

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 28, 2009  
Date

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB 1182 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Wentworth  
Sen. Wentworth

Solom  
Rep. Ortiz

J. Carona  
Sen. Carona

Rafael Ancheta  
Rep. Ancheta

Robt Duncan  
Sen. Duncan

Rep. Creighton  
Rep. Creighton

Sen. Eltife  
Sen. Eltife

Rep. C. Howard - Fort Bend  
Rep. ~~Howard~~

Sen. Whitmire  
Sen. Whitmire

Craig Eiland  
Rep. Eiland

On the part of the Senate

On the part of the House

## Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

Received 5/28/09 4:20 pm

# CONFERENCE COMMITTEE REPORT

3<sup>rd</sup> Printing

S.B. No. 1182

A BILL TO BE ENTITLED

AN ACT

relating to public information and open government.

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

SECTION 1. Subchapter C, Chapter 551, Government Code, is amended by adding Section 551.0415 to read as follows:

Sec. 551.0415. GOVERNING BODY OF MUNICIPALITY: REPORTS ABOUT ITEMS OF COMMUNITY INTEREST REGARDING WHICH NO ACTION WILL BE TAKEN. (a) Notwithstanding Sections 551.041 and 551.042, a quorum of the governing body of a municipality may receive from municipal staff and a member of the governing body may make a report about items of community interest during a meeting of the governing body without having given notice of the subject of the report as required by this subchapter if no action is taken and, except as provided by Section 551.042, possible action is not discussed regarding the information provided in the report.

(b) For purposes of Subsection (a), "items of community interest" includes:

(1) expressions of thanks, congratulations, or condolence;

(2) information regarding holiday schedules;

(3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary

1 recognition for purposes of this subdivision;

2 (4) a reminder about an upcoming event organized or  
3 sponsored by the governing body;

4 (5) information regarding a social, ceremonial, or  
5 community event organized or sponsored by an entity other than the  
6 governing body that was attended or is scheduled to be attended by a  
7 member of the governing body or an official or employee of the  
8 municipality; and

9 (6) announcements involving an imminent threat to the  
10 public health and safety of people in the municipality that has  
11 arisen after the posting of the agenda.

12 SECTION 2. Section 552.008, Government Code, is amended by  
13 adding Subsections (b-1) and (b-2) to read as follows:

14 (b-1) A member, committee, or agency of the legislature  
15 required by a governmental body to sign a confidentiality agreement  
16 under Subsection (b) may seek a decision as provided by Subsection  
17 (b-2) about whether the information covered by the confidentiality  
18 agreement is confidential under law. A confidentiality agreement  
19 signed under Subsection (b) is void to the extent that the agreement  
20 covers information that is finally determined under Subsection  
21 (b-2) to not be confidential under law.

22 (b-2) The member, committee, or agency of the legislature  
23 may seek a decision from the attorney general about the matter. The  
24 attorney general by rule shall establish procedures and deadlines  
25 for receiving information necessary to decide the matter and briefs  
26 from the requestor, the governmental body, and any other interested  
27 person. The attorney general shall promptly render a decision

1 requested under this subsection, determining whether the  
2 information covered by the confidentiality agreement is  
3 confidential under law, not later than the 45th business day after  
4 the date the attorney general received the request for a decision  
5 under this subsection. The attorney general shall issue a written  
6 decision on the matter and provide a copy of the decision to the  
7 requestor, the governmental body, and any interested person who  
8 submitted necessary information or a brief to the attorney general  
9 about the matter. The requestor or the governmental body may appeal  
10 a decision of the attorney general under this subsection to a Travis  
11 County district court. A person may appeal a decision of the  
12 attorney general under this subsection to a Travis County district  
13 court if the person claims a proprietary interest in the  
14 information affected by the decision or a privacy interest in the  
15 information that a confidentiality law or judicial decision is  
16 designed to protect.

17 SECTION 3. The heading to Section 552.009, Government Code,  
18 is amended to read as follows:

19 Sec. 552.009. OPEN RECORDS STEERING COMMITTEE: ADVICE TO  
20 ATTORNEY GENERAL [~~COMMISSION~~]; ELECTRONIC AVAILABILITY OF PUBLIC  
21 INFORMATION.

