

By: Capriglione

H.B. No. 5027

A BILL TO BE ENTITLED

AN ACT

relating to the public information law.

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) ~~[the part, section, or portion of]~~ an organization, corporation, commission, committee, institution, or agency:

(a) for which the source of at least 51 percent of its revenue during the preceding year was public funds; or

(b) that engages primarily in

1 activities under an agreement with or a grant from another
2 governmental body [~~that spends or that is supported in whole or in~~
3 ~~part by public funds~~]; and

4 (B) does not include:

5 (i) the judiciary; or

6 (ii) an economic development entity whose
7 mission or purpose is to develop and promote the economic growth of
8 a state agency or political subdivision with which the entity
9 contracts if:

10 (a) the entity does not receive \$1
11 million or more in public funds from a single state agency or
12 political subdivision in the current or preceding state fiscal
13 year; or

14 (b) the entity:

15 (1) either:

16 (A) does not have the
17 authority to make decisions or recommendations on behalf of a state
18 agency or political subdivision regarding tax abatements or tax
19 incentives; or

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

23 (2) does not use staff or office
24 space of the state agency or political subdivision for no or nominal
25 consideration, unless the space is available to the public;

26 (3) to a reasonable degree,
27 tracks the entity's receipt and expenditure of public funds

1 separately from the entity's receipt and expenditure of private
2 funds; and

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

7 SECTION 2. Section 552.106, Government Code, is amended by
8 adding Subsection (c) to read as follows:

9 (c) The exception to disclosure provided by this section
10 does not apply to governmental bodies described by Sections
11 552.003(1)(A)(ii)-(xiv).

12 SECTION 3. Section 552.107, Government Code, is amended to
13 read as follows:

14 Sec. 552.107. EXCEPTION: CERTAIN LEGAL MATTERS. (a)
15 Information is excepted from the requirements of Section 552.021
16 if:

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

21 (2) it is information that pertains to active
22 litigation against a governmental body; or

23 (3) a court by order has prohibited disclosure of the
24 information.

25 (b) The exception to disclosure provided by this section
26 does not apply to:

27 (1) a communication with an attorney or an attorney's

1 representative, other than information contained in the
2 communication to which the exception otherwise applies; or

3 (2) a report, audit, or other material created in the
4 absence of active litigation.

5 (c) When rendering a decision under Subchapter G as to
6 whether requested information is within the scope of the exception
7 to disclosure provided by this section, the attorney general shall
8 restrict the scope of the attorney-client privilege by construing
9 the exception narrowly and in favor of the public's interest in
10 maximum government transparency.

11 SECTION 4. Sections 552.305(a) and (d), Government Code,
12 are amended to read as follows:

13 (a) In a case in which information is requested under this
14 chapter and a person's privacy or property interests may be
15 involved, including a case under Section 552.101, 552.110,
16 552.1101, 552.114, [~~552.131~~] or 552.143, a governmental body may
17 decline to release the information for the purpose of requesting an
18 attorney general decision.

19 (d) If release of a person's proprietary information may be
20 subject to exception under Section 552.101, 552.110, 552.1101,
21 552.113, [~~552.131~~] or 552.143, the governmental body that requests
22 an attorney general decision under Section 552.301 shall make a
23 good faith attempt to notify that person of the request for the
24 attorney general decision. Notice under this subsection must:

25 (1) be in writing and sent within a reasonable time not
26 later than the 10th business day after the date the governmental
27 body receives the request for the information; and

(2) include:

(A) a copy of the written request for the information, if any, received by the governmental body; and

(B) a statement, in the form prescribed by the attorney general, that the person is entitled to submit in writing to the attorney general within a reasonable time not later than the 10th business day after the date the person receives the notice:

(i) each reason the person has as to why the information should be withheld; and

(ii) a letter, memorandum, or brief in support of that reason.

SECTION 5. Section 552.133(a-1), Government Code, is transferred to Section 551.086, Government Code, and redesignated as Section 551.086(a-1), Government Code, to read as follows:

(a-1) For purposes of this section, "competitive matter" means a utility-related matter, including for an entity described by Subdivision (2) a cable, Internet, or broadband service matter, that is related to the public power utility's competitive activity, including commercial information, and would, if disclosed, give advantage to competitors or prospective competitors. The term:

(1) means a matter that is reasonably related to the following categories of information:

(A) generation unit specific and portfolio fixed and variable costs, including forecasts of those costs, capital improvement plans for generation units, and generation unit operating characteristics and outage scheduling;

(B) bidding and pricing information for

1 purchased power, generation and fuel, and Electric Reliability
2 Council of Texas bids, prices, offers, and related services and
3 strategies;

4 (C) effective fuel and purchased power
5 agreements and fuel transportation arrangements and contracts;

