

By: Shaheen

H.B. No. 3271

A BILL TO BE ENTITLED

AN ACT

relating to the right of certain public officers to access public information, documents, records, and property.

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

SECTION 1. Subtitle B, Title 6, Government Code, is amended by adding Chapter 674 to read as follows:

CHAPTER 674. RIGHT OF ACCESS TO PUBLIC INFORMATION, BUILDINGS, AND  
GROUNDS BY APPOINTED STATE BOARD MEMBERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 674.001. DEFINITIONS. In this chapter:

(1) "Board member" means a member of a body, including a board, commission, or committee:

(A) with more than one member;

(B) the members of which are appointed; and

(C) that supervises, manages, or controls a state governmental body.

(2) "Public information" has the meaning assigned by Section 552.002.

(3) "State governmental body" means a board, commission, department, committee, institution, agency, or office that is within the executive branch of state government. The term does not include a private entity that spends or is supported wholly or partly by public funds.

SUBCHAPTER B. RIGHT OF ACCESS TO INFORMATION

1       Sec. 674.051. RIGHT OF ACCESS TO INFORMATION. A board  
2 member has a right of access to information that is public  
3 information of the state governmental body to which the member is  
4 appointed.

5       Sec. 674.052. PROVISION OF INFORMATION. (a) A state  
6 governmental body on request by a board member of the governmental  
7 body shall provide public information, including confidential  
8 information or information otherwise excepted from disclosure, to  
9 the member in accordance with Chapter 552.

10       (b) A state governmental body, by providing public  
11 information under this section that is confidential or otherwise  
12 excepted from disclosure under law, does not waive or affect the  
13 confidentiality of the information for purposes of state or federal  
14 law or waive the right of the governmental body to assert exceptions  
15 to disclosure of the information in the future.

16       Sec. 674.053. CONFIDENTIALITY AGREEMENT. (a) A state  
17 governmental body may require a board member requesting information  
18 under this subchapter or a designated employee of the requesting  
19 member who will view or handle information that is received under  
20 this subchapter and that is confidential or otherwise excepted from  
21 disclosure under law to sign a confidentiality agreement that  
22 covers the information and requires that:

23               (1) the information not be disclosed outside the  
24 office of the requesting member;

25               (2) the information be labeled as confidential;

26               (3) the information be kept securely; or

27               (4) the number of copies made of the information or the

1 notes taken from the information that implicate the confidential  
2 nature of the information be controlled, with all copies or notes  
3 that are not destroyed or returned remaining confidential and  
4 subject to the confidentiality agreement.

5 (b) An individual required to sign a confidentiality  
6 agreement under Subsection (a) may seek a decision as provided by  
7 Section 674.054 about whether the information covered by the  
8 confidentiality agreement is confidential or otherwise excepted  
9 from disclosure under law. A confidentiality agreement signed  
10 under Subsection (a) is void to the extent that the agreement covers  
11 information that is finally determined under Section 674.054 to not  
12 be confidential or otherwise excepted from disclosure under law.

13 Sec. 674.054. DECISION BY ATTORNEY GENERAL REGARDING  
14 CONFIDENTIALITY OR DISCLOSURE. (a) A board member requesting  
15 information under this subchapter may seek a decision from the  
16 attorney general about whether the information covered by a  
17 confidentiality agreement under Section 674.053 is confidential or  
18 otherwise excepted from disclosure under law.

19 (b) The attorney general by rule shall establish procedures  
20 and deadlines for:

21 (1) receiving information necessary to determine  
22 whether the information covered by a confidentiality agreement is  
23 confidential or otherwise excepted from disclosure under law; and

24 (2) receiving briefs from a requesting board member, a  
25 state governmental body, and any other interested person.

26 (c) The attorney general shall render the decision not later  
27 than the 45th business day after the date the attorney general

1 receives the request for a decision. If the attorney general is  
2 unable to issue the decision within the 45-day period, the attorney  
3 general may during that 45-day period extend the period for issuing  
4 the decision by an additional 10 business days by informing the  
5 requesting board member, the state governmental body, and any  
6 interested person who submitted necessary information or a brief to  
7 the attorney general of the reason for the delay.

