

TAXPAYER PROTECTION PROJECT

EROSION THROUGH EXCEPTIONS:

Understanding Why the Texas Public Information Act
Has Weakened and the Changes Required to
Let the Sun Shine Again

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EROSION THROUGH EXCEPTIONS:

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KEY POINTS

- **The Texas Public Information Act (TPIA)** sets out an aspirational framework, but the law falls short of its ideal in practice.
- **The TPIA fails to meet** expectations, in large part, because of a plethora of mandatory and permissive exceptions.
- **Under current law**, there are at least 75 exceptions that enable governmental entities to withhold public information and keep secrets.
- **The 89th Texas Legislature** should reduce and reform TPIA exceptions to restore the principle that government is the servant and not the master of the people.

EXECUTIVE SUMMARY

This report examines the Texas Public Information Act and its gradual weakening over time. It also explores the types of information originally and currently considered to be publicly accessible, the types of information allowed to be withheld through mandatory and permissive exceptions, and the changes made in 2023, during the 88th Legislature. Finally, this report identifies possible 2025 legislative reforms that may reinvigorate the state's chief transparency law, prevent future abuse, and bolster public trust in government.

INTRODUCTION

In a letter to W.T. Barry, James Madison, best known as the Father of the U.S. Constitution and the fourth President, once remarked, "A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or, perhaps both. Knowledge will forever govern ignorance: And a people who mean to be their own Governors, must arm themselves with the power which knowledge gives" ([Barry & Madison, 1822](#)). Though Madison may not have recognized it at the time, his appreciation for government transparency would serve as a guidepost for generations to come and inspire countless future attempts to promote and preserve the public's right to know.

In many ways, transparent government is the cornerstone of a well-functioning republic. This is owed to the fact that only through the timely, accurate, and unrestricted flow of public information can citizens hope to knowledgeably engage in the decision-making process. To the extent that an educated citizenry actively participates in self-governance, society might then realize some meaningful improvement in government accountability,

“The people insist on remaining informed so that they may retain control over the instruments they have created.”

~Sec. 552.001 of the Government Code

institutional responsiveness, and virtuous conduct among the administrative class. As those societal gains accrue, public trust is strengthened and legitimacy in government is established.

In Texas, these interwoven dynamics seem well understood, even if they do not always manifest to the fullest. Still, government transparency has generally been held in high regard by modern-day Texas policymakers and, for a time, the state was even at the “cutting-edge” of this movement (Miri & Taylor, 2008, p. 7). Interestingly, policymakers’ veneration of the transparency principle dates back to a high-profile scandal that gripped the Lone Star State many decades ago.

Sharpstown Scandal & TORA

The Sharpstown scandal erupted when a stock manipulation scheme involving a prominent businessman and several state legislators, including the then-House Speaker, was uncovered in 1971. According to Kinch (1975, para. 1), “The scandal centered, initially, on charges that state officials had made profitable quick-turnover bank-financed stock purchases in return for the passage of legislation desired by the financier, Houston businessman Frank W. Sharp.” However, by the time federal government’s full investigation had concluded, multiple state officials were also “charged with numerous other offenses—including nepotism and use of state-owned stamps to buy a pickup truck” (Kinch, 1975, para. 1). Wray (2018,

para. 4) notes that “the scandal ruined the political careers of everyone it touched, and in 1972 voters replaced every single incumbent statewide elected official and half the state legislature.” Resulting from this controversy—aside from criminal indictments and electoral consequences—was the passage of the Texas Open Records Act (TORA), later reworked to be the Texas Public Information Act (TPIA).

Adopted by the 63rd Texas Legislature and signed by governor in mid-1973, TORA established a policy framework anchored in the idea that “all information held by governmental bodies is open unless the information falls within one of the act’s specific exceptions to disclosure” (Mattox, 1988, p. 2). To obtain access to this information, the law required a requestor to simply submit a written request to the responsible entity. Upon receipt, “the custodian of such information must promptly produce the documents for inspection and duplication” (Hill, 1975, p. 433). This general structure still exists today too.¹ A written request template and sample TPIA requests may be found in **Appendix A**.

TORA: Application

It was originally intended for these open government standards to apply to all manner of state and local authorities as well as quasi-governmental entities and even certain private sector beneficiaries. The law, as originally established, provided that the following systems were subject to its requirements:

- (A) any board, commission, department, committee, institution, agency, or office within the executive or legislative branch of the state government which is under the direction of one or more elected or appointed members;
- (B) the commissioners court of each county and the city council or governing body of each city in the state;
- (C) every deliberative body having rulemaking or quasi-judicial power and classified as a department, agency, or political subdivision of a

¹ Texas’ Office of the Attorney General (OAG) (n.d.-e) briefly explains the process to request public information today, saying, “A public information request must be in writing to the governmental body you believe maintains the information. However, your written request needs to be for information already in existence. A governmental body is not required to answer questions, perform legal research, or create new information in response to your public information request.”

DID YOU KNOW...

[Section 552.003\(1\)\(A\)\(xv\)](#) of the Government Code defines a governmental body to include: “the part, section, or portion of an organization, corporation, commission, committee, institution, or agency **that spends or that is supported in whole or in part by public funds.**” [*emphasis mine*]

This provision seems to apply the TPIA’s requirements to enterprises that have not traditionally been the subject of public inquiry, like publicly funded nonprofits and government-affiliated trade associations.

county or city; (D) the board of trustees of every school district, and every county board of school trustees and county board of education; (E) the governing board of every special district; [and] (F) the part, section, portion of every organization, corporation, commission, committee, institution, or agency which is supported in whole or in part by public funds, or which expends public funds. ([HB 6, 1973, p. 66](#))

public’s right to know over any distinction between public and private organization. And that standard held until a controversial decision in the 2015 Texas Supreme Court case *Greater Houston Partnership v. Paxton* in which the High Court held that: “businesses that receive public money don’t have to make their information public unless they could not function without the funds” ([Marfin, 2019, para. 29](#)).²

Of course, the law has evolved in other ways too. For instance, the universe of entities subject to its requirements has expanded³ in some ways and narrowed⁴ in others. Even still, the law’s breadth remains one of its most impressive features.

Subsection (F) makes clear that policymakers initially intended for entities of every type to observe basic standards when consuming public funds. Such a policy is quite reasonable too since there is an expectation that public monies be handled judiciously and serve a public purpose, irrespective of an entity’s formal classification. The law rightly prioritized the

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- 2 To learn more about the Texas Public Policy Foundation’s view of the decision in *Greater Houston Partnership v. Paxton*, see the publication titled: “Out of the Darkness: Requiring Publicly-Supported Entities to Be Transparent.”
 - 3 Current law (TPIA) noticeably expands upon the original definition of “governmental body” established by TORA. Consider that [Section 552.003\(1\)\(A\)](#) of the Government Code defines the term to mean: “(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 that spends or that is supported in whole or in part by public funds.”
 - 4 Under TORA, the judiciary was expressly excluded from the definition of “governmental body” and that standard still applies today. However, current law has been expanded to exclude “specified economic development entities” from the law’s requirements, pursuant to [Section 552.003\(1\)\(B\)\(ii\)](#) ([Office of the Attorney General of Texas, 2024, p. 8](#)).

