

By: Hughes

S.B. No. 2113

A BILL TO BE ENTITLED

AN ACT

relating to a special right of access under the public information law for a member of a governing board.

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

SECTION 1. Chapter 552, Government Code, is amended by adding Subchapter K to read as follows:

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

Sec. 552.401. DEFINITIONS. In this subchapter:

(1) "Member of a governing board" means 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.

(2) "Nongovernmental entity" means an entity described by Section 552.371(a).

(3) "Promptly" has the meaning described by Section 552.221(a).

Sec. 552.402. SPECIAL RIGHT OF ACCESS FOR A MEMBER OF A GOVERNING BOARD. (a) A member of the governing board of a governmental body or nongovernmental entity may 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) Public information requested under this section shall

1 be provided to the member promptly and without charge.

2 (c) If requested by the member, public information
3 requested under this section that is confidential under law shall
4 be redacted from the information provided to the member without
5 charge.

6 Sec. 552.403. CONFIDENTIAL INFORMATION. (a) A
7 governmental body or a nongovernmental entity that has been
8 requested to provide information under this subchapter may request
9 the member of a governing board who is receiving public information
10 that is confidential under law to sign a confidentiality agreement
11 that covers the information and requires that:

12 (1) the information not be disclosed;
13 (2) the information be labeled as confidential;
14 (3) the information be kept securely; or
15 (4) the number of copies made of the information or the
16 notes taken from the information that implicate the confidential
17 nature of the information be controlled, with all copies or notes
18 that are not destroyed or returned remaining confidential and
19 subject to the confidentiality agreement.

20 (b) A governmental body or nongovernmental entity, by
21 providing public information under this subchapter that is
22 confidential or otherwise excepted from required disclosure under
23 law, does not waive or affect the confidentiality of the
24 information for purposes of state or federal law or waive the right
25 to assert exceptions to required disclosure of the information in
26 the future.

27 Sec. 552.404. DETERMINATION BY THE ATTORNEY GENERAL. (a) A

1 member of a governing board who has received a request under Section
2 552.403(a) to sign a confidentiality agreement may seek a decision
3 about whether the information covered by the confidentiality
4 agreement is confidential under law. A confidentiality agreement
5 signed under Section 552.403(a) is void to the extent that the
6 agreement covers information that is determined by the attorney
7 general or a court to not be confidential under law.

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

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

23 (d) The member or the governmental body or nongovernmental
24 entity may appeal a decision of the attorney general under this
25 section to a Travis County district court. Any other person may
26 appeal a decision of the attorney general under this section to a
27 Travis County district court if the person claims a proprietary

1 interest in the information affected by the decision or a privacy
2 interest in the information that a confidentiality law or judicial
3 decision is designed to protect.

4 Sec. 552.405. WRIT OF MANDAMUS. (a) If a governmental body
5 or nongovernmental entity fails or refuses to comply with an
6 applicable requirement of this subchapter, a member of a governing
7 board who made a request under Section 552.402 may file a motion,
8 petition, or other appropriate pleading in a district court having
9 jurisdiction for a writ of mandamus to compel the body or entity to
10 comply with the applicable requirement.

11 (b) A pleading under Subsection (a) shall be brought:

12 (1) in Travis County for a governmental body that is a
13 state agency;

14 (2) in a county in which the governmental body is
15 located for a governmental body that is not a state agency; or

16 (3) in the county where the entity's principal office
17 in this state is located for a nongovernmental entity.

18 (c) If the member prevails under Subsection (a), the court
19 may award reasonable attorney's fees, expenses, and court costs.

20 Sec. 552.406. INFORMATION OBTAINABLE UNDER OTHER LAW. This
21 subchapter does not affect:

22 (1) the procedures under which information may be
23 obtained under other law; or

24 (2) the use that may be made of information obtained
25 under other law.

26 SECTION 2. This Act takes effect September 1, 2025.