22 SECTION 4. Subchapter C, Chapter 552, Government Code, is  
23 amended by adding Section 552.150 to read as follows:

24 Sec. 552.150. EXCEPTION: INFORMATION THAT COULD COMPROMISE  
25 SAFETY OF OFFICER OR EMPLOYEE OF HOSPITAL DISTRICT. (a)  
26 Information in the custody of a hospital district that relates to an  
27 employee or officer of the hospital district is excepted from the

1 requirements of Section 552.021 if:

2 (1) it is information that, if disclosed under the  
3 specific circumstances pertaining to the individual, could  
4 reasonably be expected to compromise the safety of the individual,  
5 such as information that describes or depicts the likeness of the  
6 individual, information stating the times that the individual  
7 arrives at or departs from work, a description of the individual's  
8 automobile, or the location where the individual works or parks;  
9 and

10 (2) the employee or officer applies in writing to the  
11 hospital district's officer for public information to have the  
12 information withheld from public disclosure under this section and  
13 includes in the application:

14 (A) a description of the information; and

15 (B) the specific circumstances pertaining to the  
16 individual that demonstrate why disclosure of the information could  
17 reasonably be expected to compromise the safety of the individual.

18 (b) On receiving a written request for information  
19 described in an application submitted under Subsection (a)(2), the  
20 officer for public information shall:

21 (1) request a decision from the attorney general in  
22 accordance with Section 552.301 regarding withholding the  
23 information; and

24 (2) include a copy of the application submitted under  
25 Subsection (a)(2) with the request for the decision.

26 (c) This section expires September 1, 2013.

27 SECTION 5. Subchapter C, Chapter 552, Government Code, is

1 amended by adding Section 552.151 to read as follows:

2 Sec. 552.151. EXCEPTION: INFORMATION REGARDING SELECT  
3 AGENTS. (a) The following information that pertains to a  
4 biological agent or toxin identified or listed as a select agent  
5 under federal law, including under the Public Health Security and  
6 Bioterrorism Preparedness and Response Act of 2002 (Pub. L. No.  
7 107-188) and regulations adopted under that Act, is excepted from  
8 the requirements of Section 552.021:

9 (1) the specific location of a select agent within an  
10 approved facility;

11 (2) personal identifying information of an individual  
12 whose name appears in documentation relating to the chain of  
13 custody of select agents, including a materials transfer agreement;  
14 and

15 (3) the identity of an individual authorized to  
16 possess, use, or access a select agent.

17 (b) This section does not except from disclosure the  
18 identity of the select agents present at a facility.

19 (c) This section does not except from disclosure the  
20 identity of an individual faculty member or employee whose name  
21 appears or will appear on published research.

22 (d) This section does not except from disclosure otherwise  
23 public information relating to contracts of a governmental body.

24 (e) If a resident of another state is present in Texas and is  
25 authorized to possess, use, or access a select agent in conducting  
26 research or other work at a Texas facility, information relating to  
27 the identity of that individual is subject to disclosure under this

1 chapter only to the extent the information would be subject to  
2 disclosure under the laws of the state of which the person is a  
3 resident.

4 SECTION 6. Subsection (a), Section 552.263, Government  
5 Code, is amended to read as follows:

6 (a) An officer for public information or the officer's agent  
7 may require a deposit or bond for payment of anticipated costs for  
8 the preparation of a copy of public information if:

9 (1) the officer for public information or the  
10 officer's agent has provided the requestor with the [~~required~~]  
11 written itemized statement required under Section 552.2615  
12 detailing the estimated charge for providing the copy; and

13 (2) [~~if~~] the charge for providing the copy of the  
14 public information specifically requested by the requestor is  
15 estimated by the governmental body to exceed:

16 (A) [~~1~~] \$100, if the governmental body has more  
17 than 15 full-time employees; or

18 (B) [~~2~~] \$50, if the governmental body has fewer  
19 than 16 full-time employees.

20 SECTION 7. Subsection (a), Section 552.274, Government  
21 Code, as amended by Chapters 329 (S.B. 727) and 716 (S.B. 452), Acts  
22 of the 79th Legislature, Regular Session, 2005, is reenacted to  
23 read as follows:

24 (a) The attorney general shall:

25 (1) biennially update a report prepared by the  
26 attorney general about the charges made by state agencies for  
27 providing copies of public information; and

1           (2) provide a copy of the updated report on the  
2 attorney general's open records page on the Internet not later than  
3 March 1 of each even-numbered year.