TORA: Orientation

Aside from its scope, there is another striking aspect about TORA, which later carried over to the TPIA as well. That is, the law's starting position is reminiscent of Madison in some small way, as it underscores the importance of the public's right to know what their governors are doing in their name and with their resources. Evidence of this may be observed in the law's preamble, which declares ([HB 6, 1973, p. 66](#)):

DECLARATION OF POLICY. Pursuant to the fundamental philosophy of the American constitutional form of representative government which holds to the principle that government is the servant of the people, and not the master of the them, it is hereby declared to be the public policy of the State of Texas that all persons are, unless otherwise expressly provided by law, at all times entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. **The people insist on remaining informed so that they may retain control over the instruments they have created.** To that end, the provisions of this Act shall be liberally construed with the view of carrying out the above declaration of public policy. [*emphasis mine*]

A certain spirit and vigor infuse this declaration that is not commonly found in state statute, which may explain why it has changed little over the years, despite the TORA being repealed and replaced by the TPIA in 1993.⁵ This longstanding provision speaks volumes about what the law set out to achieve and why, even if its intent and outcomes are somewhat divergent. It entreats past and future generations to recall the proper relationship that ought to exist between government and the people as well as necessary to maintain that order.

The law's opening declaration is not the only durable aspect of TORA and the TPIA. Another lasting quality relates to the types of information deemed to be public.

TORA: Covered Information

In 1973, TORA contained 15 categories of public information that it considered open and available under the law. Disclosable information included reports and rules, policies and processes, accounts and audits, and more. For the most part, these categories have remained largely the same over the years, though there has been some slight expansion.

Since the TPIA's codification in the early 1990s, policymakers have expanded the types of information considered to be public to include three additional classifications, including: 1) information in a bill for attorney's fees and not considered privileged under the attorney-client privilege; 2) information in a public court record; and 3) information contained in a settlement agreement to which a governmental entity is a party. This added material brings the total number of categories to 18. However, these categories do not make up a definitive list; "rather, it is a list of information that generally may be withheld only if it is expressly confidential by law" ([OAG, 2024, p. 67](#)). **Figure 1** tracks the categories of information considered to be public as originally established in the TORA, as well as in the current TPIA. Note the minor differences between the groupings as well as the broad similarities.

Thus far, Texas' chief transparency law has been recognized for its admirable start, aspirational framework, and rather expansive nature, both as it was originally established and in its current form. Were this report to conclude here, one might be tempted to believe that open government is alive and well in the Lone Star State. However, a closer examination of the TPIA in practice reveals that, despite whatever advancements have been made, the public does not have the access to government data and documents that it deserves. One reason

5 According to the OAG ([2024, p.1](#)) "The codification of the Act was a nonsubstantive revision."

Figure 1

Information Generally Considered to be Public

Comparing Categories of Public Information as Codified in the TORA & TPIA		
	TORA (Then)	TPIA (Now)
1	Reports, audits, evaluations, and investigations made of, for, or by, governmental bodies upon completion.	A completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108.
2	The names, sex, ethnicity, salaries, title, and dates of employment of all employees and officers of government bodies.	The name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body.
3	Information in any account, voucher, or contract dealing with the receipt or expenditure of public or other funds by governmental bodies, not otherwise made confidential by law.	Information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body.
4	The names of every official and the final record of voting on all proceedings in governmental bodies.	The name of each official and the final record of voting on all proceedings in a governmental body.
5	All working papers, research material, and information used to make estimates of the need for, or expenditure of, public funds or taxes by any governmental body, upon completion of such estimates.	All working papers, research material, and information used to estimate the need for or expenditure of public funds or taxes by a governmental body, on completion of the estimate.
6	The name, place of business, and the name of the city to which local sales and use taxes are credited, if any, for the named person, or persons reporting or paying sales and use taxes under the Limited Sales, Excise, and Use Tax Act.	The name, place of business, and the name of the municipality to which local sales and use taxes are credited, if any, for the named person, of a person reporting or paying sales and use taxes under Chapter 151, Tax Code.
7	Descriptions of an agency's central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions.	A description of an agency's central and field organizations, including: (A) the established places at which the public may obtain information, submit information or requests, or obtain decisions; (B) the employees from whom the public may obtain information, submit information or requests, or obtain decisions; (C) in the case of a uniformed service, the members from whom the public may obtain information, submit information or requests, or obtain decisions; and (D) the methods by which the public may obtain information, submit information or requests, or obtain decisions.
8	Statements of the general course and method by which an agency's functions are channeled and determined, including the nature and requirements of all formal and informal procedures available.	A statement of the general course and method by which an agency's functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures.
9	Rules of procedure, descriptions of forms available at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations.	A rule of procedure, a description of forms available or the places at which forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations.
10	Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency.	A substantive rule of general applicability adopted or issued by an agency as authorized by law, and a statement of general policy or interpretation of general applicability formulated and adopted by an agency.

11	Each amendment, revisions, or repeal of 7, 8, 9, and 10 above.	Each amendment, revision, or repeal of information described by Subdivisions (7)-(10).
12	Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases.	Final opinions, including concurring and dissenting opinions, and orders issued in the adjudication of cases.
13	Statements of policy and interpretations which have been adopted by the agency.	A policy statement or interpretation that has been adopted or issued by an agency.
14	Administrative staff manuals and instructions to staff that affect a member of the public.	Administrative staff manuals and instructions to staff that affect a member of the public.
15	Information currently regarded by agency policy as open to the public.	Information regarded as open to the public under an agency's policies.
16	-	Information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege.
17	-	Information that is also contained in a public court record.
18	-	A settlement agreement to which a governmental body is a party.

why is the laundry list of excepted information that has been codified in Chapter 552 of the Government Code.

EROSION THROUGH EXCEPTIONS

Certain classes of information are off-limits to the public or excepted from disclosure in legal parlance. This classification is maintained through the threat of prosecution too. [Section 552.352\(a\)](#) of the Government Code makes it a criminal offense for any public employee to reveal this secret information.⁶

Broadly speaking, information excepted from public disclosure usually relates to “personnel records, pending litigation, competitive bids, trade secrets, real estate deals and certain legal matters involving attorney-client privilege” ([Freedom of Information Foundation of Texas, n.d., para. 6](#)). Within the realm of exceptions are two types: permissive and mandatory. Researchers at Texas A&M University ([n.d., p. 1](#)) explain the difference: “Permissive exceptions may be waived at the discretion of the governmental body or by missing statutory deadlines for seeking a decision from the OAG. Mandatory exceptions cannot be waived.” Expanding further, the OAG ([n.d.-a](#)) observed that mandatory exceptions to the TPIA often take the form of:

- Dates of birth of living persons
- Driver’s license numbers
- License plate numbers
- Credit card numbers
- Insurance policy numbers
- Juvenile offender records
- Child abuse investigations
- Peace officer’s home address
- Peace officer’s family member information.

The list above is, of course, not an exhaustive one. However, its contents do lend support to Texas A&M University System Office of General Counsel’s ([n.d., p. 13](#)) observation that “core public information is generally subject only to mandatory exceptions.”

With regard to permissive exceptions, the OAG ([n.d.-a](#)) offers the following examples:

- Attorney-client communications
- Drafts of policymaking documents
- Information related to pending litigation
- Audit working papers
- Competitive bidding information before contract awarded.

⁶ OAG ([2024, p. 72](#)) states, “A violation under section 552.352 is a misdemeanor constituting official misconduct.”

Whether attempting to withhold information from a requestor on the basis of a mandatory or permissive exception, “a governmental [entity] is generally required to seek a ruling from OAG unless there is a previous determination allowing the governmental [entity] to withhold the type of information it seeks to withhold” (OAG, n.d.-a). This requirement—i.e., that a governmental entity seek formal guidance from the OAG—was similarly employed under both the TORA and TPIA. When considering a governmental entity’s argument, “the attorney general ordinarily will not raise other exceptions that a governmental body has failed to claim” (OAG, 2024, p. 72).

