

By: Galindo

H.B. No. 3235

A BILL TO BE ENTITLED

AN ACT

relating to the right of officers of counties, county boards of school trustees, and county boards of education to obtain information, documents, and records.

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

SECTION 1. Chapter 89, Local Government Code, is amended by adding Section 89.007 to read as follows:

Sec. 89.007. SPECIAL RIGHT OF ACCESS TO INFORMATION BY OFFICERS OF COUNTIES, COUNTY BOARDS OF SCHOOL TRUSTEES, AND COUNTY BOARDS OF EDUCATION. (a) In this section:

(1) "County governmental body":

(A) means:

(i) a county commissioners court;

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

(iii) a county board of school trustees;

(iv) a county board of education; or

(v) the part, section, or portion of a county, county board of school trustees, or county board of education 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:

1                   (i) the judiciary; or

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

4                   (2) "County officer" means:

5                   (A) an elected or appointed officer who  
6 supervises, manages, or controls a county governmental body; or

7                   (B) a member of a board, a commission, a  
8 committee, or another body consisting of more than one individual  
9 elected or appointed to supervise, manage, or control a county  
10 governmental body.

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

13                   (b) A county officer has a right of access to information  
14 that is for purposes of Chapter 552, Government Code, public  
15 information of the county governmental body that the county officer  
16 oversees.

17                   (c) A county governmental body on request by the county  
18 officer who oversees the governmental body shall provide public  
19 information, including confidential information or information  
20 otherwise excepted from disclosure, to the county officer in  
21 accordance with Chapter 552, Government Code.

22                   (d) A county governmental body, by providing public  
23 information under this section that is confidential or otherwise  
24 excepted from required disclosure under law, does not waive or  
25 affect the confidentiality of the information for purposes of state  
26 or federal law or waive the right of the county governmental body to  
27 assert exceptions to required disclosure of the information in the

1 future. The county governmental body may require the requesting  
2 county officer or the employees of the requesting county officer  
3 who will view or handle information that is received under this  
4 section and that is confidential under law or otherwise excepted  
5 from disclosure to sign a confidentiality agreement that covers the  
6 information and requires that:

7 (1) the information not be disclosed outside the  
8 office of the requesting county officer, or within that office for  
9 purposes other than the purpose for which it was received;

10 (2) the information be labeled as confidential;

11 (3) the information be kept securely; or

12 (4) the number of copies made of the information or the  
13 notes taken from the information that implicate the confidential  
14 nature of the information be controlled, with all copies or notes  
15 that are not destroyed or returned to the county governmental body  
16 remaining confidential and subject to the confidentiality  
17 agreement.

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

27 (f) A county officer may seek a decision from the attorney

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

27 (g) This section does not affect:

1           (1) the right of a county officer to obtain  
2 information from a county governmental body under other law;

3           (2) the procedures under which the information is  
4 obtained under other law; or

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

7           (h) This section does not grant authority to a county  
8 governmental body to withhold information from county officers.

9           SECTION 2. Section 89.007, Local Government Code, as added  
10 by this Act, applies only to a request for information by a county  
11 officer that is made on or after the effective date of this Act. A  
12 request for information made before the effective date of this Act  
13 is governed by the applicable law in effect immediately before the  
14 effective date of this Act, and that law is continued in effect for  
15 that purpose.

16           SECTION 3. 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, 2015.