

By: Wentworth

S.B. No. 452

A BILL TO BE ENTITLED

AN ACT

1
2 relating to transferring the duties of the Texas Building and
3 Procurement Commission under the public information law to the
4 attorney general.

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

6 SECTION 1. Subsections (a), (b), and (c), Section 552.009,
7 Government Code, are amended to read as follows:

8 (a) The open records steering committee is composed of:

9 (1) a representative of each of the following,
10 appointed by its governing entity:

11 (A) the attorney general's office;

12 (B) the comptroller's office;

13 (C) the Department of Public Safety;

14 (D) the Department of Information Resources;

15 (E) the Texas State Library and Archives
16 Commission; and

17 (F) the Texas Building and Procurement [~~General~~
18 ~~Services~~] Commission;

19 (2) five public members, appointed by the attorney
20 general [~~General Services Commission~~]; and

21 (3) a representative of each of the following types of
22 local governments, appointed by the attorney general [~~General~~
23 ~~Services Commission~~]:

24 (A) a municipality;

1 (B) a county; and

2 (C) a school district.

3 (b) The representative of the attorney general [~~General~~
4 ~~Services Commission~~] is the presiding officer of the committee.
5 The committee shall meet as prescribed by committee procedures or
6 at the call of the presiding officer.

7 (c) The committee shall advise the attorney general
8 [~~General Services Commission~~] regarding the office of the attorney
9 general's [~~commission's~~] performance of its duties under Sections
10 552.010, 552.205, 552.262, 552.269, and 552.274 [~~this chapter~~].

11 SECTION 2. Section 552.010, Government Code, is amended to
12 read as follows:

13 Sec. 552.010. STATE GOVERNMENTAL BODIES: FISCAL AND OTHER
14 INFORMATION RELATING TO MAKING INFORMATION ACCESSIBLE. (a) Each
15 state governmental body shall report to the attorney general [~~Texas~~
16 ~~Building and Procurement Commission~~] the information the attorney
17 general [~~commission~~] requires regarding:

18 (1) the number and nature of requests for information
19 the state governmental body processes under this chapter in the
20 period covered by the report; and

21 (2) the cost to the state governmental body in that
22 period in terms of capital expenditures and personnel time of:

23 (A) responding to requests for information under
24 this chapter; and

25 (B) making information available to the public by
26 means of the Internet or another electronic format.

27 (b) The attorney general [~~Texas Building and Procurement~~

1 ~~Commission~~] shall design and phase in the reporting requirements in
2 a way that:

3 (1) minimizes the reporting burden on state
4 governmental bodies; and

5 (2) allows the legislature and state governmental
6 bodies to estimate the extent to which it is cost-effective for
7 state government, and if possible the extent to which it is
8 cost-effective or useful for members of the public, to make
9 information available to the public by means of the Internet or
10 another electronic format as a supplement or alternative to
11 publicizing the information only in other ways or making the
12 information available only in response to requests made under this
13 chapter.

14 (c) The attorney general [~~commission~~] shall share the
15 information reported under this section with the open records
16 steering committee.

17 SECTION 3. Section 552.205, Government Code, is amended to
18 read as follows:

19 Sec. 552.205. INFORMING PUBLIC OF BASIC RIGHTS AND
20 RESPONSIBILITIES UNDER THIS CHAPTER. (a) An officer for public
21 information shall prominently display a sign in the form prescribed
22 by the attorney general [~~General Services Commission~~] that contains
23 basic information about the rights of a requestor, the
24 responsibilities of a governmental body, and the procedures for
25 inspecting or obtaining a copy of public information under this
26 chapter. The officer shall display the sign at one or more places
27 in the administrative offices of the governmental body where it is

1 plainly visible to:

2 (1) members of the public who request public
3 information in person under this chapter; and

4 (2) employees of the governmental body whose duties
5 include receiving or responding to requests under this chapter.

6 (b) The attorney general [~~General Services Commission~~] by
7 rule shall prescribe the content of the sign and the size, shape,
8 and other physical characteristics of the sign. In prescribing the
9 content of the sign, the attorney general [~~commission~~] shall
10 include plainly written basic information about the rights of a
11 requestor, the responsibilities of a governmental body, and the
12 procedures for inspecting or obtaining a copy of public information
13 under this chapter that, in the opinion of the attorney general
14 [~~commission~~], is most useful for requestors to know and for
15 employees of governmental bodies who receive or respond to requests
16 for public information to know.