Examining Exceptions in Greater Detail

When the TORA first took effect in 1973, it provided for relatively narrow statutory exceptions, both in terms of number and scope. In fact, that original law established only 16 different types of information that were to be off-limits to the public. Per HB 6 (1973, pp. 3-5), those specific exclusions involved:

1. information deemed confidential by law, either Constitutional, statutory, or by judicial decision;
2. information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; provided, however, that all information in personnel files of an individual employee within a governmental body is to be made available to that individual employee or his designated representative as is public information under the Act;
3. information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection;
4. information which, if released, would give advantage to competitors or bidders;
5. information pertaining to the location of real or personal property for public purposes prior to public announcement of the project, and information pertaining to appraisals or purchase price of real or personal property for public purposes prior to the formal award of contracts therefor;
6. drafts and working papers involved in the preparation of proposed legislation;
7. matters in which the duty of the Attorney General of Texas or an attorney of a political subdivision, to his client, pursuant to the Rules and Canons of Ethics of the State Bar of Texas are prohibited from disclosure, or which by order of a court are prohibited from disclosure;
8. records of law enforcement agencies that deal with the detection and investigation of crime and the internal records and notations of such law enforcement agencies which are maintained for internal use in matters relative to law enforcement;
9. private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy;
10. trade secrets and commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision;
11. inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than one in litigation with the agency;
12. information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, and/or securities, as that term is defined in the Texas Securities Act;
13. geological and geophysical information and data including maps concerning wells, except

information filed in connection with an application or proceeding before any agency;

14. student records at educational institutions funded wholly, or in part, by state revenue; but such records shall be made available upon request of educational institution personnel, the student involved, or that student's parent, legal guardian, or spouse;
15. birth and death records maintained by the Bureau of Vital Statistics in the State of Texas;
16. the audit working papers of the State Auditor.

The 16 exceptions established under TORA were relatively straightforward. Even still, concerns were expressed early on over their interpretation, application, and effect. One scholar expressed unease, saying,

It would be premature to predict if the governmental units of Texas will be cooperative or recalcitrant vis-à-vis public requests for disclosure of documents. However, based on experience with the Federal Freedom of Information Act, a significant amount of litigation will most likely arise under the Texas Open Records Act. This is due primarily to the fact that justification for confidentiality must be based upon one of TORA's amorphous exceptions. (Hill, 1975, p. 433)

As time and experience have shown, these misgivings were not unfounded, especially as the number and scope of excepted information grew over time.

Whereas TORA was originally conceived with less than one dozen-and-a-half exceptions in mind, the present-day TPIA features more than 70 separate permissive and mandatory exceptions scattered throughout the law. In some cases, these statutes have been written so broadly as to potentially shield entire categories of public data and documents from disclosure. In other cases, the statutes are narrowly tailored so as to apply only to select elements. For

added context, a few examples are provided below.

Exception Example #1: Confidential Information

Section 552.101, Government Code: "CONFIDENTIAL INFORMATION: Information is excepted from the requirements of Section 552.021 if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

Certain exceptions, like Section 552.101, have maintained a relatively consistent structure across time. In this instance, the provision "makes clear that the Act does not mandate the disclosure of information that other law requires be kept confidential" (OAG, 2024, p. 72). For information to qualify for this exception, a statute must explicitly provide that a class of information is confidential. The law's relatively broad construction enables it to encompass "information protected by the doctrines of common-law and constitutional privacy, the common-law informer's privilege, and other statutes outside of the Act" (OAG, n.d.-b). While Section 552.101 has changed relatively little since its inception, policy-makers have enacted other statutes that protect particular bits of information, thereby expanding its reach. Today, examples of protected information have grown to include:

medical records that a physician creates or maintains regarding the identity, diagnosis, evaluation, or treatment of a patient; reports, records, and working papers used or developed in an investigation of alleged child abuse or neglect under Family Code chapter 261; certain information relating to the provision of emergency medical services; communications between a patient and a mental health professional and records of the identity, diagnosis, or treatment of a mental health patient created or maintained by a mental health professional; [and] certain personal information in a government-operated utility customer's account records unless the customer requested that the utility disclose the information. (OAG, 2024, p. 73)

Exception Example #2: Information Related to Competition or Bidding

Section 552.104(a), Government Code: “INFORMATION RELATED TO COMPETITION OR BIDDING. Information is excepted from the requirements of Section 552.021 if a governmental body demonstrates that release of the information would harm its interests by providing an advantage to a competitor or bidder in a particular ongoing competitive situation or in a particular competitive situation where the governmental body establishes the situation at issue is set to reoccur or there is a specific and demonstrable intent to enter into the competitive situation again in the future.”

Other exceptions, like subsection (a) of Section 552.104, have noticeably changed since the TORA was first enacted. Until 2020, this provision enabled governmental bodies to withhold data and documents that they determined might “give advantage to competitors or bidders” (HB 6, 1973, p. 3). This generous exemption was later expanded by a Texas Supreme Court decision in *Boeing v. Paxton*, (2015, p. 2) which found that “a private party may assert the exception to protect its competitively sensitive information.” This determination prompted the 86th Texas Legislature to pass SB 943 (2019) which, in part, amended subsection (a) so that “only governmental bodies will be permitted to raise subsection (a) and only for a particular ongoing competitive situation and a competitive situation where the governmental body can establish the situation is set to reoccur or there is a specific and demonstrable intent to enter into the competitive situation again in the future” (OAG, 2024, p. 87). While the exception’s present-day construction is still not ideal from the standpoint of securing maximum government transparency, the changes afforded more discretion to the release of contracting detail to requestors in certain circumstances.

Exception Example #3:

Section 552.109, Government Code: “CONFIDENTIALITY OF CERTAIN PRIVATE COMMUNICATIONS OF AN

ELECTED OFFICE HOLDER. Private correspondence or communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy are excepted from the requirements of Section 552.021.”

Still other exceptions have been added whole cloth over the years to address new needs and controversies. For example, Section 552.109 “exempts from disclosure private correspondence or communications of an elected office holder in relation to matters the disclosure of which would constitute an invasion of privacy” (Babcock et al., 2019). To determine that some element of public information falls within this exception, a test is applied similar to the one employed in Section 552.101, which utilizes the common-law privacy standard. The OAG (2024, p. 115) explains this standard as one that is “laid out in *Indus. Found. v. Tex. Indus. Accident Bd.* and protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public.”

The examples above provide an illustration of the types of statutory exceptions common throughout the TPIA. A more complete list may be found in **Appendix B**, which identifies each exception located in Chapter 552 of the Government Code and provides a short descriptor for each.

Exceptions in the 2023 Legislative Session

In 2023, the 88th Texas Legislature enacted several measures that amended the state’s chief transparency law in various ways. In some instances, the legislative changes either created or altered specific statutory exceptions. In other instances, the changes instituted new processes by which to understand and interact with the TPIA.

For example, during the regular session, policymakers passed HB 3033, “an omnibus bill seeking to make improvements to state public information law” (HB 3033 Enrolled Bill Summary, 2023). This measure

made a host of reforms⁷, including three notable changes to exception-related provisions. First, it created “an exception to disclosure for certain OAG settlement communications” under Section 552.163 of the Government Code (OAG, n.d.-d). Second, it created another exception to “the required disclosure for litigation or settlement negotiations involving the state or a political subdivision inapplicable to certain election-related information” (HB 3033 Enrolled Bill Summary, 2023). Lastly, it requires most requests for an OAG opinion to be submitted electronically and directs the attorney general’s office to create a searchable online database for each public information request and its corresponding decision. As explained by the House Research Organization, “The bill would require the database to be searchable by the name of the governmental body making the request and the exception that a governmental body asserted applied to its request to withhold information from disclosure” (HB 3033 Bill Analysis, 2023, p. 2). These changes went into effect on September 1, 2023.