8 (d) The attorney general shall issue a written decision and  
9 provide a copy of the decision to the requesting board member, the  
10 state governmental body, and any interested person who submitted  
11 necessary information or a brief to the attorney general under this  
12 section.

13 (e) The requesting board member or the state governmental  
14 body may appeal a decision of the attorney general under Subsection  
15 (d) to a district court. A person may appeal a decision of the  
16 attorney general under Subsection (d) to a district court if the  
17 person claims a proprietary interest in the information affected by  
18 the decision or a privacy interest in the information that a  
19 confidentiality law or judicial decision is designed to protect.

20 Sec. 674.055. EFFECT OF SUBCHAPTER. (a) This subchapter  
21 does not affect:

22 (1) the right of a board member to obtain information  
23 under other law;

24 (2) the procedures under which the information is  
25 obtained under other law; or

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

1        (b) This subchapter does not grant authority to a state  
2 governmental body to withhold information from a board member.

3                SUBCHAPTER C. RIGHT OF ACCESS TO PUBLIC PROPERTY

4                Sec. 674.101. RIGHT OF ACCESS TO PUBLIC PROPERTY.

5 Notwithstanding any other provision of law, a board member has a  
6 right of access to any building, structure, room, land, or body of  
7 water owned or leased by or under the exclusive control of the state  
8 governmental body to which the member is appointed.

9                Sec. 674.102. ACCESS TO PROPERTY. (a) A person who is  
10 authorized to control access to property described by Section  
11 674.101 shall provide a board member of the state governmental body  
12 access to the property if the member:

13                        (1) requests access to the property as a board member;

14 and

15                        (2) presents an acceptable form of identification  
16 described by Section 63.0101, Election Code.

17                (b) The authorized person must provide access to property  
18 under this section not later than the 10th business day following  
19 the date the request for access is made by the requesting board  
20 member.

21                SECTION 2. Subtitle C, Title 6, Local Government Code, is  
22 amended by adding Chapter 206 to read as follows:

23                CHAPTER 206. RIGHT OF ACCESS TO INFORMATION BY CERTAIN PUBLIC

24                                OFFICERS

25                Sec. 206.001. DEFINITIONS. In this chapter:

26                        (1) "County governmental body":

27                                (A) means:

1                   (i) a county commissioners court;  
2                   (ii) a deliberative body that has  
3 rulemaking or quasi-judicial power and that is classified as a  
4 department, agency, or political subdivision of a county;  
5                   (iii) a county board of school trustees;  
6                   (iv) a county board of education; or  
7                   (v) the part, section, or portion of a  
8 county, county board of school trustees, or county board of  
9 education described by Section 552.003(1)(A)(xii), Government  
10 Code, that is a governmental body for purposes of Chapter 552,  
11 Government Code; and

12                   (B) does not include:  
13                   (i) the judiciary; or  
14                   (ii) a private entity that spends or is  
15 supported wholly or partly by public funds.

16                   (2) "County officer" means an elected or appointed  
17 officer of a county governmental body.

18                   (3) "Municipal governmental body":  
19                   (A) means:  
20                   (i) the governing body of a municipality;  
21                   (ii) a deliberative body that has  
22 rulemaking or quasi-judicial power and that is classified as a  
23 department, agency, or political subdivision of a municipality; or  
24                   (iii) the part, section, or portion of a  
25 municipality described by Section 552.003(1)(A)(xii), Government  
26 Code, that is a governmental body for purposes of Chapter 552,  
27 Government Code; and

1                   (B) does not include:

2                   (i) the judiciary; or

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

5                   (4) "Municipal officer" means an elected or appointed  
6 officer of a municipal governmental body.

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

9                   (6) "Special district" means a political subdivision  
10 of this state that has a limited geographic area and is created by  
11 local law or under general law for a special purpose.