17 SECTION 4. Subsection (b), Section 552.231, Government
18 Code, is amended to read as follows:

19 (b) The written statement must include:

20 (1) a statement that the information is not available
21 in the requested form;

22 (2) a description of the form in which the information
23 is available;

24 (3) a description of any contract or services that
25 would be required to provide the information in the requested form;

26 (4) a statement of the estimated cost of providing the
27 information in the requested form, as determined in accordance with

1 the rules established by the attorney general [~~General Services~~
2 ~~Commission~~] under Section 552.262; and

3 (5) a statement of the anticipated time required to
4 provide the information in the requested form.

5 SECTION 5. Subsection (b), Section 552.2615, Government
6 Code, is amended to read as follows:

7 (b) A request described by Subsection (a) is considered to
8 have been withdrawn by the requestor if the requestor does not
9 respond in writing to the itemized statement by informing the
10 governmental body within 10 business days after the date the
11 statement is sent to the requestor that:

12 (1) the requestor will accept the estimated charges;

13 (2) the requestor is modifying the request in response
14 to the itemized statement; or

15 (3) the requestor has sent to the attorney general
16 [~~Texas Building and Procurement Commission~~] a complaint alleging
17 that the requestor has been overcharged for being provided with a
18 copy of the public information.

19 SECTION 6. Section 552.262, Government Code, is amended to
20 read as follows:

21 Sec. 552.262. RULES OF THE ATTORNEY GENERAL [~~GENERAL~~
22 ~~SERVICES COMMISSION~~]. (a) The attorney general [~~General Services~~
23 ~~Commission~~] shall adopt rules for use by each governmental body in
24 determining charges for providing copies of public information
25 under this subchapter and in determining the charge, deposit, or
26 bond required for making public information that exists in a paper
27 record available for inspection as authorized by Sections

1 552.271(c) and (d). The rules adopted by the attorney general
2 [~~General Services Commission~~] shall be used by each governmental
3 body in determining charges for providing copies of public
4 information and in determining the charge, deposit, or bond
5 required for making public information that exists in a paper
6 record available for inspection, except to the extent that other
7 law provides for charges for specific kinds of public information.
8 The charges for providing copies of public information may not be
9 excessive and may not exceed the actual cost of producing the
10 information or for making public information that exists in a paper
11 record available for inspection. A governmental body, other than
12 an agency of state government, may determine its own charges for
13 providing copies of public information and its own charge, deposit,
14 or bond for making public information that exists in a paper record
15 available for inspection but may not charge an amount that is
16 greater than 25 percent more than the amount established by the
17 attorney general [~~General Services Commission~~] unless the
18 governmental body requests an exemption under Subsection (c).

19 (b) The rules of the attorney general [~~General Services~~
20 ~~Commission~~] shall prescribe the methods for computing the charges
21 for providing copies of public information in paper, electronic,
22 and other kinds of media and the charge, deposit, or bond required
23 for making public information that exists in a paper record
24 available for inspection. The rules shall establish costs for
25 various components of charges for providing copies of public
26 information that shall be used by each governmental body in
27 providing copies of public information or making public information

1 that exists in a paper record available for inspection.

2 (c) A governmental body may request that it be exempt from
3 part or all of the rules adopted by the attorney general [~~General~~
4 ~~Services Commission~~] for determining charges for providing copies
5 of public information or the charge, deposit, or bond required for
6 making public information that exists in a paper record available
7 for inspection. The request must be made in writing to the attorney
8 general [~~General Services Commission~~] and must state the reason for
9 the exemption. If the attorney general [~~General Services~~
10 ~~Commission~~] determines that good cause exists for exempting a
11 governmental body from a part or all of the rules, the attorney
12 general [~~commission~~] shall give written notice of the determination
13 to the governmental body within 90 days of the request. On receipt
14 of the determination, the governmental body may amend its charges
15 for providing copies of public information or its charge, deposit,
16 or bond required for making public information that exists in a
17 paper record available for inspection according to the
18 determination of the attorney general [~~General Services~~
19 ~~Commission~~].

20 (d) The attorney general [~~General Services Commission~~]
21 shall publish annually in the Texas Register a list of the
22 governmental bodies that have authorization from the attorney
23 general [~~General Services Commission~~] to adopt any modified rules
24 for determining the cost of providing copies of public information
25 or making public information that exists in a paper record
26 available for inspection.

27 (e) The rules of the attorney general [~~General Services~~

1 ~~Commission~~] do not apply to a state governmental body that is not a
2 state agency for purposes of Subtitle D, Title 10.

