

By: Middleton

S.B. No. 852

A BILL TO BE ENTITLED

AN ACT

relating to the public information law.

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

SECTION 1. Section 552.221, Government Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) If the governmental body determines it has no information responsive to a request for information, the officer for public information shall notify the requestor in writing not later than the 10th business day after the date the request is received.

(g) If a governmental body determines the requested information is subject to a previous determination that permits or requires the governmental body to withhold the requested information, the officer for public information shall, not later than the 10th business day after the date the request is received:

(1) notify the requestor in writing that the information is being withheld; and

(2) identify in the notice the specific previous determination the governmental body is relying on to withhold the requested information.

SECTION 2. Section 552.261, Government Code, is amended by adding Subsection (f) to read as follows:

(f) A governmental body may not impose a charge under this subchapter for providing a copy of public information if:

1 (1) the information is a report required to be filed
2 with the governmental body under Subchapter C or D, Chapter 254,
3 Election Code, unless all of those reports filed with the
4 governmental body during the preceding three years are available to
5 the public on the governmental body's Internet website;

6 (2) the officer for public information is required to
7 make a certification under Section 552.221(d) that the officer
8 cannot produce the public information for inspection or duplication
9 within 10 business days after the date the information is
10 requested;

11 (3) the governmental body asked for clarification of
12 the request under Section 552.222 later than the 10th business day
13 after the date the information was requested;

14 (4) the governmental body asked for a decision under
15 Section 552.301 with respect to the requested information and did
16 not provide to the requestor the information required by Section
17 552.301(d) or (e-1); or

18 (5) the attorney general issued a written opinion
19 under Section 552.306(b) determining that the requested
20 information is subject to mandatory disclosure under this chapter.

21 SECTION 3. Section 552.306(c), Government Code, is amended
22 to read as follows:

23 (c) A governmental body shall as soon as practicable but
24 within a reasonable period of time after the date the attorney
25 general issues an opinion under Subsection (b) regarding
26 information requested under this chapter:

27 (1) ~~[provide the requestor of the information an~~

1 ~~itemized estimate of charges for production of the information if~~
2 ~~the estimate is required by Section 552.2615;~~

3 [~~2~~] if the requested information is voluminous:

4 (A) take the following actions if the
5 governmental body determines that it is able to disclose the
6 information in a single batch:

7 (i) provide a written certified notice to
8 the requestor and the attorney general that it is impractical or
9 impossible for the governmental body to produce the information
10 within a reasonable period of time;

11 (ii) include in the notice the date and hour
12 that the governmental body will disclose the information to the
13 requestor, which may not be later than the 15th business day after
14 the date the governmental body provides the notice; and

15 (iii) produce the information at the date
16 and time included in the notice; or

17 (B) take the following actions if the
18 governmental body determines that it is unable to disclose the
19 information in a single batch:

20 (i) provide a written certified notice to
21 the requestor and the attorney general that it is impractical or
22 impossible for the governmental body to produce the information
23 within a reasonable period of time and in a single batch;

24 (ii) include in the notice the date and hour
25 that the governmental body will disclose the first batch of
26 information to the requestor, which may not be later than the 15th
27 business day after the date the governmental body provides the

1 notice;

2 (iii) provide a written certified notice to
3 the requestor and the attorney general when each subsequent batch
4 of information is disclosed to the requestor of the date and hour
5 that the governmental body will disclose the next batch of
6 information to the requestor, which may not be later than the 15th
7 business day after the date the governmental body provides the
8 notice; and

9 (iv) produce the requested information at
10 each date and time included in a notice;

11 (2) [~~(3)~~] produce the information if it is required to
12 be produced;

13 (3) [~~(4)~~] notify the requestor in writing that the
14 governmental body is withholding the information as authorized by
15 the opinion; or

16 (4) [~~(5)~~] notify the requestor in writing that the
17 governmental body has filed suit against the attorney general under
18 Section 552.324 regarding the information.