4           SECTION 8. Subsection (e-1), Section 552.301, Government  
5 Code, is amended to read as follows:

6           (e-1) A governmental body that submits written comments to  
7 the attorney general under Subsection (e)(1)(A) shall send a copy  
8 of those comments to the person who requested the information from  
9 the governmental body not later than the 15th business day after the  
10 date of receiving the written request. If the written comments  
11 disclose or contain the substance of the information requested, the  
12 copy of the comments provided to the person must be a redacted copy.

13           SECTION 9. Subsection (b), Section 552.323, Government  
14 Code, is amended to read as follows:

15           (b) In an action brought under Section 552.324  
16 [~~552.353(b)(3)~~], the court may assess costs of litigation and  
17 reasonable attorney's fees incurred by a plaintiff or defendant who  
18 substantially prevails. In exercising its discretion under this  
19 subsection, the court shall consider whether the conduct of [~~the~~  
20 ~~officer for public information of~~] the governmental body had a  
21 reasonable basis in law and whether the litigation was brought in  
22 good faith.

23           SECTION 10. Section 552.324, Government Code, is amended to  
24 read as follows:

25           Sec. 552.324. SUIT BY GOVERNMENTAL BODY. (a) The only  
26 suit a governmental body [~~or officer for public information~~] may  
27 file seeking to withhold information from a requestor is a suit



1 that:

2           (1) is filed in a Travis County district court against  
3 the attorney general in accordance with Section [~~Sections~~] 552.325;  
4 [~~and 552.353~~] and

5           (2) seeks declaratory relief from compliance with  
6 [~~that challenges~~] a decision by the attorney general issued under  
7 Subchapter G.

8           (b) The governmental body must bring the suit not later than  
9 the 30th calendar day after the date the governmental body receives  
10 the decision of the attorney general determining that the requested  
11 information must be disclosed to the requestor [~~being challenged~~].  
12 If the governmental body does not bring suit within that period, the  
13 governmental body shall comply with the decision of the attorney  
14 general. If a governmental body wishes to preserve an affirmative  
15 defense for its officer for public information as provided in  
16 Section 552.353(b)(3), suit must be filed within the deadline  
17 provided in Section 552.353(b)(3) [~~This subsection does not affect~~  
18 ~~the earlier deadline for purposes of Section 552.353(b)(3) for a~~  
19 ~~suit brought by an officer for public information]~~.

20           SECTION 11. Subsection (b), Section 552.325, Government  
21 Code, is amended to read as follows:

22           (b) The governmental body, officer for public information,  
23 or other person or entity that files the suit shall demonstrate to  
24 the court that the governmental body, officer for public  
25 information, or other person or entity made a timely good faith  
26 effort to inform the requestor, by certified mail or by another  
27 written method of notice that requires the return of a receipt, of:

1 (1) the existence of the suit, including the subject  
2 matter and cause number of the suit and the court in which the suit  
3 is filed;

4 (2) the requestor's right to intervene in the suit or  
5 to choose to not participate in the suit;

6 (3) the fact that the suit is against the attorney  
7 general in Travis County district court; and

8 (4) the address and phone number of the office of the  
9 attorney general.

10 SECTION 12. Subsections (b) and (c), Section 552.353,  
11 Government Code, are amended to read as follows:

12 (b) It is an affirmative defense to prosecution under  
13 Subsection (a) that the officer for public information reasonably  
14 believed that public access to the requested information was not  
15 required and that [~~the officer~~]:

16 (1) the officer acted in reasonable reliance on a  
17 court order or a written interpretation of this chapter contained  
18 in an opinion of a court of record or of the attorney general issued  
19 under Subchapter G;

20 (2) the officer requested a decision from the attorney  
21 general in accordance with Subchapter G, and the decision is  
22 pending; or

23 (3) not later than the 10th calendar day after the date  
24 of receipt of a decision by the attorney general that the  
25 information is public, the officer or the governmental body for  
26 whom the defendant is the officer for public information filed a  
27 petition for a declaratory judgment [~~, a writ of mandamus, or both,~~]

1 against the attorney general in a Travis County district court  
2 seeking relief from compliance with the decision of the attorney  
3 general, as provided by Section 552.324, and the cause [a petition]  
4 is pending.

5 (c) It is an affirmative defense to prosecution under  
6 Subsection (a) that a person or entity has, not later than the 10th  
7 calendar day after the date of receipt by a governmental body of a  
8 decision by the attorney general that the information is public,  
9 filed a cause of action seeking relief from compliance with the  
10 decision of the attorney general, as provided by Section 552.325,  
11 and the cause is pending.

