

BILL ANALYSIS

Senate Research Center
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S.B. 337
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Business and Commerce
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 337 provides that a special district board member has a right of access to all information relating to the district's business. This change reinforces that elected 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. 337 does not waive the confidentiality of the information, and permits a district 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. 337 does not infringe on the disclosure requirements under the Public Information Act or otherwise exempt public information from disclosure.

As proposed, S.B. 337 amends current law relating to the right of directors of special districts to obtain district information, documents, and records.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the attorney general in SECTION 1 (Sec. 201.010, Local Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 201, Local Government Code, by adding Section 201.010, as follows:

Sec. 201.010. SPECIAL RIGHT OF ACCESS TO DISTRICT INFORMATION BY DISTRICT DIRECTOR. (a) Defines "board," "director," "public information," and "special district."

(b) Provides that a board member (director) of a special district has a right of access to information that is public information of the district.

(c) Requires a special district, on request by a director of the district, to provide public information, including confidential information or information otherwise excepted from disclosure, to the director in accordance with Chapter 552 (Public Information), Government Code.

(d) Provides that a special district, by providing public information to a director 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 district to assert exceptions to required disclosure of the information in the future. Authorizes the district to require the requesting director or the employees of the requesting director 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 director 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 district remaining confidential and subject to the confidentiality agreement.

(e) Authorizes the director to 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 if a director or employee of a director is required by a special district to sign a confidentiality agreement under Subsection (d). 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 director 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 director, the special district, and any other interested person. Requires the attorney general to promptly render a decision not later than the 45th business day after the date the attorney general receives the request for a decision. Requires the attorney general to issue a written decision and provide a copy of the decision to the requesting director, the special district, and any interested person who submitted necessary information or a brief to the attorney general under this subsection. Authorizes the requesting director or the special district to appeal a decision of the attorney general under this subsection to a district court. Authorizes a person to appeal a decision of the attorney general under this subsection to a district court 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 the right of a director of a special district to obtain district information under other law, the procedures under which the information is obtained under other law, or the use that may be made of the information obtained under other law.

(h) Provides that this section does not grant authority to a special district to withhold information from a director of the district.

SECTION 2. Makes application of Section 201.010, Local Government Code, as added by this Act, prospective.

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