

- SUBJECT:** Allowing school district trustees to obtain documents, records
- COMMITTEE:** Public Education — committee substitute recommended
- VOTE:** 10 ayes — Aycock, J. Davis, Deshotel, Dutton, Farney, Huberty, K. King, Ratliff, J. Rodriguez, Villarreal
- 1 nay — Allen
- WITNESSES:** For — Pauline Law; Terri Romere; (*Registered, but did not testify:* Ashley Chadwick, Freedom of Information Foundation of Texas; Peggy Venable, Americans for Prosperity)
- Against — (*Registered, but did not testify:* Diane Cox; Ken McCraw, Texas Association of Community Schools)
- On — (*Registered, but did not testify:* David Anderson, Texas Education Agency; Steve Swanson)
- BACKGROUND:** Education Code, sec. 11.512 directs boards of trustees and superintendents to work together in leading their districts.
- DIGEST:** CSHB 628 would add language to Education Code, sec.11.512, requiring a district to provide information, documents, and records to a trustee without requiring the trustee to submit a public information request. This requirement would apply only when trustees were acting in their “official capacity,” which would be defined as all duties of office and would include administrative decisions or actions.
- A district would be required to provide the information without regard to whether the requested material was related to an agenda item for an upcoming meeting. A district could withhold or redact information that was exempted from disclosure or was confidential under Texas Public Information laws or the federal Family Educational rights and Privacy Act of 1974.
- The bill would take effect September 1, 2013.

**SUPPORTERS
SAY:**

CSHB 628 would allow more transparency within school districts by allowing school board members to access district information, documents, and records without having to submit a public information request.

At least one school district has denied trustees' requests for information and required them to submit a written public information request. Trustees need timely access to the documents of the body they govern and should not have to submit a public information request and wait up to 90 days for the documents.

If we expect to hold our elected school board trustees to a high standard of accountability, we must allow them the tools to fully educate themselves on issues affecting their districts. Sometime trustees are given a summary of data and need to look at the entire data to avoid making a bad decision.

It is entirely appropriate for trustees to investigate how their districts are operating, and they should have immediate access to the records they need to conduct such an investigation.

The bill would protect employee and student information deemed private under state and federal laws.

HB 628 would essentially codify an attorney general opinion, No. JM-119, from December 30, 1983, which said a community college trustee acting in his official capacity is not a member of the "public" for purposes of the Open Records Act and that "on the contrary, he is a member of the board which at least constructively maintains all records in the district's possession and is charged with the duty of implementing the Act."

**OPPONENTS
SAY:**

CSHB 628 could allow individual trustees to ask for excessive information that has nothing to do any upcoming decisions facing the board. A district could be forced to divert money from educating children to copying records and producing reports that are not essential to a trustee's official duties.

At least one district has a policy of allowing the full board to determine how to respond to an individual member's request for information that is not related to an upcoming issue on which the board will be voting. That is an appropriate policy to ensure that a trustee with an axe to grind doesn't tie up district resources with information demands.