In another example, legislators enacted HB 30 to close what was commonly referred to as the “dead suspect loophole.” The law sought to remedy an issue wherein law enforcement agencies and prosecutors could withhold crime-related information from the public under the TPIA when cases do not result in a conviction or result in a deferred adjudication. This rule was originally created to protect individuals investigated but not convicted or those acquitted at trial. But increasingly, it was applied in circumstances where suspects died before an investigation or prosecution

was concluded. As a partial solution, HB 30 provides “an exception to the exception if the subject of the information is deceased or incapacitated and each other person mentioned in the information consents to its release” (HB 30 Bill Analysis, 2023, p. 1). This law went into effect on September 1, 2023.

In a third example, the Legislature enacted SB 435, which amended Section 552.108 to “authorize a prosecutor to permit a victim’s family member or a victim, as applicable, to view a medical examiner’s report and video evidence of a crime that resulted in a person’s death” (SB 435 Enrolled Bill Summary, 2023). This change was motivated by a concern that releasing certain crime-related details to family members would result in that information being considered public. This concern was particularly acute after the Santa Fe school tragedy wherein many bereaved families and those of severely injured victims sought to view evidence for closure. However, the law prior to the passage of HB 3033 meant that the evidence would be made available to the public and the media. As a result, families struggled to obtain key information about these deeply personal matters. The reform received tremendous support in both chambers and went into immediate effect.

These are but a few of the ways in which the TPIA—and exceptions in particular—changed by the 88th Legislature. The OAG (n.d.-d) maintains a more complete list online of “significant or broadly applicable amendments to Texas public information law,” which records an additional 14 related measures.⁸

7 In addition to the exception-related changes outlined above, HB 3033 also amended Chapter 552 of the Government Code to:

clarify what constitutes a ‘business day’ for purposes of responding to a public information request and authorize a governmental body to designate not more than 10 days as a nonbusiness day on which that body’s administrative offices are closed or operating with minimum staffing...require a governmental body to promptly release basic information responsive to a public information request unless the governmental body seeks to withhold the information and establish a 30-day deadline following the issuance of an attorney general opinion regarding whether information may be withheld for the governmental body to release the requested information or inform the requestor that the information is being withheld or suit is being filed to keep the information confidential; strengthen the protections against potentially vexatious requestors by providing that a requestor who has exceeded a limit on the number of hours of production or inspection time for a single requestor may not inspect records on behalf of another requestor unless outstanding statements are paid in full and by allowing a governmental body to request photo identification from requestors to establish that the requestor has not exceeded such a time limit and has not concealed their identity; [and] authorize the attorney general to require the public officials of a particular governmental body to complete an open records training course if the attorney general determines that the governmental body has failed to comply with a requirement of state public information law. (HB 3033 Enrolled Bill Summary, 2023)

8 See the attorney general’s site: [2023 Texas Legislative Session Update](#).

Are You Rich Enough to Afford Public Information?

Texas Public Policy Foundation (TPPF) researchers recently sought to utilize the TPIA to uncover information related to school district administrative expenses and the use of bond proceeds in certain urban ISDs. This investigation originated out of a growing concern that special interests (i.e., architects and engineers, construction firms, and consultants) are exercising undue influence in the bond origination, consideration, and election processes.

In furtherance of this effort, a similarly worded request was sent to officials at 10 separate independent school districts (ISDs) seeking the following public data and documents:

1. Contract and personnel file of Superintendent [insert name]
2. Contract and personnel file of CFO [insert name]
3. All contracts, statements of work, invoices, payments, subcontractor payment reports, and change orders pertaining to the following vendors (2021 – present):
4. [Insert tailored list of architecture, engineering, construction, and consulting firms]
5. Documents sufficient to show all expenses paid in connection with the district’s Long Range Planning (Bond Advisory) Committee (2022 – present)
6. Any and all communications between district staff and [insert targeted special interest]
7. Documents sufficient to show all payments made from bond issuance proceeds (2022/3 – present)
8. Copies of all demographic studies commissioned by the district and their associated invoices and payments (2022/3 – present)

In response, most ISDs relayed bits of public information but also sent along cost estimates requiring princely sums to complete the requests in full. Here are the various demands sent back to the requestor seeking payment:

- **Prosper ISD:** Some information provided, \$252 to complete
- **Conroe ISD:** Some information provided, \$960.48 to complete
- **Aldine ISD:** \$252 to complete
- **Denton ISD:** Some information provided, \$1,200 to complete
- **Northside ISD:** \$32,838 to complete
- **Hurst-Eules-Bedford ISD:** \$3,204 to complete
- **Austin ISD:** \$2,655 to complete

In addition to those entities cited above, responses were also received from Midland ISD seeking additional clarification (no cost estimate) and Fort Bend ISD alerting the requestor that an Attorney General opinion was being sought (no cost estimate). Too, a request was sent to Northwest ISD but neither an acknowledgement, response, nor cost estimate was ever received.

Regarding Northside ISD’s demand for \$32,838, the district arrived at its estimate by charging \$2,760.10 for copies (27,601 x \$0.10), \$25,065 for labor (100,260 labor minutes x \$0.25), and \$5,013 for overhead charges (20% of \$25,065). Prior to fulfilling the TPIA request, the district “require[d] a deposit of 50% (\$16,419.00) before starting work on your request.”

TPPF researchers declined to pay this amount and are instead pursuing an alternative approach to secure these public data.

The frequently changing and complex nature of the TPIA adds another layer of difficulty for the public to contend with. Sometimes, this added complication causes disputes and formal complaints to rise.⁹

The Unintended Consequences of a Complex System

Mandatory and permissive exceptions require governmental bodies to closely track and limit the types of information that can be publicly released. As a result of these statutory obligations, responsive governments harbor a constant need for clarity and exactness when it comes to determining what may or may not be disclosed, especially as there may criminal penalties imposed for releasing non-disclosable items. For requestors, this system can result in added costs, longer response times, and a general increase in frustration.

One way to consider the complexity of the system is to observe the number of open record ruling requests received by the OAG’s Open Records Division (ORD). As part of its general duties, the ORD is charged with issuing rulings on the legitimacy of governmental bodies’ varied requests to withhold data and documents from the public. As may be evidenced by the agency’s own data (see **Figure 2**), the number of requests has grown steadily over the last ten years, signaling a growing inclination toward nondisclosure.

Per data secured through a TPIA request to the OAG, the number of open record rulings sought by governmental entities totaled 31,660 in 2015. By 2023—the latest full year of responsive data—that number had reached 48,706, representing a 54 percent increase. For the 2024 calendar year, the partial figure recorded by the agency totals 34,100 requests, with the remainder of October, November, and December still lacking. Based on this collected data, one might observe that governmental entities are increasingly requesting to withhold data and documents from the public. This might signal that a greater number of governmental entities are seeking nondisclosure,

⁹ For the current unfinished year, the OAG has recorded 168 official cost complaints filed with the agency by requestors in addition to 541 informal complaints. In comparison, for the entirety of 2023, the agency notes 234 cost complaints received, and 782 informal complaints made.

Figure 2

Open Record Ruling Requests from 2015 – 2024

Calendar Year	OR ruling requests
2015	31,660
2016	31,033
2017	31,918
2018	36,022
2019	41,594
2020	36,543
2021	42,215
2022	46,018
2023	48,706
2024*	34,100

*Measures through October 2, 2024.

