

BILL ANALYSIS

Senate Research Center
89R14984 JON-F

H.B. 4310
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 4310 enhances governance transparency by ensuring members of governing boards have prompt, cost-free access to public information needed for oversight. The bill amends Chapter 552 of the Government Code, adding Subchapter K to address delays and administrative hurdles faced by board members requesting records.

The bill defines "member of a governing board," "nongovernmental entity," and "promptly," granting these officials the right to inspect and duplicate public information from governmental bodies and certain nongovernmental entities when acting officially. Information must be provided quickly and for free, with confidential data redactable at no cost. Governmental bodies may require confidentiality agreements, but sharing such information under the bill preserves its protected status.

For disputes over confidentiality, the attorney general must decide within 45 business days, with appeals allowed in Travis County district court. Board members can seek a writ of mandamus to enforce compliance, potentially recovering attorney's fees and costs if successful. The bill does not affect other information access laws.

The bill addresses the need for board members, elected or appointed, to access records without obstruction to fulfill their duties. By removing fees and delays, it promotes efficient, transparent governance while balancing confidentiality needs through clear procedures and legal recourse.

H.B. 4310 amends current law relating to a special right of access under the public information law for a member of a governing board.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the attorney general in SECTION 1 (Section 552.404, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 552, Government Code, by adding Subchapter K, as follows:

SUBCHAPTER K. SPECIAL RIGHT OF ACCESS BY MEMBER OF GOVERNING BOARD

Sec. 552.401. DEFINITIONS. Defines "member of a governing board," "nongovernmental entity," and "promptly."

Sec. 552.402. SPECIAL RIGHT OF ACCESS FOR MEMBER OF GOVERNING BOARD. (a) Authorizes a member of the governing board of a governmental body or nongovernmental entity to inspect, duplicate, or inspect and duplicate public information maintained by the governmental body or the nongovernmental entity if the member is acting in the member's official capacity.

(b) Requires that public information requested under this section be provided to the member promptly and without charge.

- (c) Requires that public information requested under this section that is confidential under law, if requested by the member, be redacted from the information provided to the member without charge.

Sec. 552.403. CONFIDENTIAL INFORMATION. (a) Authorizes a governmental body or a nongovernmental entity that has been requested to provide information under this chapter to request the member of a governing board who is receiving public information that is confidential under law to sign a confidentiality agreement that covers the information and requires that the information not be disclosed, the information be labeled as confidential, the information be kept securely, or the number of copies made of the information or the notes taken from the information that implicate the confidential nature of the information be controlled, with all copies or notes that are not destroyed or returned remaining confidential and subject to the confidentiality agreement.

- (b) Provides that a governmental body or nongovernmental entity, by providing public information under this subsection that is confidential or otherwise excepted from required disclosure under law, does not waive or affect the confidentiality of the information for purposes of state or federal law or waive the right to assert exceptions to required disclosure of the information in the future.

Sec. 552.404. DETERMINATION BY THE ATTORNEY GENERAL. (a) Authorizes a member of a governing board who has received a request under Section 552.403(a) to sign a confidentiality agreement to seek a decision about whether the information covered by the confidentiality agreement is confidential under law. Provides that a confidentiality agreement signed under Section 552.403(a) is void to the extent that the agreement covers information that is determined by the attorney general or a court to not be confidential under law.

- (b) Requires the attorney general by rule to establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the member of a governing board, the governmental body or nongovernmental entity, and any other interested person.

- (c) Requires the attorney general to promptly render a decision requested under this section, determining whether the information covered by the confidentiality agreement is confidential under law, not later than the 45th business day after the date the attorney general received the request for a decision under this section. Requires the attorney general to issue a written decision on the matter and provide a copy of the decision to the member, the governmental body or nongovernmental entity, and any interested person who submitted necessary information or a brief to the attorney general about the matter.

- (d) Authorizes the member or the governmental body or nongovernmental entity to appeal a decision of the attorney general under this section to a Travis County district court. Authorizes any other person to appeal a decision of the attorney general under this section to a Travis County district court if the person claims a proprietary interest in the information affected by the decision or a privacy interest in the information that a confidentiality law or judicial decision is designed to protect.

Sec. 552.405. WRIT OF MANDAMUS. (a) Provides that, if a governing body or nongovernmental entity fails or refuses to comply with an applicable requirement of this subchapter, a member of a governmental board who made a request under Section 552.402 is authorized to file a motion, petition, or other appropriate pleading in a district court having jurisdiction for a writ of mandamus to compel the body or entity to comply with the applicable requirement.

- (b) Requires that a pleading under Subsection (a) be brought in Travis County for a governmental body that is a state agency, in a county in which the governmental body is located for a governmental body that is not a state agency, or in the

county where the entity's principal office in this state is located for a nongovernmental entity.

(c) Authorizes the court, if the member prevails under Subsection (a), to award reasonable attorney's fees, expenses, and court costs.

Sec. 552.406. INFORMATION OBTAINABLE UNDER OTHER LAW. Provides that this subchapter does not affect the procedures under which information is authorized to be obtained under other law or the use that may be made of information obtained under other law.

SECTION 2. Effective date: September 1, 2025.