12 SECTION 13. Section 261.201, Family Code, is amended by  
13 adding Subsections (k) and (l) to read as follows:

14 (k) Notwithstanding Subsection (a), an investigating  
15 agency, other than the department or the Texas Youth Commission, on  
16 request, shall provide to the parent, managing conservator, or  
17 other legal representative of a child who is the subject of reported  
18 abuse or neglect, or to the child if the child is at least 18 years  
19 of age, information concerning the reported abuse or neglect that  
20 would otherwise be confidential under this section. The  
21 investigating agency shall withhold information under this  
22 subsection if the parent, managing conservator, or other legal  
23 representative of the child requesting the information is alleged  
24 to have committed the abuse or neglect.

25 (l) Before a child or a parent, managing conservator, or  
26 other legal representative of a child may inspect or copy a record  
27 or file concerning the child under Subsection (k), the custodian of

1 the record or file must redact:

2           (1) any personally identifiable information about a  
3 victim or witness under 18 years of age unless that victim or  
4 witness is:

5                   (A) the child who is the subject of the report; or

6                   (B) another child of the parent, managing  
7 conservator, or other legal representative requesting the  
8 information;

9           (2) any information that is excepted from required  
10 disclosure under Chapter 552, Government Code, or other law; and

11           (3) the identity of the person who made the report.

12           SECTION 14. The changes in law made by Section 552.150,  
13 Government Code, as added by this Act, apply in relation to a  
14 request for information made under Chapter 552, Government Code,  
15 before, on, or after the effective date of this Act.

16           SECTION 15. Section 552.151, Government Code, as added by  
17 this Act, applies in relation to:

18           (1) a request for public information under Chapter  
19 552, Government Code, made before, on, or after the effective date  
20 of this Act; and

21           (2) information that on the effective date of this Act  
22 has not yet been disclosed that:

23                   (A) was the subject of a request for information  
24 made before the effective date of this Act; and

25                   (B) the attorney general determined before the  
26 effective date of this Act to be subject to disclosure under Chapter  
27 552, Government Code.

1           SECTION 16. (a) Except as provided by Subsection (b) of  
2 this section, this Act takes effect September 1, 2009.

3           (b) Sections 552.008(b-1) and (b-2), Government Code, as  
4 added by this Act, take effect September 1, 2010.

**Senate Bill 1182**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

SECTION \_\_. Subchapter C, Chapter 551, Government Code, is amended by adding Section 551.0415 to authorize a quorum of the governing body of a municipality to receive from municipal staff and a member of the governing body to make a report about items of community interest during a meeting of the governing body without having given notice of the subject of the report as required by state law if no action is taken and, except under certain conditions, possible action is not discussed regarding the information provided in the report. Defines "items of community interest."

SECTION 1. Same as House version.

No equivalent provision.

SECTION \_\_. (a) Section 552.008, Government Code, is amended by adding Subsections (b-1) and (b-2) as follows:

SECTION 2. Same as House version.

(b-1) Authorizes a member, committee, or agency of the legislature required by a governmental body to sign a confidentiality agreement to seek a decision as provided by Subsection (b-2) about whether the information covered by the agreement is confidential under law. Establishes that the confidentiality agreement is void to the extent that the agreement covers information that is finally determined under Subsection (b-2) to not be confidential under law.

(b-2) Authorizes the member, committee, or agency of the legislature to seek a decision from the attorney general about the matter. Requires the attorney general by rule to establish procedures and deadlines for

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receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. Requires the attorney general to 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. Requires the attorney general to issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. Authorizes the requestor or the governmental body to appeal the decision to a Travis County district court. Authorizes a person to appeal such a 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.

No equivalent provision.

(b) Section 552.024, Government Code, relating to the election to disclose certain personal information of an employee or official or a former employee or official of a governmental body, is amended.

Same as Senate version.

No equivalent provision.

(c) Subsection (a), Section 552.117, Government Code, is amended to make conforming changes relating to Section 552.024, as amended above.

Same as Senate version.