Source: TPIA request to the OAG.

the same number of governmental entities are seeking to withhold but on a more frequent basis, or some combination of the two. Whichever the case, the public is contending with a system that appears oriented toward a posture of secrecy.

RECOMMENDATIONS

Over the past five-plus decades, the state’s chief transparency law has changed considerably—and generally not for the better. Since its first enactment, the TPIA has grown noticeably more complicated, added scores of new exceptions, and eroded the presumption of openness established in the preamble. One consequence of this deterioration has been the creation of bureaucratic systems around the TPIA’s various processes which have given rise to difficulties and dissatisfaction.

It would benefit Texans if state legislators would consider bold policy proposals to reverse the erosion of openness and reinvigorate public trust in government. Such initiatives are sorely needed given the ambitious framework established by TORA at the outset and the exception-riddled TPIA in effect today.

To propel Texas government in a more transparent direction, the next Legislature should consider the following changes:

Amend and Eliminate Unreasonable Exceptions.

The TPIA’s opening policy declaration affirms that the law was founded upon the ideal that “government is the servant and not the master of the people” ([Texas Public Information Act, 1993, Section 552.001\(a\)](#)). Yet, the TPIA today is not necessarily consonant with this foundational view. As such, policymakers should conduct a comprehensive review of all existing exceptions and make a determination about the quality and merit of each. The overarching goal of this effort should be to eliminate any provisions that are obviously inconsistent with the law’s articulated goals. The principles that should guide any such inquiry might be borrowed from Madisonian thinking—i.e., popular sovereignty, limited government, and robust means by which to acquire popular information. For a list of exceptions that might qualify through this lens, see **Appendix B**.

Rethink Abused Exceptions. Some exceptions are philosophically inconsistent with the TPIA’s aspirational design; however, still others, like the attorney-client privilege exception located in [Section 552.107](#), are theoretically sound but practically abused. Consider that a growing number of political subdivisions—but especially municipalities—are right now using this provision in bad faith, like cc-ing the government’s attorney on all controversial email communications to trigger the exception and ensure those items are never disclosed. By manipulating the law in this fashion, governmental actors hide damaging and scandalous information that might otherwise see the light of day. Considering this issue, policymakers should reform the attorney-client privilege exception, so that its provision only applies to communications and situations in which there is active litigation. Some potential statutory language to achieve this change is provided in **Appendix C**.

Remove Exploitative Exceptions. Some exceptions neither make sense philosophically nor practically and are being actively exploited by bad actors. Consider how some governmental officers abuse the various exceptions involving working papers and decision documents. Because of their broad construction, these exceptions enable public officials to conceal embarrassing information or salacious detail uncovered over the course of an investigation since those matters can be buried in “confidential” reports. This is a way for governments to game the system and deny the public critical information needed for accountability purposes.

One example of this type of abuse may be observed in the Texas Public Policy Foundation’s lawsuit against Highland Park ISD (HPISD). In that case, the Foundation’s attorneys assert that HPISD utilized the public accounting firm Whitley Penn to initiate an investigation of “fraud and misuse of taxpayer funds at the HPISD Seay Tennis Center” ([Texas Public Policy Foundation v. Highland Park Independent School District, 2023, p. 2](#)). The accounting firm did indeed uncover illicit activity occurring on district property that stemmed from lax administrative oversight and even “wrote a report that details the facts it learned, including an estimate of how much money is missing or unaccounted for” ([Texas Public Policy Foundation v. Highland Park Independent School District, 2023, p. 2](#)). Upon learning of the reported impropriety, the Foundation’s scholars sent a PIA request to HPISD seeking the report in question. This should not have been controversial as the report was paid for with taxpayer money and was in the possession of a governmental body. However, HPISD denied the TPIA request, citing attorney-client privilege and appealed to the ORD seeking to withhold the information. In November 2022, HPISD received permission to withhold its report after successfully arguing, in part, that “the information at issue was intended to be, and has remained, confidential” ([Kesling, 2022, p. 3](#)). Following that decision, the Foundation initiated legal proceedings against HPISD in the 14th District Court,

located in Dallas County, wherein it sought a writ of mandamus on the grounds that the request was simply for “a factual, investigative report, one conducted by non-lawyers, into how a few people used HPISD property to enrich themselves” (*Texas Public Policy Foundation v. Highland Park Independent School District*, 2023, p. 4). Further, it was argued, “If the administration can simply use its lawyers as a conduit to confer privilege on the Report, then the citizens have no way of evaluating the administration and holding it politically accountable” (*Texas Public Policy Foundation v. Highland Park Independent School District*, 2023, p. 4). Still, those arguments proved unpersuasive to the district court judge and HPISD continues to withhold this factual report from the very public who paid for it, at least for now.

A proper remedy for this matter and others like it is to eliminate the working papers exception and give the public full and complete access to all state-local government reports, with perhaps some leniency afforded to law enforcement-related agencies. For all non-public safety-related reports however, policymakers should err on the side extreme openness and allow the public to see any materials in the government’s possession, whether they be working drafts or otherwise.

By employing reforms of this nature, policymakers can dramatically improve the state’s chief transparency law and empower the public as originally intended. ■

APPENDIX A. TEXAS PUBLIC INFORMATION ACT SAMPLE FORM & EXAMPLES

Sample Form (must be submitted in writing via email, fax, or the mail to the appropriate party)

To whom it may concern—

Pursuant to the Texas Public Information Act, Ch. 552 of the Texas Government Code, I respectfully request that the following information be returned electronically:

[Insert specific request for data, documents, or material; specify a particular period of time, where appropriate]

[Also add if applicable]: The release of this information is in the public interest. As such, I respectfully request that all fees and other related charges be waived by the responsive entity.

Please let me know if I can clarify my request in any way.

Best regards,

Full Name

Physical Address

Phone Number

Actual PIA Example #1 – Generic request with a broad timeframe

From: James Quintero
Sent: Sunday, September 15, 2024 3:16 PM
To: PIR@friscoisd.org
Subject: Public Information Act Request

To whom it may concern—

Pursuant to the Texas Public Information Act, Ch. 552 of the Texas Government Code, I respectfully request that the following information be returned electronically:

- For the current calendar year, any Advocacy Agenda Resolutions submitted by the District to the Texas Association of School Boards (TASB).

Please let me know if I can clarify my request in any way.

Thank you in advance,



[James Quintero](#)
Policy Director
✍ Taxpayer Protection Project
☎ 512-472-2700 (office)
☎ 512-293-2752 (cell)
📧 [@JamesQuinteroTX](#)

Actual PIA Example #2 – Particular request with no timeframe and a hyperlink

From: James Quintero
Sent: Tuesday, August 27, 2024 4:20 PM
To: open.records@lbb.texas.gov
Subject: Public Information Act Request

To whom it may concern,

Pursuant to the Texas Public Information Act, Ch. 552 of the Texas Government Code, I respectfully request that the following information be returned electronically:

- The Excel spreadsheet or other similar file type containing the data used to construct **Figure 151: Prekindergarten to Grade 12 Texas Education Agency Funding in Actual and Constant Dollars** in the [2024-25 Fiscal Size-Up](#) document.

