

By: Capriglione, Metcalf, Toth, et al.

H.B. No. 111

A BILL TO BE ENTITLED

AN ACT

relating to the applicability of the public information law,
including the disclosure of information in the possession, custody,
or control of certain governmental bodies.

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

SECTION 1. Section 552.003(1), Government Code, is amended
to read as follows:

(1) "Governmental body":

(A) means:

(i) a board, commission, department,
committee, institution, agency, or office that is within or is
created by the executive or legislative branch of state government
and that is directed by one or more elected or appointed members;

(ii) a county commissioners court in the
state;

(iii) a municipal governing body in the
state;

(iv) a deliberative body that has
rulemaking or quasi-judicial power and that is classified as a
department, agency, or political subdivision of a county or
municipality;

(v) a school district board of trustees;

(vi) a county board of school trustees;

(vii) a county board of education;

(viii) the governing board of a special district;

(ix) the governing body of a nonprofit corporation organized under Chapter 67, Water Code, that provides a water supply or wastewater service, or both, and is exempt from ad valorem taxation under Section 11.30, Tax Code;

(x) a local workforce development board created under Section 2308.253;

(xi) a nonprofit corporation that is eligible to receive funds under the federal community services block grant program and that is authorized by this state to serve a geographic area of the state;

(xii) a confinement facility operated under a contract with any division of the Texas Department of Criminal Justice;

(xiii) a civil commitment housing facility owned, leased, or operated by a vendor under contract with the state as provided by Chapter 841, Health and Safety Code;

(xiv) an entity that receives public funds in the current or preceding state fiscal year to manage the daily operations or restoration of the Alamo, or an entity that oversees such an entity; ~~and~~

(xv) a nonprofit state association or organization that:

(a) is primarily composed of similarly situated local governmental entities, as defined by Section 552.1085(a)(4);

1 (b) has more than 15 full-time
2 employees; and

3 (c) receives public funds; and

4 (xvi) the part, section, or portion of an
5 organization, corporation, commission, committee, institution, or
6 agency that spends or that is supported in whole or in part by
7 public funds; and

8 (B) does not include:

9 (i) the judiciary; or

10 (ii) an economic development entity whose
11 mission or purpose is to develop and promote the economic growth of
12 a state agency or political subdivision with which the entity
13 contracts if:

14 (a) the entity does not receive \$1
15 million or more in public funds from a single state agency or
16 political subdivision in the current or preceding state fiscal
17 year; or

18 (b) the entity:

19 (1) either:

20 (A) does not have the
21 authority to make decisions or recommendations on behalf of a state
22 agency or political subdivision regarding tax abatements or tax
23 incentives; or

24 (B) does not require an
25 officer of the state agency or political subdivision to hold office
26 as a member of the board of directors of the entity;

27 (2) does not use staff or office

space of the state agency or political subdivision for no or nominal consideration, unless the space is available to the public;

(3) to a reasonable degree, tracks the entity's receipt and expenditure of public funds separately from the entity's receipt and expenditure of private funds; and

(4) provides at least quarterly public reports to the state agency or political subdivision regarding work performed on behalf of the state agency or political subdivision.

SECTION 2. Subchapter A, Chapter 552, Government Code, is amended by adding Section 552.0037 to read as follows:

Sec. 552.0037. NONPROFIT STATE ASSOCIATION OR ORGANIZATION. A record or communication created by a nonprofit state association or organization described by Section 552.003(1)(A)(xv) is not public information and not subject to this chapter if that record or communication was created before September 1, 2025.

SECTION 3. Section 552.106, Government Code, is amended by adding Subsection (c) to read as follows:

(c) The exception to disclosure provided by this section does not apply to governmental bodies described by Sections 552.003(1)(A)(ii)-(xv), other than special districts created under Section 59, Article XVI, Texas Constitution.

SECTION 4. Section 552.107, Government Code, is amended to read as follows:

Sec. 552.107. EXCEPTION: CERTAIN LEGAL MATTERS. (a)

Information is excepted from the requirements of Section 552.021 if:

(1) it is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct; or

(2) a court by order has prohibited disclosure of the information.

(b) 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:

(A) was created in the absence of pending, reasonably anticipated, or threatened litigation;

(B) 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

(C) does not contain confidential communications made for the purpose of facilitating the rendition of professional legal services to the governmental body.

(c) When rendering a decision under Subchapter G as to whether requested information is within the scope of the exception to disclosure provided by this section, the attorney general shall:

(1) 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

(2) if the attorney general determines that the requested information is within the scope of the exception to disclosure provided by this section, 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. Subchapter C, Chapter 552, Government Code, is amended by adding Section 552.164 to read as follows:

Sec. 552.164. EXCEPTION: CONFIDENTIALITY OF CERTAIN INTERNAL BUSINESS RECORDS OF CERTAIN NONPROFIT STATE ASSOCIATIONS AND ORGANIZATIONS. (a) Notwithstanding Section 552.022(b), 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 if the internal business records are, as demonstrated based on specific factual evidence:

(1) trade secrets described by Section 552.110;
(2) commercial or financial information described by Section 552.110; or

(3) proprietary information described by Section 552.1101.

(b) In this section, "internal business records" means information or communications that are not directly related to the transaction of the official business of a political subdivision or political subdivisions, including internal financial records,

1 information relating to transactions with private entities that
2 otherwise do not involve a political subdivision or other
3 governmental body, and information related to the internal
4 operations of the association or organization.

5 SECTION 6. Section 306.003, Government Code, is amended by
6 adding Subsection (e) to read as follows:

7 (e) Records and communications described by Subsection (a)
8 are not subject to Chapter 552.

9 SECTION 7. Section 306.004, Government Code, is amended by
10 adding Subsection (f) to read as follows:

11 (f) Records and communications described by Subsection (a)
12 are not subject to Chapter 552.

13 SECTION 8. Section 306.008, Government Code, is amended by
14 adding Subsection (f) to read as follows:

15 (f) Records and communications described by Subsection (a)
16 or (b) are not subject to Chapter 552.

17 SECTION 9. Sections 325.0195(a) and (b), Government Code,
18 are amended to read as follows:

19 (a) A working paper, including all documentary or other
20 information, prepared or maintained by the commission staff in
21 performing its duties under this chapter or other law to conduct an
22 evaluation and prepare a report is not public information and not
23 subject to Chapter 552 ~~[excepted from the public disclosure~~
24 ~~requirements of Section 552.021]~~.

25 (b) A record held by another entity that is considered to be
26 confidential by law and that the commission receives in connection
27 with the performance of the commission's functions under this

chapter or another law remains confidential and is not public information and not subject to Chapter 552 [~~excepted from the public disclosure requirements of Section 552.021~~].

SECTION 10. Sections 552.126 and 552.154, Government Code, are repealed.

SECTION 11. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2025.