

SUBJECT: Requiring agencies to provide a policy on collection, sale of information

COMMITTEE: Government Transparency and Operation — committee substitute recommended

VOTE: 6 ayes — Elkins, Walle, Galindo, Gutierrez, Leach, Scott Turner

0 nays

1 absent — Gonzales

WITNESSES: For — None

Against — (*Registered, but did not testify*: Stephanie Morgan, Backgroundchecks.com; Dean McWilliams, McWilliams Governmental Affairs on behalf of Consumer Data Industry Association; Sarah Matz, TechAmerica)

On — David Foy, REI/LexisNexis

DIGEST: CSHB 3443 would direct each state agency that sold or offered to sell certain information collected by the agency to adopt a written policy by December 31, 2015, and to make it available on request. Information subject to the bill would include information that alone or in conjunction with other information identified an individual. It also would include public information under the Public Information Act.

An agency subject to this directive — which would include departments, boards, councils, and other entities in all three branches of state government, including institutions of higher education — would be required to post the policy on its website, along with the following statement: “Personal information collected by (name of agency) is for agency use and may also be sold to interested persons.”

CSHB 3443 would take effect September 1, 2015.

**SUPPORTERS  
SAY:**

CSHB 3443 would help to inform the public about how state agencies were re-using their information. Members of the public might be unaware that some of the data they provide to agencies can then be provided to external organizations for a fee, and this bill would require agencies to make the public aware of this fact. For example information such as driver's license data might be provided to insurance companies and traffic schools, among others. CSHB 3443 would provide a layer of transparency by requiring agencies to adopt a written policy about the sale of information and make it available to the public, including on their websites.

**OPPONENTS  
SAY:**

CSHB 3443 would create a barrier to transparency, rather than improve it, by adding new requirements for agencies in fulfilling open-records requests. It is a mischaracterization to say that agencies sell public information when they are complying with open records requests. Public information is collected for public use, not agency use, and private organizations that use bulk public information often serve the public interest by making information available for background checks or sex offender registries.