

- SUBJECT:** Private contractors subject to the Public Information Act
- COMMITTEE:** Transparency in State Agency Operations, Select — favorable, without amendment
- VOTE:** 5 ayes — Alvarado, Flynn, N. Gonzalez, Johnson, Larson  
0 nays  
3 absent — Martinez Fischer, Perry, Price
- SENATE VOTE:** On final passage, April 25 — 24 - 4 (Campbell, Nichols, Schwertner, Uresti)
- WITNESSES:** For — (*Registered, but did not testify:* Donnis Baggett, Texas Press Association; Ashley Chadwick, Freedom of Information Foundation of Texas; Michael Schneider, Texas Association of Broadcasters; Matt Simpson, ACLU of Texas)  
  
Against — None
- BACKGROUND:** The Public Information Act (Government Code, chapter 552) ensures public access to records and other material maintained by governmental bodies, including local governments. The act provides exceptions for certain types of records, such as trade secrets.
- DIGEST:** SB 1368 states that a contract between a state governmental entity and a nongovernmental vendor involving the exchange or creation of public information must be drafted in consideration of Chapter 552 and contain a provision that requires the vendor to make the information not otherwise excepted from disclosure available in a specific format that is agreed upon in the contract and accessible by the public.  
  
This section may not be waived by contract or otherwise.  
  
The bill would take effect on September 1, 2013, and would apply only to contacts where the state governmental entity first advertised or solicited bids on or after the bill's effective date.

**SUPPORTERS  
SAY:**

As the state finds ways to carry out its functions more efficiently and at a reduced cost, more of the government's duties are being outsourced to the private sector. During the 82nd Legislature, concerns were brought to the attention of the Senate Committee on Open Government that attempts to obtain records from third-party private entities under contract with the state were sometimes not produced. Claims had been made that private entities were not subject to open records.

With the state relying on the private sector to perform many of its government functions, it is vital for the state to clarify that these records from contractors are subject to the state's Public Information Act. The bill would not apply to information excepted from disclosure under the Public Information Act, so private vendors would not have to disclose proprietary information.

**OPPONENTS  
SAY:**

By adding the requirement for private vendors to disclose records, private companies would have to hire employees to keep track of public information related to their state contracts. As a result, vendors would see their costs increase and would they be less likely to go after government contracts, potentially raising costs to the state.