12                   (7) "Special district officer" means a member of the  
13 governing body of a special district.

14                   Sec. 206.002. RIGHT OF ACCESS TO INFORMATION. (a) A county  
15 officer has a right of access to information that is public  
16 information of the county governmental body to which the county  
17 officer is elected or appointed.

18                   (b) A municipal officer has a right of access to information  
19 that is public information of the municipal governmental body to  
20 which the municipal officer is elected or appointed.

21                   (c) A special district officer has a right of access to  
22 information that is public information of the district.

23                   Sec. 206.003. PROVISION OF INFORMATION. (a) A county  
24 governmental body on request by a county officer of the  
25 governmental body, a municipal governmental body on request by a  
26 municipal officer of the governmental body, or a special district  
27 on request by a special district officer of the district shall

1 provide public information, including confidential information or  
2 information otherwise excepted from disclosure, to the officer in  
3 accordance with Chapter 552, Government Code.

4 (b) A county governmental body, municipal governmental  
5 body, or special district, by providing public information under  
6 this section that is confidential or otherwise excepted from  
7 disclosure under law, does not waive or affect the confidentiality  
8 of the information for purposes of state or federal law or waive the  
9 right of the governmental body or special district to assert  
10 exceptions to disclosure of the information in the future.

11 Sec. 206.004. CONFIDENTIALITY AGREEMENT. (a) A county  
12 governmental body, municipal governmental body, or special  
13 district may require an officer requesting information under this  
14 chapter or a designated employee of the requesting officer who will  
15 view or handle information that is received under this chapter and  
16 that is confidential or otherwise excepted from disclosure under  
17 law to sign a confidentiality agreement that covers the information  
18 and requires that:

19 (1) the information not be disclosed outside the  
20 office of the requesting officer;

21 (2) the information be labeled as confidential;

22 (3) the information be kept securely; or

23 (4) the number of copies made of the information or the  
24 notes taken from the information that implicate the confidential  
25 nature of the information be controlled, with all copies or notes  
26 that are not destroyed or returned remaining confidential and  
27 subject to the confidentiality agreement.



1       (b) An individual required to sign a confidentiality  
2 agreement under Subsection (a) may seek a decision as provided by  
3 Section 206.005 about whether the information covered by the  
4 confidentiality agreement is confidential or otherwise excepted  
5 from disclosure under law. A confidentiality agreement signed  
6 under Subsection (a) is void to the extent that the agreement covers  
7 information that is finally determined under Section 206.005 to not  
8 be confidential or otherwise excepted from disclosure under law.

9       Sec. 206.005. DECISION BY ATTORNEY GENERAL REGARDING  
10 CONFIDENTIALITY OR DISCLOSURE. (a) An officer requesting  
11 information under this chapter may seek a decision from the  
12 attorney general about whether the information covered by a  
13 confidentiality agreement under Section 206.004 is confidential or  
14 otherwise excepted from disclosure under law.

15       (b) The attorney general by rule shall establish procedures  
16 and deadlines for:

17               (1) receiving information necessary to determine  
18 whether the information covered by a confidentiality agreement is  
19 confidential or otherwise excepted from disclosure under law; and

20               (2) receiving briefs from a requesting officer, a  
21 county governmental body, municipal governmental body, or special  
22 district, as applicable, and any other interested person.

23       (c) The attorney general shall render the decision not later  
24 than the 45th business day after the date the attorney general  
25 receives the request for a decision. If the attorney general is  
26 unable to issue the decision within the 45-day period, the attorney  
27 general may during that 45-day period extend the period for issuing

1 the decision by an additional 10 business days by informing the  
2 requesting officer, the county governmental body, municipal  
3 governmental body, or special district, as applicable, and any  
4 interested person who submitted necessary information or a brief to  
5 the attorney general of the reason for the delay.

6 (d) The attorney general shall issue a written decision and  
7 provide a copy of the decision to the requesting officer, the county  
8 governmental body, municipal governmental body, or special  
9 district, as applicable, and any interested person who submitted  
10 necessary information or a brief to the attorney general under this  
11 section.

