

- SUBJECT:** Excepting municipal audit working papers from required disclosure
- COMMITTEE:** State Affairs — favorable, without amendment
- VOTE:** 5 ayes — Marchant, B. Cook, Elkins, Gattis, Lewis
- 1 nay — Madden
- 3 absent — J. Davis, Goodman, Villarreal
- WITNESSES:** For — Steve Shepherd, City Council for the City of Garland; (*Registered, but did not testify:*) Charles Hinton, City Council for the City of Garland; Bob McFarland, Cities of Arlington, Grand Prairie, and Euless; Susan Rocha, City of San Antonio
- Against — Ken Whalen, Texas Daily Newspaper Association and the Texas Press Association
- BACKGROUND:** Government Code, sec. 552.021 requires governmental entities to make public information available during normal business hours. Sec. 552.116 excepts audit working papers of the state auditor, auditor of a state agency, or auditor of an institution of higher education from public information requirements.
- DIGEST:** HB 2611 would exempt audit working papers of municipal auditors from public information requirements.
- The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.
- SUPPORTERS SAY:** Under HB 2611, audit reports of a municipal auditor would continue to be public information, though audit working papers would not. This would ensure that open government and the public's right to know were not compromised. The bill simply would expand the type of audit working papers covered by a principle already established by the Legislature. It would bring

consistency and parity to municipal auditors with their state government auditor counterparts.

Working papers contain sensitive information. Under current law, vendors and contractors who have their trade secrets disclosed by city auditors can be put at a competitive disadvantage to other businesses. Investigations of wrongdoing can be threatened with premature disclosure. Disclosing working papers can lead to misinterpretation of data and inaccurate conclusions. When a city gets an open records request for working papers, it can create an urgency to finish an audit prematurely, thus limiting thorough review. Disclosure also can cause cities to reveal the identity of a whistle blower and divulge audit strategies that compromise the effectiveness of future audits. All of these are negative, unintended consequences of public information laws. This bill would protect the integrity of city audits just as the law currently protects state government audits.

**OPPONENTS
SAY:**

This bill would shield too much information from public view. Citizens have a right to know what governmental officials and employees discover in an audit so that they have the opportunity not only to read the audit's findings, but to assess the audit materials and draw their own conclusions. Vendors and contractors who work with governmental entities know that they can be audited and accept this possibility when they accept public money. Any who wished to avoid possible disclosure of proprietary information would not seek public business. The breadth of this bill unduly would restrict citizens' access to information, hamper their ability to monitor governmental bodies, and decrease government's accountability to the people.

**OTHER
OPPONENTS
SAY:**

The principle of protecting audit working papers is the same, no matter which level of government is concerned, and school districts, municipal utility districts, transit authorities, counties, and other political subdivisions should be included in this bill, as well. These entities deal with just as much sensitive information in audits as do cities and the state, and the Legislature should be consistent in the application of public information principles.

NOTES:

HB 2611 is similar to CSHB 2455 by Chisum, which would except working papers of the Sunset Advisory Commission from disclosure under public information laws. It was passed by the House on May 2, and is scheduled for

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a public hearing in the Senate Government Organization Committee on May
14.