

By: Taylor of Collin
Burton

S.B. No. 335

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 a designated employee of the requesting county
3 officer who will view or handle information that is received under
4 this section and that is confidential under law or otherwise
5 excepted from disclosure to sign a confidentiality agreement that
6 covers the 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. If the
15 attorney general is unable to issue the decision within the 45-day
16 period, the attorney general may extend the period for issuing the
17 decision by an additional 10 business days by informing the county
18 governmental body and the requesting county officer, during the
19 original 45-day period, of the reason for the delay. The attorney
20 general shall issue a written decision and provide a copy of the
21 decision to the requesting county officer, the county governmental
22 body, and any interested person who submitted necessary information
23 or a brief to the attorney general under this subsection. The
24 requesting county officer or the county governmental body may
25 appeal a decision of the attorney general under this subsection to a
26 district court in the county. A person may appeal a decision of the
27 attorney general under this subsection to a district court in the

1 county if the person claims a proprietary interest in the
2 information affected by the decision or a privacy interest in the
3 information that a confidentiality law or judicial decision is
4 designed to protect.

5 (g) This section does not affect:

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

8 (2) the procedures under which the information is
9 obtained under other law; or

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

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

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

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