**Senate Bill 1182**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION	CONFERENCE
No equivalent provision.	(d) Section 552.138, Government Code, relating to an exception to provisions relating to the right of access to public information maintained by a family violence shelter center or a sexual assault program, is amended.	Same as Senate version.
No equivalent provision.	(e) Subchapter C, Chapter 552, Government Code, is amended by adding Section 552.150, Exception: Information That Could Compromise Safety of Public Officer or Employee.	Same as Senate version.
No equivalent provision.	(f) Saving provision relating to a request for information made under Chapter 552, Government Code, as amended by the statutory sections above.	SECTION 15. Saving provision for Section 552.151, as added by this Act, applies to information that on the Act's effective date has not yet been disclosed that was the subject of a request for information made before the effective date and the attorney general determined before that date to be subject to disclosure under Chapter 552, Government Code. <i>(The conference committee may have exceeded the limitations imposed on its jurisdiction, but only the presiding officer can make the final determination on this issue.)</i>
No equivalent provision.	(g) Subsections (b-1) and (b-2), Section 552.008, as added above, take effect September 1, 2010.	SECTION 16. [Part 2] (b) Substantially the same as House version. <i>(See Part 1 below.)</i>
SECTION 1. The heading to Section 552.009, Government Code, is amended.	Same as Senate version.	SECTION 3. Same as Senate version.
No equivalent provision.	No equivalent provision.	SECTION 4. Adds Section 552.150, Government Code,



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to except from the requirement relating to the availability of public information certain information in the custody of a hospital district that relates to an employee or officer of the district and could reasonable be expected to compromise the safety of the individual. Includes as a requirement for the exemption that the employee or officer apply in writing to the hospital district's officer for public information to have the information withheld from public disclosure under this section and include in the application a description of the information and the specific circumstances that demonstrate why disclosure of the information could reasonably be expected to compromise the safety of the individual. Requires the hospital district's officer for public information, on receiving a written request for information described in such an application, to request a decision from the attorney general regarding withholding the information and to include a copy of the application with the request for the decision. Establishes that this section expires September 1, 2013.

*(The conference committee may have exceeded the limitations imposed on its jurisdiction, but only the presiding officer can make the final determination on this issue.)*

SECTION 5. Subchapter C, Chapter 552, Government Code, is amended by adding Section 552.151 to except from the requirement relating to the availability of public information the following information that pertains to a

No equivalent provision.

No equivalent provision.

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Section-by-Section Analysis

SENATE VERSION

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biological agent or toxin identified or listed as a select agent under federal law, including under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 and regulations adopted under that Act: the specific location of a select agent within an approved facility; personal identifying information of an individual whose name appears in documentation relating to the chain of custody of select agents, including a materials transfer agreement; and the identity of an individual authorized to possess, use, or access a select agent. Specifies that this section does not except from disclosure the identity of the select agents present at a facility, the identity of an individual faculty member or employee whose name appears or will appear on published research, or otherwise public information relating to contracts of a governmental body. Establishes that, if a resident of another state is present in Texas and is authorized to possess, use, or access a select agent in conducting research or other work at a Texas facility, information relating to the identity of that individual is subject to disclosure under this chapter only to the extent the information would be subject to disclosure under the laws of the state of which the person is a resident.

*(The conference committee may have exceeded the limitations imposed on its jurisdiction, but only the presiding officer can make the final determination on this issue.)*

SECTION 2. Subsection (a), Section 552.263,

Same as Senate version.

SECTION 6. Same as Senate version.

**Senate Bill 1182**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

Government Code, is amended.

SECTION 3. Subsection (a), Section 552.274, Government Code, as amended by Chapters 329 (S.B. 727) and 716 (S.B. 452), Acts of the 79th Legislature, Regular Session, 2005, is reenacted.

SECTIONS 4 - 8. Sections 552.301(e-1), 552.323(b), 552.324, 552.325(b), and 552.353(b) and (c), Government Code, are amended.

No equivalent provision.

Same as Senate version.

Same as Senate version.

SECTION \_\_. Section 261.201, Family Code, is amended by adding Subsections (k) and (l), as follows:

(k) Requires an investigating agency, other than the Department of Family Protective Services or the Texas Youth Commission, on request, to provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential. Requires the investigating agency to withhold information under this provision if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

(l) Requires the custodian of the record or file, before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or

SECTION 7. Same as Senate version.

SECTIONS 8 - 12. Same as Senate version.

SECTION 13. Same as House version.

