to the governmental body's business. This change reinforces that elected or appointed officials have unfettered access to information within their jurisdiction, including information that may be exempt from disclosure under the Public Information Act or otherwise confidential. S.B. 336 does not waive confidentiality of the information, and permits a municipal governmental body to require a requestor to sign a confidentiality agreement. A requestor who believes that the information requested is not confidential may request an opinion from the attorney general regarding the confidentiality of the information. S.B. 336 does not infringe on the disclosure requirements under the Texas Public Information Act or otherwise exempt public information from disclosure.

As proposed, S.B. 336 amends current law relating to the right of municipal officers to obtain information, documents, and records.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the attorney general in SECTION 1 (Section 51.004, Local Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 51, Local Government Code, by adding Section 51.004, as follows:

Sec. 51.004. SPECIAL RIGHT OF ACCESS TO INFORMATION BY MUNICIPAL OFFICERS. (a) Defines "municipal governmental body," "municipal officer," and "public information."

(b) Provides that a municipal officer has a right of access to information that is for purposes of Chapter 552 (Public Information), Government Code, public information of the municipal governmental body that the municipal officer oversees.

(c) Requires a municipal governmental body on request by a municipal officer who oversees the governmental body to provide public information, including confidential information or information otherwise excepted from disclosure, to the municipal officer in accordance with Chapter 552, Government Code.

(d) Provides that a municipal governmental body, by providing public information under this section that is confidential or otherwise excepted from required disclosure under law, does not waive or affect the confidentiality of the information for purposes of state or federal law or waive the right of the municipal governmental body to assert exceptions to required disclosure of the information in the future. Provides that the municipal governmental body may require the requesting municipal officer or the employees of the requesting municipal officer who will view or handle information that is received under this

section and that is confidential under law or otherwise excepted from disclosure to sign a confidentiality agreement that covers the information and requires that:

- (1) the information not be disclosed outside the office of the requesting municipal officer, or within that office for purposes other than the purpose for which it was received;
- (2) the information be labeled as confidential;
- (3) the information be kept securely; or
- (4) the number of copies made of the information or the notes taken from the information that implicate the confidential nature of the information be controlled, with all copies or notes that are not destroyed or returned to the municipal governmental body remaining confidential and subject to the confidentiality agreement.

(e) Provides that an individual required by a municipal governmental body to sign a confidentiality agreement under Subsection (d) may seek a decision as provided by Subsection (f) about whether the information covered by the confidentiality agreement is confidential under law or otherwise excepted from disclosure. Provides that a confidentiality agreement signed under Subsection (d) is void to the extent that the agreement covers information that is finally determined under Subsection (f) to not be confidential under law or otherwise excepted from disclosure.

(f) Authorizes a municipal officer to seek a decision from the attorney general about whether the information covered by the confidentiality agreement is confidential under law or otherwise excepted from disclosure. Requires the attorney general by rule to establish procedures and deadlines for receiving information necessary to determine whether the information covered by the confidentiality agreement is confidential under law or otherwise excepted from disclosure and for receiving briefs from the requesting municipal officer, the municipal governmental body, and any other interested person. Requires the attorney general to promptly render a decision requested under this subsection, determining whether the information covered by the confidentiality agreement is confidential under law or otherwise excepted from disclosure, not later than the 45th business day after the date the attorney general receives the request for a decision under this subsection. Requires the attorney general to issue a written decision and provide a copy of the decision to the requesting municipal officer, the municipal governmental body, and any interested person who submitted necessary information or a brief to the attorney general under this subsection. Provides that the requesting municipal officer or the municipal governmental body may appeal a decision of the attorney general under this subsection to a district court in a county in which the municipality is located. Provides that a person may appeal a decision of the attorney general under this subsection to a district court in a county in which the municipality is located if the person claims a proprietary interest in the information affected by the decision or a privacy interest in the information that a confidentiality law or judicial decision is designed to protect.

(g) Provides that this section does not affect:

- (1) the right of a municipal officer to obtain information from the municipal governmental body under other law;
- (2) the procedures under which the information is obtained under other law; or
- (3) the use that may be made of the information obtained under other law.

(h) Provides that this section does not grant authority to a municipal governmental body to withhold information from municipal officers.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2015.