6 (D) risk management information, contracts, and
7 strategies, including fuel hedging and storage;

8 (E) plans, studies, proposals, and analyses for
9 system improvements, additions, or sales, other than transmission
10 and distribution system improvements inside the service area for
11 which the public power utility is the sole certificated retail
12 provider; and

13 (F) customer billing, contract, and usage
14 information, electric power pricing information, system load
15 characteristics, and electric power marketing analyses and
16 strategies;

17 (2) means a matter reasonably related to information
18 involving the provision of cable, Internet, or broadband services
19 by a municipally owned utility that provided electricity services
20 and cable, Internet, or broadband services on or before January 1,
21 2003, including:

22 (A) a capital improvement plan;

23 (B) an expense related to the installation of a
24 facility to provide those services;

25 (C) bidding and pricing information for
26 installation of the facility;

27 (D) risk management information, contracts, and

1 strategies;

2 (E) plans, studies, proposals, and analyses for:

3 (i) system improvements, additions, or
4 sales; or

5 (ii) establishing pricing for providing
6 those services; and

7 (F) customer billing, contract, and usage
8 information; and

9 (3) does not include the following categories of
10 information:

11 (A) information relating to the provision of
12 distribution access service, including the terms and conditions of
13 the service and the rates charged for the service but not including
14 information concerning utility-related services or products that
15 are competitive;

16 (B) information relating to the provision of
17 transmission service that is required to be filed with the Public
18 Utility Commission of Texas, subject to any confidentiality
19 provided for under the rules of the commission;

20 (C) information for the distribution system
21 pertaining to reliability and continuity of service, to the extent
22 not security-sensitive, that relates to emergency management,
23 identification of critical loads such as hospitals and police,
24 records of interruption, and distribution feeder standards;

25 (D) any substantive rule or tariff of general
26 applicability regarding rates, service offerings, service
27 regulation, customer protections, or customer service adopted by

1 the public power utility as authorized by law;

2 (E) aggregate information reflecting receipts or
3 expenditures of funds of the public power utility, of the type that
4 would be included in audited financial statements;

5 (F) information relating to equal employment
6 opportunities for minority groups, as filed with local, state, or
7 federal agencies;

8 (G) information relating to the public power
9 utility's performance in contracting with minority business
10 entities;

11 (H) information relating to nuclear
12 decommissioning trust agreements, of the type required to be
13 included in audited financial statements;

14 (I) information relating to the amount and timing
15 of any transfer to an owning city's general fund;

16 (J) information relating to environmental
17 compliance as required to be filed with any local, state, or
18 national environmental authority, subject to any confidentiality
19 provided under the rules of those authorities;

20 (K) names of public officers of the public power
21 utility and the voting records of those officers for all matters
22 other than those within the scope of a competitive resolution
23 provided for by this section;

24 (L) a description of the public power utility's
25 central and field organization, including the established places at
26 which the public may obtain information, submit information and
27 requests, or obtain decisions and the identification of employees

1 from whom the public may obtain information, submit information or
2 requests, or obtain decisions;

3 (M) information identifying the general course
4 and method by which the public power utility's functions are
5 channeled and determined, including the nature and requirements of
6 all formal and informal policies and procedures;

7 (N) salaries and total compensation of all
8 employees of a public power utility;

9 (O) information publicly released by the
10 Electric Reliability Council of Texas in accordance with a law,
11 rule, or protocol generally applicable to similarly situated market
12 participants;

13 (P) information related to a chilled water
14 program, as defined by Section 11.003, Utilities Code; or

15 (Q) information included in the separate books
16 and records required to be kept by an entity described by
17 Subdivision (2) as required by Section 552.915, Local Government
18 Code.

19 SECTION 6. Section 551.086(c), Government Code, is amended
20 to read as follows:

21 (c) This chapter does not require a public power utility
22 governing body to conduct an open meeting to deliberate, vote, or
23 take final action on any competitive matter~~[, as that term is~~
24 ~~defined by Section 552.133]~~. This section does not limit the right
25 of a public power utility governing body to hold a closed session
26 under any other exception provided for in this chapter.

27 SECTION 7. Section 306.003, Government Code, is amended by

adding Subsection (e) to read as follows:

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

SECTION 8. SECTION 306.004, Government Code, is amended by adding Subsection (f) to read as follows:

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

SECTION 9. Section 306.008, Government Code, is amended by adding Subsection (f) to read as follows:

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

SECTION 10. The following provisions of the Government Code are repealed:

- (1) the heading to Section 552.133;
- (2) Sections 552.133(a), (b), (b-1), and (c); and
- (3) Sections 552.111, 552.123, 552.126, and 552.154.

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.