

By: Galindo

H.B. No. 3234

A BILL TO BE ENTITLED

AN ACT

relating to the right of municipal officers to obtain information,  
documents, and records.

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

SECTION 1. Subchapter A, Chapter 51, Local Government Code,  
is amended by adding Section 51.004 to read as follows:

Sec. 51.004. SPECIAL RIGHT OF ACCESS TO INFORMATION BY  
MUNICIPAL OFFICERS. (a) In this section:

(1) "Municipal governmental body":

(A) means:

(i) the governing body of a municipality;

(ii) a deliberative body that has  
rulemaking or quasi-judicial power and that is classified as a  
department, agency, or political subdivision of a municipality; or

(iii) the part, section, or portion of a  
municipality described by Section 552.003(1)(A)(xii), Government  
Code, that is a governmental body for purposes of Chapter 552,  
Government Code; and

(B) does not include:

(i) the judiciary; or

(ii) a private entity that spends or is  
supported wholly or partly by public funds.

(2) "Municipal officer" means:

(A) an elected or appointed officer who

1 supervises, manages, or controls a municipal governmental body; or  
2 (B) a member of a board, a commission, a  
3 committee, or another body consisting of more than one individual  
4 elected or appointed to supervise, manage, or control a municipal  
5 governmental body.

6 (3) "Public information" has the meaning assigned by  
7 Section 552.002, Government Code.

8 (b) A municipal officer has a right of access to information  
9 that is for purposes of Chapter 552, Government Code, public  
10 information of the municipal governmental body that the municipal  
11 officer oversees.

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

17 (d) A municipal governmental body, by providing public  
18 information under this section that is confidential or otherwise  
19 excepted from required disclosure under law, does not waive or  
20 affect the confidentiality of the information for purposes of state  
21 or federal law or waive the right of the municipal governmental body  
22 to assert exceptions to required disclosure of the information in  
23 the future. The municipal governmental body may require the  
24 requesting municipal officer or the employees of the requesting  
25 municipal officer who will view or handle information that is  
26 received under this section and that is confidential under law or  
27 otherwise excepted from disclosure to sign a confidentiality

1 agreement that covers the information and requires that:

2 (1) the information not be disclosed outside the  
3 office of the requesting municipal officer, or within that office  
4 for purposes other than the purpose for which it was received;

5 (2) the information be labeled as confidential;

6 (3) the information be kept securely; or

7 (4) the number of copies made of the information or the  
8 notes taken from the information that implicate the confidential  
9 nature of the information be controlled, with all copies or notes  
10 that are not destroyed or returned to the municipal governmental  
11 body remaining confidential and subject to the confidentiality  
12 agreement.

13 (e) An individual required by a municipal governmental body  
14 to sign a confidentiality agreement under Subsection (d) may seek a  
15 decision as provided by Subsection (f) about whether the  
16 information covered by the confidentiality agreement is  
17 confidential under law or otherwise excepted from disclosure. A  
18 confidentiality agreement signed under Subsection (d) is void to  
19 the extent that the agreement covers information that is finally  
20 determined under Subsection (f) to not be confidential under law or  
21 otherwise excepted from disclosure.

22 (f) A municipal officer may seek a decision from the  
23 attorney general about whether the information covered by the  
24 confidentiality agreement is confidential under law or otherwise  
25 excepted from disclosure. The attorney general by rule shall  
26 establish procedures and deadlines for receiving information  
27 necessary to determine whether the information covered by the

1 confidentiality agreement is confidential under law or otherwise  
2 excepted from disclosure and for receiving briefs from the  
3 requesting municipal officer, the municipal governmental body, and  
4 any other interested person. The attorney general shall promptly  
5 render a decision requested under this subsection, determining  
6 whether the information covered by the confidentiality agreement is  
7 confidential under law or otherwise excepted from disclosure, not  
8 later than the 45th business day after the date the attorney general  
9 receives the request for a decision under this subsection. The  
10 attorney general shall issue a written decision and provide a copy  
11 of the decision to the requesting municipal officer, the municipal  
12 governmental body, and any interested person who submitted  
13 necessary information or a brief to the attorney general under this  
14 subsection. The requesting municipal officer or the municipal  
15 governmental body may appeal a decision of the attorney general  
16 under this subsection to a district court in a county in which the  
17 municipality is located. A person may appeal a decision of the  
18 attorney general under this subsection to a district court in a  
19 county in which the municipality is located if the person claims a  
20 proprietary interest in the information affected by the decision or  
21 a privacy interest in the information that a confidentiality law or  
22 judicial decision is designed to protect.

23 (g) This section does not affect:

24 (1) the right of a municipal officer to obtain  
25 information from the municipal governmental body under other law;

26 (2) the procedures under which the information is  
27 obtained under other law; or

1           (3) the use that may be made of the information  
2 obtained under other law.

3           (h) This section does not grant authority to a municipal  
4 governmental body to withhold information from municipal officers.

5           SECTION 2. Section 51.004, Local Government Code, as added  
6 by this Act, applies only to a request for information by a  
7 municipal officer that is made on or after the effective date of  
8 this Act. A request for information made before the effective date  
9 of this Act is governed by the applicable law in effect immediately  
10 before the effective date of this Act, and that law is continued in  
11 effect for that purpose.

12           SECTION 3. This Act takes effect immediately if it receives  
13 a vote of two-thirds of all the members elected to each house, as  
14 provided by Section 39, Article III, Texas Constitution. If this  
15 Act does not receive the vote necessary for immediate effect, this  
16 Act takes effect September 1, 2015.