Thank you in advance,



[James Quintero](#)
Policy Director
Taxpayer Protection Project
512-472-2700 (office)
512-293-2752 (cell)
[@JamesQuinteroTX](#)

Actual PIA Example #3 – Particular request with a narrow timeframe and added detail

From: James Quintero
Sent: Wednesday, April 10, 2024 5:59 PM
To: UT Austin Open Records <utexas@mycusthelp.net>
Subject: RE: [Records Center] Public Information Request :: R006309-040424

To whom it may concern—

Thank you for the clarification request. Please amend my Public Information Act request as follows:

Pursuant to the Texas Public Information Act, Ch. 552 of the Texas Government Code, I respectfully request that the following information be returned electronically:

- The names, job titles, and salary information for any positions terminated or reassigned within the past 15 days from current date (April 10, 2024) in any of the following programs:
 - o Texas Center for Equity Promotion
 - o Center for Access and Restorative Engagement
 - o Division of Diversity and Community Engagement
 - o Gender and Sexuality Center
 - o Women's Community Center
 - o Inclusive Campus Support
 - o Initiatives for Campus Support
 - o Inclusive Innovation and Entrepreneurship
 - o Longhorn Center for Academic Excellence
 - o Center for Leadership and Training

Please let me know if I can clarify my request in any way.



[James Quintero](#)
Policy Director
Taxpayer Protection Project
512-472-2700 (office)
512-293-2752 (cell)
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APPENDIX B. SUMMARY OF STATUTORY EXCEPTIONS IN THE TPIA

No.	Ideal Status	Reason	Section & Title (In Sequence)	Short Statement
1	Keep	-	Section 552.101: Confidential Information	This section clarifies that other laws requiring confidentiality are not superseded by the TPIA.
2	Cut	Abused	Section 552.102: Confidentiality of Certain Personnel Information	This section exempts from disclosure a public employee's birth date contained in personnel-related documentation. In addition, this section also protects most information on a college transcript maintained in personnel files held by a public employer.
3	Keep	-	Section 552.103: Litigation or Settlement Negotiations Involving the State of a Political Subdivision	This section, known as the "litigation exception," exempts from public disclosure information related to ongoing or anticipated litigation involving the state or its subdivisions, or their employees. This exception is meant to prevent the TPIA from being used to bypass discovery rules in litigation.
4	Cut	Unreasonable	Section 552.104: Information Relating Competition or Bidding	This section addresses the protection of information that, if disclosed, could harm the competitive interests of a governmental body.
5	Keep	-	Section 552.105: Information Related to Location or Price of Property	This section allows governmental bodies to withhold certain information from public disclosure related to real or personal property transactions for public purposes.
6	Keep	-	Section 552.106: Certain Legislative Documents	This section outlines exceptions from required public disclosure for certain documents related to legislative processes: <ul style="list-style-type: none"> • Section 552.106(a): Protects draft or working papers involved in the preparation of proposed legislation. This exemption aims to foster candid discussions on policy matters between governmental bodies and their advisors. It does not shield purely factual material unless it reveals protected judgments or recommendations. • Section 552.106(b): Shields internal bill analyses or working papers prepared by the governor's office to evaluate proposed legislation. Similar to 552.106(a), it aims to encourage open policy discussions but applies specifically to documents used by the governor's office.
7	Amend	Abused	Section 552.107: Certain Legal Matters	This section provides exemptions from required public disclosure under two circumstances: <ol style="list-style-type: none"> 1. Subsection (1): Protects information covered by the attorney-client privilege, which prohibits attorneys from disclosing certain information due to their duty to their clients under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct. This includes communications intended to facilitate legal services but does not protect purely factual information unless it reveals protected judgments or recommendations. 2. Subsection (2): Allows for information to be exempt from disclosure if a court has issued an order prohibiting its release.
8	Keep	-	Section 552.108: Certain Law Enforcement, Corrections, and Prosecutorial Information	This section, known as the law enforcement exception, generally allows certain governmental bodies to withhold 4 types of information: 1) information that, if released, would affect investigation or prosecutions; 2) information related to criminal prosecution that did not result in a conviction or a deferred adjudication; 3) information that deals with threats against peace officers; and 4) information or work product created by the attorney of the governmental entity for use in criminal prosecution.
9	Keep	-	Section 552.1081: Confidentiality of Certain Information Regarding Execution of Convict	This section protects certain sensitive information of persons participating in an execution procedure and certain identifying information related to those persons who manufacture, transport, procure, compound, prescribe, dispense, or provide a substance used in an execution.
10	Cut	Unreasonable	Section 552.1085: Confidentiality of Sensitive Crime Scene Image	This section, which has not been tested in court, seeks to withhold certain crime scene images that a governmental body deems to be sensitive.
11	Cut	Abused	Section 552.109: Confidentiality of Certain Private Communications of an Elected Office Holder	This section provides an exception from mandatory public disclosure for private correspondence or communications of elected office holders if their release would constitute an invasion of privacy.
12	Cut	Exploitative	Section 552.110: Confidentiality of Trade Secrets and Confidentiality of Certain Commercial or Financial Information	This section outlines exceptions to public disclosure requirements for two types of sensitive information: trade secrets and confidential commercial or financial information.
13	Cut	Abused	Section 552.1101: Confidentiality of Proprietary Information	This section establishes an exception to public disclosure requirements for certain information submitted by vendors, contractors, potential vendors, or potential contractors to governmental bodies in response to bids, proposals, or qualifications.

14	Keep	-	Section 552.111: Agency Memoranda	This section provides an exception to public disclosure for certain interagency or intra-agency memoranda or letters that would not be available to a party in litigation with the agency.
15	Cut	Unreasonable	Section 552.112: Certain Information Relating to Regulation of Financial Institutions or Securities	This section provides exceptions to public disclosure requirements for specific types of information related to financial institutions and certain reports submitted to governmental bodies.
16	Cut	Unreasonable	Sec. 552.113: Confidentiality of Geological or Geophysical Information	This section outlines exceptions to public disclosure requirements for specific types of information related to natural resources and administrative proceedings before the General Land Office.
17	Keep	-	Sections 552.114 and 552.026: Confidentiality of Student Records	These sections pertain to student records under the Public Information Act, incorporating aspects of the federal Family Educational Rights and Privacy Act (FERPA).
18	Keep	-	Section 552.115: Confidentiality of Birth and Death Records	This section outlines the handling of birth and death records by the vital statistics units of the Texas Department of State Health Services and local registration officials.
19	Cut	Abused	Section 552.116: Audit Working Papers	This section outlines exceptions to public disclosure requirements for audit working papers.
20	Keep	-	Section 552.117: Confidentiality of Certain Addresses, Telephone Numbers, Social Security Numbers, and Personal Family Information	This section, as amended by SB 870 and HB 4504 from the 88th Legislature, establishes exemptions from public disclosure for certain personal information of specified individuals.
21	Keep	-	Section 552.1175: Confidentiality of Certain Personal Identifying Information of Peace Officers and Other Officials Performing Sensitive Governmental Functions	This section was amended by SB 870 and HB 4504 from the 88th Legislature to establish confidentiality protections for certain categories of individuals, specifically to various categories including peace officers, county jailers, employees of the Texas Department of Criminal Justice, security officers, attorneys handling criminal or child protective services matters, and others specified in the statute.
22	Keep	-	Section 552.1176: Confidentiality of Certain Information Maintained by State Bar	SB 510, passed by the 88th Legislature, amended Section 552.1176(a) of the Texas Government Code, focusing on confidentiality provisions related to information maintained under Chapter 81.
23	Keep	-	Section 552.11765: Confidentiality of Certain Information Maintained by State Licensing Authority	This section was established by SB 510, enacted in the 88th Legislature, and establishes confidentiality provisions for certain information maintained by governmental bodies.
24	Cut	Unreasonable	Section 552.1177: Confidentiality of Certain Information Related to Humane Disposition of Animal	This section outlines provisions regarding the confidentiality of information related to individuals who acquire ownership or control of animals from municipalities or counties under humane disposition ordinances or court orders.
25	Cut	Unreasonable	Section 552.118: Confidentiality of Official Prescription Program Information	This section outlines the exceptions to required public disclosure for information related to the Official Prescription Program administered by the Texas State Board of Pharmacy.
26	Keep	-	Section 552.119: Confidentiality of Certain Photographs of Peace Officers	This section governs the disclosure of photographs depicting peace officers, emphasizing safety concerns and exceptions to public disclosure; Exceptions to the Exception: The photograph can be disclosed under certain circumstances: 1. If the officer is under indictment or charged with an offense by information. 2. If the officer is involved as a party in a civil service hearing or a case in arbitration. 3. If the photograph is introduced as evidence in a judicial proceeding.
27	Cut	Exploitative	Section 552.120: Confidentiality of Certain Rare Books and Original Manuscripts	This section exempts rare books or original manuscripts from the requirements of Section 552.021, which mandates public disclosure of government records.
28	Cut	Exploitative	Section 552.121: Confidentiality of Certain Documents Held for Historical Research	This section exempts certain items from public disclosure requirements under Section 552.021, such as oral history interviews, personal papers, unpublished letters, and the organizational records of NGOs.
29	Keep	-	Section 552.122: Test Items	This section outlines exemptions from public disclosure requirements under Section 552.021 for test items.
30	Cut	Exploitative	Section 552.123: Confidentiality of Name of Applicant for Chief Executive Officer of Institution of Higher Education	This section provides an exception to public disclosure requirements for applicants for the position of chief executive officer at institutions of higher education, specifically university presidents.
31	Cut	Unreasonable	Section 552.1235: Confidentiality of Identity of Private Donor to Institution of Higher Education	This section outlines an exception to public disclosure requirements for gifts, grants, or donations made to institutions of higher education.
32	Cut	Exploitative	Section 552.124: Confidentiality of Records of Library or Library System	This section provides privacy protections for records of libraries or library systems supported by public funds.