12 (e) The requesting officer or the county governmental body,  
13 municipal governmental body, or special district, as applicable,  
14 may appeal a decision of the attorney general under Subsection (d)  
15 to a district court. A person may appeal a decision of the attorney  
16 general under Subsection (d) to a district court if the person  
17 claims a proprietary interest in the information affected by the  
18 decision or a privacy interest in the information that a  
19 confidentiality law or judicial decision is designed to protect.

20 Sec. 206.006. EFFECT OF CHAPTER. (a) This chapter does not  
21 affect:

22 (1) the right of a county officer, municipal officer,  
23 or special district officer to obtain information under other law;

24 (2) the procedures under which the information is  
25 obtained under other law; or

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

1       (b) This chapter does not grant authority to a county  
2 governmental body, municipal governmental body, or special  
3 district to withhold information from a county officer, municipal  
4 officer, or special district officer.

5       SECTION 3. The heading to Subtitle C, Title 9, Local  
6 Government Code, is amended to read as follows:

7       SUBTITLE C. PUBLIC BUILDINGS AND GROUNDS [~~BUILDING~~] PROVISIONS  
8       APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

9       SECTION 4. The heading to Chapter 305, Local Government  
10 Code, is amended to read as follows:

11       CHAPTER 305. MISCELLANEOUS PUBLIC BUILDINGS AND GROUNDS [~~BUILDING~~]  
12       PROVISIONS [~~AFFECTING MUNICIPALITIES AND COUNTIES~~]

13       SECTION 5. Chapter 305, Local Government Code, is amended  
14 by adding Subchapter C to read as follows:

15       SUBCHAPTER C. RIGHT OF ACCESS TO PUBLIC PROPERTY BY CERTAIN PUBLIC  
16       OFFICERS

17       Sec. 305.020. DEFINITION. In this subchapter, "political  
18 subdivision" means a county, municipality, school district, junior  
19 college district, other special district, or other subdivision of  
20 state government.

21       Sec. 305.021. RIGHT OF ACCESS TO PUBLIC PROPERTY.  
22 Notwithstanding any other provision of law, a member of the  
23 governing body of a political subdivision has a right of access to  
24 any building, structure, room, land, or body of water owned or  
25 leased by or under the exclusive control of the political  
26 subdivision to which the member is elected or appointed.

27       Sec. 305.022. ACCESS TO PROPERTY. (a) A person who is

1 authorized to control access to property described by Section  
2 305.021 shall provide a member of the governing body of the  
3 political subdivision access to the property if the member:

4 (1) requests access to the property as a member of the  
5 governing body; and

6 (2) presents an acceptable form of identification  
7 described by Section 63.0101, Election Code.

8 (b) The authorized person must provide access to property  
9 under this section not later than the 10th business day following  
10 the date the request for access is made by the requesting member of  
11 the governing body.

12 SECTION 6. Not later than January 1, 2018, the attorney  
13 general shall adopt rules establishing the procedures and deadlines  
14 required by Section 674.054(b), Government Code, as added by this  
15 Act, and Section 206.005(b), Local Government Code, as added by  
16 this Act.

17 SECTION 7. Subchapter B, Chapter 674, Government Code, as  
18 added by this Act, and Chapter 206, Local Government Code, as added  
19 by this Act, apply only to a request for information received on or  
20 after the effective date of this Act. A request for information  
21 received before the effective date of this Act is governed by the  
22 applicable law in effect immediately before the effective date of  
23 this Act, and that law is continued in effect for that purpose.

24 SECTION 8. (a) Except as provided by Subsection (b) of this  
25 section, this Act takes effect January 1, 2018.

26 (b) Section 6 of this Act takes effect immediately if this  
27 Act receives a vote of two-thirds of all the members elected to each

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1 house, as provided by Section 39, Article III, Texas Constitution.  
2 If this Act does not receive the vote necessary for immediate  
3 effect, Section 6 of this Act takes effect September 1, 2017.