

BILL ANALYSIS

H.B. 4310
By: Vasut
Delivery of Government Efficiency
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Public Information Act ensures public access to government records. However, the bill author has informed the committee that members of governing boards have faced challenges in accessing certain public information necessary for informed decision-making, especially when the information is deemed confidential or is otherwise excepted from required disclosure. H.B. 4310 seeks to grant governing board members the right to inspect and duplicate public information maintained by the respective governmental body or nongovernmental entity served by the members, provided the members act in their official capacity.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the attorney general in SECTION 1 of this bill.

ANALYSIS

H.B. 4310 amends the Government Code to authorize 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. The bill requires public information requested under the bill's provisions to be provided to the member promptly and without charge. The bill requires public information that is confidential under law, if requested by the member under the bill's provisions, to be redacted from the information provided to the member without charge.

H.B. 4310 authorizes a governmental body or a nongovernmental entity that has been requested to provide information under the bill's provisions 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 the following:

- 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.

The bill establishes that a governmental body or nongovernmental entity, by providing public information under the bill's provisions 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.

H.B. 4310 authorizes a member of a governing board who has received a request to sign a confidentiality agreement to seek a decision about whether the information covered by the confidentiality agreement is confidential under law. The bill establishes that such a signed confidentiality agreement 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.

H.B. 4310 requires the attorney general to do the following:

- establish by rule 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;
- promptly render a decision 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; and
- 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.

The bill authorizes the member or the governmental body or nongovernmental entity to appeal the attorney general's decision to a Travis County district court. The bill authorizes any other person to appeal the attorney general's decision 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.

H.B. 4310 authorizes a member of a governing board who made a public information request, if a governmental body or nongovernmental entity fails or refuses to comply with an applicable requirement of the bill's provisions, 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. The bill requires such a pleading to be brought in the following locations:

- 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.

The bill authorizes the court, if a member prevails in the appropriate pleading, to award reasonable attorney's fees, expenses, and court costs.

H.B. 4310 does not affect the procedures under which information may be obtained under other law or the use that may be made of information obtained under other law.

H.B. 4310 defines the following:

- "member of a governing board" as any individual who is appointed, designated, or elected to direct or serve on a board or other group of individuals that directs a governmental body or a nongovernmental entity, including a member of the governing body of a municipality and a county commissioner; and
- "nongovernmental entity" and "promptly" by reference to provisions under state public information law relating to certain entities required to provide contracting information and an application for public information, respectively.

EFFECTIVE DATE

September 1, 2025.