33	Cut	Unreasonable	Section 552.125: Certain Audits	This section exempts documents or information that are privileged under Chapter 1101 of the Health and Safety Code from public disclosure requirements under Section 552.021.
34	Cut	Exploitative	Section 552.126: Confidentiality of Name of Applicant for Superintendent of Public School District	This section exempts the name of an applicant for the position of superintendent of a public school district from public disclosure requirements under Section 552.021.
35	Keep	-	Section 552.127: Confidentiality of Personal Information Relating to Participants in Neighborhood Crime Watch Organization	This section provides an exception to the public disclosure requirements under Section 552.021 for information related to participants in neighborhood crime watch organizations.
36	Cut	Abused	Section 552.128: Confidentiality of Certain Information Submitted by Potential Vendor or Contractor	This section outlines exceptions to public disclosure requirements regarding information submitted by potential vendors or contractors applying for certification as historically underutilized or disadvantaged businesses.
37	Cut	Unreasonable	Section 552.129: Confidentiality of Certain Motor Vehicle Inspection Information	This section exempts records created during a motor vehicle emissions inspection under Subchapter F, Chapter 548 of the Transportation Code from public disclosure requirements outlined in Section 552.021. This exception applies specifically to records that pertain to an individual vehicle or the owner of that vehicle.
38	Cut	Unreasonable	Section 552.130: Confidentiality of Certain Motor Vehicle Records	This section establishes exceptions to public disclosure requirements for certain types of information related to motor vehicles and personal identification documents.
39	Cut	Abused	Section 552.131: Confidentiality of Certain Economic Development Information	This section outlines exceptions to public disclosure requirements concerning economic development negotiations.
40	Keep	-	Section 552.1315: Confidentiality of Certain Crime Victim Records	This section establishes confidentiality for information identifying individuals as victims under specific circumstances.
41	Keep	-	Section 552.132: Confidentiality of Crime Victim or Claimant Information	This section establishes confidentiality rules for crime victims and claimants under Chapter 56B of the Code of Criminal Procedure. The Crime Victims' Compensation Division of the Attorney General's office must keep confidential: name, social security number, address, or telephone number of a crime victim or claimant, or any other information that could identify or tend to identify the crime victim or claimant.
42	Keep	-	Section 552.1325: Crime Victim Impact Statement: Certain Information Confidential	This section outlines confidentiality provisions related to victim impact statements, such as: Information contained in a victim impact statement or submitted for its preparation is confidential if held by a governmental body or filed with a court; specifically protected information includes, name, social security number, address, and telephone number of the crime victim, and any other details that could directly or indirectly identify the crime victim.
43	Cut	Exploitative	Section 552.133: Confidentiality of Public Power Utility Competitive Matters	This section establishes confidentiality provisions for information related to competitive matters involving public power utilities.
44	Amend	Unreasonable	Section 552.1331: Certain Government-Operated Utility Customer Information	This section pertains to the confidentiality of information held by government-operated utilities that is collected through advanced metering systems.
45	Keep	-	Section 552.134: Confidentiality of Certain Information Relating to Inmate of Department of Criminal Justice	This section outlines exceptions to the disclosure requirements for information maintained by the Texas Department of Criminal Justice (TDCJ) concerning inmates.
46	Keep	-	Section 552.1345: Confidentiality of Certain Information Relating to Civilly Committed Sexually Violent Predators	This section establishes exceptions to public disclosure requirements for information held by the Texas Civil Commitment Office regarding individuals civilly committed as sexually violent predators under Chapter 841 of the Health and Safety Code.
47	Keep	-	Section 552.135: Confidentiality of Certain Information Held by School District	This section outlines provisions regarding the confidentiality of person(s) acting as informers within school districts.
48	Keep	-	Section 552.136: Confidentiality of Credit Card, Debit Card, Charge Card, and Access Device Numbers	This section addresses the confidentiality of credit card, debit card, charge card, or access device numbers held by governmental bodies.
49	Keep	-	Section 552.137: Confidentiality of Certain E-mail Addresses	This section pertains to the confidentiality of certain email addresses provided to governmental bodies, such as a private person's email address given to a governmental body. It does not apply to a public employee's work email address, an institution's work email address, or a personal email address used to conduct public business.
50	Keep	-	Section 552.138: Confidentiality of Family Violence Shelter Center, Victims of Trafficking Shelter Center, and Sexual Assault Program Information	This section addresses the confidentiality of information maintained by certain entities and individuals.

