

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 111
By: Capriglione et al. (Hughes)
Business & Commerce
5/25/2025
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 111 expands the state's open records law to include more organizations that receive public funds, such as certain nonprofits and associations involved in public functions. It clarifies which entities are considered "governmental bodies" and outlines what types of records must be disclosed to the public. At the same time, the bill exempts specific internal business records and older documents from disclosure and narrows the use of attorney-client privilege to withhold information, favoring transparency. It also reinforces confidentiality for legislative and oversight records.

The legislation introduces Section 552.0037, which exempts from public disclosure records created by qualifying nonprofit state associations before September 1, 2025. It also amends Sections 552.106 and 552.107 to limit the attorney-client privilege exception and require a narrow interpretation favoring transparency. The bill adds Section 552.164 to exempt internal business records of certain nonprofits from disclosure if they qualify as trade secrets, commercial, financial, or proprietary information.

Further amendments clarify that legislative records under Sections 306.003, 306.004, and 306.008, and working papers of the Sunset Advisory Commission under Section 325.0195, are not subject to public disclosure. Additionally, Sections 552.126 and 552.154 of the Government Code are repealed.

(Original Author/Sponsor's Statement of Intent)

C.S.H.B. 111 amends current law relating to the applicability of the public information law, including the disclosure of information in the possession, custody, or control of certain governmental bodies.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 552.003(1), Government Code, to redefine "governmental body."

SECTION 2. Amends Subchapter A, Chapter 552, Government Code, by adding Section 552.0037, as follows:

Sec. 552.0037. NONPROFIT STATE ASSOCIATION OR ORGANIZATION. Provides that a record or communication created by a nonprofit state association or organization described by Section 552.003(1)(A)(xv) (relating to defining "government body" as a nonprofit state association or organization that meets certain criteria) is not public information and not subject to Chapter 552 (Public Information) if that record or communication was created before September 1, 2025.

SECTION 3. Amends Section 552.106, Government Code, by adding Subsection (c), as follows:

(c) Provides that the exception to disclosure provided by Section 552.106 (Exception: Certain Legislative Documents) does not apply to governmental bodies described by Sections 552.003(1)(A)(ii)-(xv) (relating to defining "government body"), other than special districts created under Section 59 (Conservation and Development of Natural Resources; Development of Parks and Recreational Facilities; Conservation and Reclamation Districts; Indebtedness and Taxation Authorized), Article XVI (General Provisions), Texas Constitution.

SECTION 4. Amends Section 552.107, Government Code, as follows:

Sec. 552.107. EXCEPTION: CERTAIN LEGAL MATTERS. (a) Creates this subsection from existing text and makes no further changes.

(b) Provides that the exception to disclosure provided by this section does not apply to:

(1) a communication with an attorney or an attorney's representative that is not a confidential communication made for the purpose of facilitating the rendition of professional legal services to the governmental body; or

(2) a report, audit, or other material that was created in the absence of pending, reasonably anticipated, or threatened litigation, was not created at the request of an attorney or attorney representative to facilitate the rendition of professional legal services to the governmental body, and does not contain confidential communications made for the purpose of facilitating the rendition of professional legal services to the governmental body.

(c) Requires the attorney general, when rendering a decision under Subchapter G (Attorney General Decisions) as to whether requested information is within the scope of the exception to disclosure provided by this section, to restrict the scope of the attorney-client privilege by construing the exception narrowly and in favor of the public's interest in maximum government transparency and, if the attorney general determines that the requested information is within the scope of the exception to disclosure provided by this section, to authorize the governmental body to withhold or redact the information to only the minimum extent necessary to prevent the disclosure of confidential communications made for the purpose of facilitating the rendition of professional legal services to the governmental body.

SECTION 5. Amends Subchapter C, Chapter 552, Government Code, by adding Section 552.164, as follows:

Sec. 552.164. EXCEPTION: CONFIDENTIALITY OF CERTAIN INTERNAL BUSINESS RECORDS OF CERTAIN NONPROFIT STATE ASSOCIATIONS AND ORGANIZATIONS. (a) Provides that, notwithstanding Section 552.0222(b) (relating to providing that certain exceptions to disclosure do not apply to certain types of contracting information), the internal business records of a governmental body described by Section 552.003(1)(A)(xv) are excepted from the requirements of Section 552.021 (Availability of Public Information) if the internal business records are, as demonstrated based on specific factual evidence, trade secrets described by Section 552.110 (Exception: Confidentiality of Trade Secrets; Confidentiality of Certain Commercial or Financial Information), commercial or financial information described by Section 552.110, or proprietary information described by Section 552.1101 (Exception: Confidentiality of Proprietary Information).

(b) Defines "internal business records."

SECTION 6. Amends Section 306.003, Government Code, by adding Subsection (e) to provide that records and communications described by Subsection (a) (relating to providing that certain

records of a member of the legislature or the lieutenant governor are confidential) are not subject to Chapter 552.

SECTION 7. Amends Section 306.004, Government Code, by adding Subsection (f) to provide that records and communications described by Subsection (a) (relating to providing that the public disclosure of all or part of a written or otherwise recorded communication from a citizen of this state received by a member of the legislature or the lieutenant governor in his official capacity is prohibited, with certain exceptions) are not subject to Chapter 552.

SECTION 8. Amends Section 306.008, Government Code, by adding Subsection (f) to provide that records and communications described by Subsection (a) (relating to providing that certain communications are confidential and subject to legislative privilege) or (b) (relating to providing that a communication described by Subsection (a) is subject to attorney-client privilege if certain conditions apply) are not subject to Chapter 552.

SECTION 9. Amends Sections 325.0195(a) and (b), Government Code, as follows:

(a) Provides that a working paper, including all documentary or other information, prepared or maintained by the Sunset Advisory Commission staff in performing its duties under Chapter 325 (Sunset Law) or other law to conduct an evaluation and prepare a report is not public information and not subject to Chapter 552, rather than is excepted from the public disclosure requirements of Section 552.021.

(b) Makes a conforming change to this subsection.

SECTION 10. Repealers: Sections 552.126 (Exception: Confidentiality of Name of Applicant for Superintendent of Public School District) and 552.154 (Exception: Name of Applicant for Executive Director, Chief Investment Officer, or Chief Audit Executive of Teacher Retirement System of Texas), Government Code.

SECTION 11. Effective date: upon passage or September 1, 2025.