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SENATE VERSION

HOUSE VERSION

CONFERENCE

file concerning the child under these provisions, to redact certain identifying information about a victim or witness under 18 years of age, with certain exceptions; any information that is excepted from required disclosure under state law; and the identity of the person who made the report.

SECTION 9. This Act takes effect September 1, 2009.

Same as Senate version.

SECTION 14. Saving provision relating to Section 552.150, as added above.

*(The conference committee may have exceeded the limitations imposed on its jurisdiction, but only the presiding officer can make the final determination on this issue.)*

SECTION 16. [Part 1] (a) Substantially the same as Senate version. *(See Part 2 above.)*

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 29, 2009**

**TO:** Honorable David Dewhurst, Lieutenant Governor, Senate  
Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** SB1182 by Wentworth (Relating to public information and open government. ), **Conference Committee Report**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Family Code to require agencies other than the Department of Family and Protective Services and the Texas Youth Commission that investigate a report of child abuse or neglect to provide information concerning the investigation to the parent, managing conservator, or legal representative of the child who is the subject of the report, or to the child if the child is at least 18 years of age. The agencies must redact identifying or confidential information prior to releasing the information. The Department of Aging and Disability Services, the Department of State Health Services, and the Health and Human Services Commission indicate that any cost to implement provisions of the bill would be minimal and can be absorbed within available resources.

The bill would amend various sections of Chapter 552 of the Government Code to make amendments to the Public Information Act (PIA).

The bill would allow a member, committee, or agency of the legislature to seek a decision from the Office of the Attorney General (OAG) about whether the information covered by a confidentiality agreement is confidential under law. Currently a member, committee, or agency of the legislature can request confidential information from a governmental body; however, the governmental body may choose to require the requestor to sign a confidentiality agreement before the information is released. This portion of the bill would take effect September 1, 2010.

The bill would also exempt from public disclosure information that could reasonably be expected to compromise the safety of an employee or official if it were released. To have the information withheld, the individual must apply in writing, describing the information involved and the specific circumstances that make its release dangerous. The agency's Public Information Officer would request a decision from the OAG regarding withholding the information. This portion of the bill would expire September 1, 2013.

The bill amends the Texas Public Information Code, under the request for public information provisions, by adding a section which exempts information pertaining to certain biological agents and toxins, identified in federal law, from categories of publicly accessible information. Excepted information regarding select biological and toxic agent agents includes their specific location within an approved facility, personal identifying information of an individual whose name appears in documentation relating to the chain of custody, and the identity of authorized individuals.

The bill would not allow exceptions from disclosure of the identity of the select agents present at a facility, the identity of an individual faculty member or employee whose name appears on published research, and otherwise public information relating to contracts of a governmental body. The bill would also require that information relating to the identity of out of state residents be subject to disclosure only to the extent the information would be subject to disclosure under the laws of the state of which the person is a resident.

State agencies affected have stated that there is no cost implication to the state in making these technical changes to the Texas Public Information Code.

The bill would require a governmental body to provide a copy of written arguments that were submitted to the OAG to a requestor within 15 business days. Currently, a governmental body that requests an open records decision from the OAG under section 552.301(a) must submit written arguments only to the OAG concerning the applicability of exceptions in the PIA within 15 business days of receiving the request for information.

The bill would clarify that the only suit a governmental body may file when trying to withhold information under the PIA is a suit against the OAG that seeks declaratory relief (rather than a mandamus action) from compliance with an open records decision of the OAG. Additionally, a governmental body wishing to preserve affirmative defenses for its public information officer found in section 552.353(b)(3) must file suit within the deadlines provided by that section. The bill would clarify certain sections of the PIA relating to litigation between the OAG and governmental bodies.

The bill would apply to requests for information made before, on, or after the relevant provisions of the bill.

Except as otherwise provided by the bill, it would take effect September 1, 2009.

Based on analysis by a variety of state agencies, including the Office of Attorney General, it is assumed that implementation of the provisions of the bill could be absorbed within existing resources.

#### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 347 Public Finance Authority, 454 Department of Insurance, 477 Commission on State Emergency Communications, 504 Texas State Board of Dental Examiners, 520 Board of Examiners of Psychologists, 539 Aging and Disability Services, Department of, 582 Commission on Environmental Quality, 696 Department of Criminal Justice, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

**LBB Staff:** JOB, KJG, DB, SD, PJK, TP

## Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on S. B. 1182 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.

Solomon O. J.  
(name)

May 29-09  
(date)