51	Keep	-	Section 552.139: Confidentiality of Government Information Related to Security or Infrastructure Issues for Computers	This section exempts information that relates to computer network security, to restricted information under Section 2059.055, or to the design, operation, or defense of a computer network.
52	Keep	-	Section 552.140: Confidentiality of Military Discharge Records	This section pertains to the confidentiality and access to military discharge records.
53	Keep	-	Section 552.141: Confidentiality of Information in Application for Marriage License	This section addresses the confidentiality of social security numbers on marriage license applications.
54	Keep	-	Section 552.142: Confidentiality of Records Subject to Order of Nondisclosure	This section outlines exceptions related to criminal history record information as determined by the courts.
55	Keep	-	Section 552.1425: Civil Penalty: Dissemination of Certain Criminal History Information	This section addresses the compilation and dissemination of criminal history record information by private entities.
56	Keep	-	Section 552.143: Confidentiality of Certain Investment Information	This section pertains to the confidentiality of information related to private investment funds held by governmental bodies.
57	Keep	-	Section 552.144: Working Papers and Electronic Communications of Administrative Law Judges at State Office of Administrative Hearings	This section outlines exceptions to public disclosure requirements for certain materials related to administrative law judges at the State Office of Administrative Hearings.
58	Keep	-	Section 552.145: Confidentiality of Texas No-Call List	This section states that the Texas no-call list and any information provided to or received from the administrator of the national do-not-call registry are confidential and not subject to open records requests.
59	Keep	-	Section 552.146: Certain Communications with Assistant or Employee of Legislative Budget Board	This section provides that all written or recorded communications between a member of the legislature or the lieutenant governor and an assistant or employee of the Legislative Budget Board are exempt from public disclosure requirements under Section 552.021. This includes conversations, correspondence, and electronic communications. Memoranda of such communications are also exempt, regardless of how they are stored. However, records or memoranda of communications that occur during public meetings or hearings conducted by the Legislative Budget Board are not exempt from disclosure.
60	Keep	-	Section 552.147: Social Security Numbers	Social security numbers of living persons are exempt from disclosure requirements but are not considered confidential, except for school district employees' social security numbers, which are confidential.
61	Keep	-	Section 552.148: Confidentiality of Certain Personal Information Maintained by Municipality Pertaining to a Minor	This section addresses the confidentiality of information related to minors in municipal recreational programs.
62	Keep	-	Section 552.149: Confidentiality of Records of Comptroller or Appraisal District Received from Private Entity	This section outlines the confidentiality of certain real property information: (a) Information related to real property sales, including prices, descriptions, and characteristics, received from a private entity by the comptroller or a chief appraiser is exempt from disclosure requirements. (b) Property owners or their agents can request from the chief appraiser.
63	Keep	-	Section 552.150: Confidentiality of Information That Could Compromise Safety of Officer or Employee of Hospital District	This section concerns the confidentiality of certain information related to hospital district employees and officers. Information held by a hospital district is exempt from disclosure if: 1. The information could reasonably be expected to compromise the safety of the individual, such as their likeness, work schedule, car description, or work/parking location. 2. The employee or officer applies in writing to the hospital district's public information officer, providing a description of the information or specific circumstances demonstrating why its disclosure could compromise their safety.
64	Keep	-	Section 552.151: Confidentiality of Information Regarding Select Agents	This section addresses the confidentiality of information related to select biological agents or toxins. The following information about select agents, as defined by federal law, is exempt from disclosure: 1. The specific location of a select agent within an approved facility. 2. Personal identifying information of individuals in the chain of custody of select agents, including those in materials transfer agreements. 3. The identity of individuals authorized to possess, use, or access select agents.
65	Keep	-	Section 552.152: Confidentiality of Information Concerning Public Employee or Officer Personal Safety	This section states that information related to a governmental body's employee or officer is exempt from disclosure if releasing it would subject the individual to a substantial threat of physical harm.

66	Cut	Unreasonable	Section 552.153: Proprietary Records and Trade Secrets Involved in Certain Partnerships	This section addresses the confidentiality of information related to proposals for qualifying projects under Chapter 2267. Information held by a responsible governmental entity related to a proposal for a qualifying project is exempt from disclosure if the information held by a responsible governmental entity related to a proposal for a qualifying project is exempt from disclosure if it consists of memoranda, staff evaluations, or other records prepared exclusively for evaluating and negotiating proposals, and disclosure would adversely affect the financial interest or bargaining position of the entity.
67	Cut	Exploitative	Section 552.154: Name of Applicant for Executive Director, Chief Investment Officer, or Chief Audit Executive of Teacher Retirement System of Texas	This section provides that the names of applicants for the positions of executive director, chief investment officer, or chief audit executive of the Teacher Retirement System are exempt from public disclosure requirements. However, the board of trustees must publicly announce the names of three finalists for these positions at least 21 days before the meeting where the final selection will be made.
68	Keep	-	Section 552.155: Confidentiality of Certain Property Tax Appraisal Photographs	This section pertains to the confidentiality and disclosure of photographs taken for property tax appraisal purposes.
69	Cut	Unreasonable	Section 552.156: Confidentiality of Continuity of Operations Plan	This section exempts from disclosure: 1. Continuity of operations plans developed under Section 412.054 of the Labor Code; and 2. All records created during the development or review of such continuity of operations plans.
70	Keep	-	Section 552.158: Confidentiality of Personal Information Regarding Applicant for Appointment by Governor	This section outlines exceptions to public disclosure requirements for information obtained by the governor or senate regarding applicants for appointments: 1. The applicant's home address. 2. The applicant's home telephone number. 3. The applicant's social security number.
71	Cut	Unreasonable	Section 552.159: Confidentiality of Certain Work Schedules	A work schedule or a time sheet of a firefighter or volunteer firefighter or emergency medical services personnel as defined by Section 773.003, Health and Safety Code, is confidential and excepted from the requirements of Section 552.021.
72	Amend	Unreasonable	Section 552.160: Confidentiality of Personal Information of Applicant for Disaster Recovery Funds	This section pertains to the confidentiality of information related to individuals or entities applying for state or federal disaster recovery funds. The following information maintained by a governmental body is confidential: 1. Personal information of individuals or households applying for disaster recovery funds, including names, social security numbers, house numbers, street names, and telephone numbers. 2. Information about business entities or owners applying for disaster recovery funds, such as names, tax identification numbers, addresses, and telephone numbers. 3. Any other information that could identify or tend to identify individuals or households applying for disaster recovery funds.
73	Amend	Unreasonable	Section 552.161: Certain Personal Information Obtained by Flood Control District	The following information obtained by a flood control district located in a county with a population of 3.3 million or more in connection with operations related to a declared disaster or flooding is excepted from the requirements of this section: a person's name, a home address, a business address, a home telephone number, a mobile telephone number, an electronic mail address, social media account information, and a social security number.
74	Cut	Unreasonable	Section 552.162: Confidentiality of Certain Information Provided by Out-of-State Health Care Provider	This section makes confidential information obtained by a governmental body that was provided by an out-of-state health care provider in connection with a quality management, peer review, or best practices program that the out-of-state health care provider pays for.
75	Keep	-	Section 552.163: Confidentiality of Certain Attorney General Settlement Negotiations	This section addresses the confidentiality of attorney general settlement communications.

APPENDIX C. ATTORNEY-CLIENT REFORM MODEL LEGISLATION

By: _____

_____.B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to certain exceptions under the public information law.

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

SECTION 1. Section 552.107, Government Code, is amended to read as follows:

Sec. 552.106. EXCEPTION: CERTAIN LEGISLATIVE DOCUMENTS. (a) A draft or working paper involved in the preparation of proposed legislation is excepted from the requirements of Section [552.021](#).

(b) An internal bill analysis or working paper prepared by the governor's office for the purpose of evaluating proposed legislation is excepted from the requirements of Section [552.021](#).

(c) This section does not apply to governmental bodies defined by section 552.003(1)(A)(ii-xvi).

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 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) it pertains to information involving active litigation against a governmental body defined by section 552.003(1)(A); or

(3) ~~[(2)]~~ a court by order has prohibited disclosure of the information.

(b) This exception does not apply to mere communication with an attorney or attorney's representative or to reports, audits, or other materials created absent active litigation.

(c) In rendering a decision under Subchapter G concerning whether information sought for disclosure is within the scope of this exception, the attorney general must restrict the scope of the attorney-client privilege by construing this exception narrowly and in favor of the public's interest in maximum government transparency.

SECTION 2. Sections 552.111, 552.123, 552.126, 552.131, 552.133, and 552.154, Government Code, are repealed.

SECTION 3. This Act takes effect September 1, 2025.

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