3 SECTION 7. Section 552.269, Government Code, is amended to
4 read as follows:

5 Sec. 552.269. OVERCHARGE OR OVERPAYMENT FOR COPY OF PUBLIC
6 INFORMATION. (a) A person who believes the person has been
7 overcharged for being provided with a copy of public information
8 may complain to the attorney general [~~Texas Building and~~
9 ~~Procurement Commission~~] in writing of the alleged overcharge,
10 setting forth the reasons why the person believes the charges are
11 excessive. The attorney general [~~Texas Building and Procurement~~
12 ~~Commission~~] shall review the complaint and make a determination in
13 writing as to the appropriate charge for providing the copy of the
14 requested information. The governmental body shall respond to the
15 attorney general [~~Texas Building and Procurement Commission~~] to any
16 written questions asked of the governmental body by the attorney
17 general [~~commission~~] regarding the charges for providing the copy
18 of the public information. The response must be made to the
19 attorney general [~~Texas Building and Procurement Commission~~]
20 within 10 business days after the date the questions are received by
21 the governmental body. If the attorney general [~~Texas Building and~~
22 ~~Procurement Commission~~] determines that a governmental body has
23 overcharged for providing the copy of requested public information,
24 the governmental body shall promptly adjust its charges in
25 accordance with the determination of the attorney general [~~Texas~~
26 ~~Building and Procurement Commission~~].

27 (b) A person who overpays for a copy of public information

1 because a governmental body refuses or fails to follow the rules for
2 charges adopted by the attorney general [~~Texas Building and~~
3 ~~Procurement Commission~~] is entitled to recover three times the
4 amount of the overcharge if the governmental body did not act in
5 good faith in computing the costs.

6 SECTION 8. The section heading to Section 552.274,
7 Government Code, is amended to read as follows:

8 Sec. 552.274. REPORTS BY ATTORNEY GENERAL [~~GENERAL SERVICES~~
9 ~~COMMISSION~~] AND STATE AGENCIES ON COST OF COPIES.

10 SECTION 9. Subsections (a) and (b), Section 552.274,
11 Government Code, are amended to read as follows:

12 (a) The attorney general [~~General Services Commission~~]
13 shall:

14 (1) biennially update a report prepared by the
15 attorney general [~~commission~~] about the charges made by state
16 agencies for providing copies of public information; and

17 (2) provide a copy of the updated report to each state
18 agency not later than March 1 of each even-numbered year.

19 (b) Not later than December 1 of each odd-numbered year,
20 each state agency shall provide the attorney general [~~General~~
21 ~~Services Commission~~] detailed information, for use by the attorney
22 general [~~commission~~] in preparing the report required by Subsection
23 (a), describing the agency's procedures for charging and collecting
24 fees for providing copies of public information.

25 SECTION 10. Subsection (d), Section 405.031, Government
26 Code, is amended to read as follows:

27 (d) The fees established by the attorney general [~~State~~

1 ~~Purchasing and General Services Commission~~] under Chapter 552[7]
2 apply to uncertified copies of records in the secretary of state's
3 office.

4 SECTION 11. Subsection (d), Section 402.081, Labor Code, is
5 amended to read as follows:

6 (d) The commission may charge a reasonable fee for making
7 available for inspection any of its information that contains
8 confidential information that must be redacted before the
9 information is made available. However, when a request for
10 information is for the inspection of 10 or fewer pages, and a copy
11 of the information is not requested, the commission may charge only
12 the cost of making a copy of the page from which confidential
13 information must be redacted. The fee for access to information
14 under Chapter 552, Government Code, shall be in accord with the
15 rules of the attorney general [~~General Services Commission~~] that
16 prescribe the method for computing the charge for copies under that
17 chapter.

18 SECTION 12. (a) On the effective date of this Act:

19 (1) except as provided by Paragraph (F), Subdivision
20 (1), Subsection (a), Section 552.009, Government Code, as amended
21 by this Act, all powers and duties of the Texas Building and
22 Procurement Commission under the public information law, Chapter
23 552, Government Code, are transferred to the attorney general;

24 (2) all appropriations to the Texas Building and
25 Procurement Commission for the purpose of performing those duties,
26 all personnel of the Texas Building and Procurement Commission who
27 are employed to perform those duties, and all records and other

1 property of the Texas Building and Procurement Commission used to
2 perform those duties are transferred to the attorney general;

3 (3) all rules, forms, and signs adopted or prescribed
4 by the Texas Building and Procurement Commission or its predecessor
5 under Chapter 552, Government Code, are continued in effect as if
6 they were rules, forms, or signs adopted or prescribed by the
7 attorney general until they are repealed or otherwise changed by
8 the attorney general; and

9 (4) a reference in law to the Texas Building and
10 Procurement Commission, the General Services Commission, the State
11 Purchasing and General Services Commission, or the State Board of
12 Control in relation to the performance of the transferred duties is
13 considered to be a reference to the attorney general.

14 (b) The validity of an authorization granted, determination
15 made, or other action taken by the Texas Building and Procurement
16 Commission or its predecessor under Chapter 552, Government Code,
17 is not affected by the transfer of powers and duties under this Act.

18 SECTION 13. This Act takes effect September 1, 2005.