

1 By: _____ .B. No. _____

2 Substitute the following for _____.B. No. _____.

3 By: _____ C.S. _____.B. No. _____

4 _____

5 A BILL TO BE ENTITLED

6 AN ACT <EOH> relating to the availability of financial
7 information of nonprofit corporations for public inspection.

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

9 SECTION 1. Section 23.353, Business Organizations Code, is
10 amended by adding Subsections (a-1), (c), (d), (e), (f), and (g)
11 to read as follows:

12 (a-1) For purposes of this section, "records, books, and
13 annual reports" of a corporation's financial activity:

14 (1) include:

15 (A) financial records required to be maintained and
16 annual financial reports prepared or approved under Section
17 22.352;

18 (B) documents the Internal Revenue Service requires
19 a Section 501(c) (3) nonprofit corporation to make available to the
20 public;

21 (C) documents containing salary or other
22 information related to the compensation of each employee who
23 receives more than \$75,000 annually from the corporation;

24 (D) other annual reports produced by the
25 corporation;

26 (E) financial statements, including audited
27 financial statements; and

28 (F) management representation letters prepared in
29 connection with an audit of the corporation; and

30 (2) do not include:

- 31 (A) contracts and agreements, including operating
32 and settlement agreements;
- 33 (B) employee personnel files;
- 34 (C) donor names;
- 35 (D) sponsor information; or
- 36 (E) sensitive personal information, including
37 addresses, bank account numbers, and social security numbers.

38 (c) If a corporation anticipates that the fee to be charged

39 under Subsection (b) will exceed \$100, the corporation may require
40 the person requesting the copy to pay a deposit of all or a portion
41 of the anticipated fee for preparing the copy of the record or
42 report. The corporation may treat all requests for copies received
43 during seven consecutive calendar days from a single person,
44 mailing address, or e-mail address as a single request for purposes
45 of calculating the anticipated fee under this subsection. On the
46 date a corporation provides a copy of or makes available for
47 inspection and copying a record or report for which the corporation
48 accepted a deposit under this subsection, the corporation shall
49 refund to the requestor the difference between the accepted deposit
50 and the actual costs incurred by the corporation in providing or
51 making available the copy or copies.

52 (d) A requestor who fails to pay a deposit required under

53 Subsection (c) not later than the 15th business day after the date
54 the requestor receives notice of the deposit from the corporation
55 is considered to have withdrawn the request for the copy or copies
56 under this section. A person whose request is withdrawn under this
57 subsection is not precluded from submitting a new request to the
58 corporation for the same records or reports.

59 (e) A corporation may establish a reasonable monthly limit
60 of not less than 15 hours on the total amount of hours per month
61 that corporation personnel may spend in responding to requests for
62 copies received by a requestor who submits two or more requests
63 during a one-month period.

64 (f) Each time a corporation that establishes a monthly time
65 limit under Subsection (e) complies with a request for a copy or
66 copies under this section, the corporation shall provide to the
67 requestor a written statement of the monthly limit, the amount of
68 time corporation personnel spent to comply with the request, and
69 the cumulative amount of time spent by corporation personnel
70 complying with all requests from that requestor during the month
71 in which the request is made. For purposes of this subsection, the
72 corporation may not include the amount of time spent by personnel
73 in preparing a written statement under this subsection. A
74 corporation that provides a written statement as required by this
75 subsection is not required to respond to additional requests for
76 copies from a requestor who has exceeded the requestor's monthly
77 time limit until the following month.

78 (g) If a corporation determines that all or part of a
79 person's request for copies is duplicative of a request for which
80 the corporation has previously provided copies to that person, the
81 corporation shall certify to the requestor that copies of all or
82 part of the requested record or report, as applicable, were

1 previously provided to the requestor, and that the corporation is 2
not required to provide the duplicative copies to the requestor.

3 SECTION 2. This Act takes effect September 1, 2019.