19 SECTION 4. Section 552.323, Government Code, is amended to
20 read as follows:

21 Sec. 552.323. ASSESSMENT OF COSTS OF LITIGATION AND
22 REASONABLE ATTORNEY FEES. (a) Except as provided by Subsections
23 (b) and (c), in [In] an action brought under Section 552.321, [or]
24 552.3215, 552.324, or 552.325, the court shall assess costs of
25 litigation and reasonable attorney fees incurred by a plaintiff or
26 intervening requestor:

27 (1) who substantially prevails; or

1 (2) to whom a governmental body voluntarily releases
2 the requested information, unless before suit is filed:

3 (A) the body releases the information; or

4 (B) the body certifies a date and hour within a
5 reasonable time when the information will be available for
6 inspection or duplication.

7 (b) The [~~7, except that the~~] court may not assess [~~those~~]
8 costs or [~~and~~] fees against a governmental body under Subsection
9 (a) if the court finds that the governmental body acted in
10 reasonable reliance on:

11 (1) a judgment or an order of a court applicable to the
12 governmental body;

13 (2) the published opinion of an appellate court; or

14 (3) a written decision of the attorney general,
15 including a decision issued under Subchapter G or an opinion issued
16 under Section [402.042](#).

17 (c) Notwithstanding Subsection (a), in an action brought
18 under Section [552.325](#) by a person or entity other than a
19 governmental body or officer for public information, the court
20 shall assess costs of litigation and reasonable attorney fees
21 incurred by an intervening requestor if the intervening requestor
22 substantially prevails.

23 ~~[(b) In an action brought under Section [552.324](#), the court~~
24 ~~may not assess costs of litigation or reasonable attorney's fees~~
25 ~~incurred by a plaintiff or defendant who substantially prevails~~
26 ~~unless the court finds the action or the defense of the action was~~
27 ~~groundless in fact or law. In exercising its discretion under this~~

1 ~~subsection, the court shall consider whether the conduct of the~~
2 ~~governmental body had a reasonable basis in law and whether the~~
3 ~~litigation was brought in good faith.]~~

4 SECTION 5. The heading to Subchapter H, Chapter 552,
5 Government Code, is amended to read as follows:

6 SUBCHAPTER H. CIVIL ENFORCEMENT; COMPLAINT

7 SECTION 6. Subchapter H, Chapter 552, Government Code, is
8 amended by adding Section 552.328 to read as follows:

9 Sec. 552.328. FAILURE TO RESPOND TO REQUESTOR. (a) If a
10 governmental body fails to respond to a requestor as required by
11 Section 552.221, the requestor may send a written complaint to the
12 attorney general.

13 (b) The complaint must include:

14 (1) the original request for information; and

15 (2) any correspondence received from the governmental
16 body in response to the request.

17 (c) If the attorney general determines the governmental
18 body improperly failed to comply with Section 552.221 in connection
19 with a request for which a complaint is made under this section:

20 (1) the attorney general shall notify the governmental
21 body in writing and require the governmental body to complete open
22 records training not later than six months after receiving the
23 notification;

24 (2) the governmental body may not assess costs to the
25 requestor for producing information in response to the request; and

26 (3) if the governmental body seeks to withhold
27 information in response to the request, the governmental body must:

1 (A) request an attorney general decision under
2 Section 552.301 not later than the fifth business day after the date
3 the governmental body receives the notification under Subdivision
4 (1); and

5 (B) release the requested information unless
6 there is a compelling reason to withhold the information.

7 SECTION 7. The changes in law made by this Act apply only to
8 a request for information that is received by a governmental body or
9 an officer for public information on or after the effective date of
10 this Act. A request for information that was received before the
11 effective date of this Act is governed by the law in effect on the
12 date the request was received, and the former law is continued in
13 effect for that purpose.

14 SECTION 8. This Act takes effect September 1, 2025.