

1-1 By: Wentworth S.B. No. 452
1-2 (In the Senate - Filed February 10, 2005; February 22, 2005,
1-3 read first time and referred to Committee on Government
1-4 Organization; May 4, 2005, reported favorably by the following
1-5 vote: Yeas 7, Nays 0; May 4, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to transferring the duties of the Texas Building and
1-9 Procurement Commission under the public information law to the
1-10 attorney general.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subsections (a), (b), and (c), Section 552.009,
1-13 Government Code, are amended to read as follows:

1-14 (a) The open records steering committee is composed of:

1-15 (1) a representative of each of the following,
1-16 appointed by its governing entity:

1-17 (A) the attorney general's office;

1-18 (B) the comptroller's office;

1-19 (C) the Department of Public Safety;

1-20 (D) the Department of Information Resources;

1-21 (E) the Texas State Library and Archives
1-22 Commission; and

1-23 (F) the Texas Building and Procurement [~~General~~
1-24 ~~Services~~] Commission;

1-25 (2) five public members, appointed by the attorney
1-26 general [~~General Services Commission~~]; and

1-27 (3) a representative of each of the following types of
1-28 local governments, appointed by the attorney general [~~General~~
1-29 ~~Services Commission~~]:

1-30 (A) a municipality;

1-31 (B) a county; and

1-32 (C) a school district.

1-33 (b) The representative of the attorney general [~~General~~
1-34 ~~Services Commission~~] is the presiding officer of the committee.
1-35 The committee shall meet as prescribed by committee procedures or
1-36 at the call of the presiding officer.

1-37 (c) The committee shall advise the attorney general
1-38 [~~General Services Commission~~] regarding the office of the attorney
1-39 general's [~~commission's~~] performance of its duties under Sections
1-40 552.010, 552.205, 552.262, 552.269, and 552.274 [~~this chapter~~].

1-41 SECTION 2. Section 552.010, Government Code, is amended to
1-42 read as follows:

1-43 Sec. 552.010. STATE GOVERNMENTAL BODIES: FISCAL AND OTHER
1-44 INFORMATION RELATING TO MAKING INFORMATION ACCESSIBLE. (a) Each
1-45 state governmental body shall report to the attorney general [~~Texas~~
1-46 ~~Building and Procurement Commission~~] the information the attorney
1-47 general [~~commission~~] requires regarding:

1-48 (1) the number and nature of requests for information
1-49 the state governmental body processes under this chapter in the
1-50 period covered by the report; and

1-51 (2) the cost to the state governmental body in that
1-52 period in terms of capital expenditures and personnel time of:

1-53 (A) responding to requests for information under
1-54 this chapter; and

1-55 (B) making information available to the public by
1-56 means of the Internet or another electronic format.

1-57 (b) The attorney general [~~Texas Building and Procurement~~
1-58 ~~Commission~~] shall design and phase in the reporting requirements in
1-59 a way that:

1-60 (1) minimizes the reporting burden on state
1-61 governmental bodies; and

1-62 (2) allows the legislature and state governmental
1-63 bodies to estimate the extent to which it is cost-effective for
1-64 state government, and if possible the extent to which it is

2-1 cost-effective or useful for members of the public, to make
 2-2 information available to the public by means of the Internet or
 2-3 another electronic format as a supplement or alternative to
 2-4 publicizing the information only in other ways or making the
 2-5 information available only in response to requests made under this
 2-6 chapter.

2-7 (c) The attorney general [~~commission~~] shall share the
 2-8 information reported under this section with the open records
 2-9 steering committee.

2-10 SECTION 3. Section 552.205, Government Code, is amended to
 2-11 read as follows:

2-12 Sec. 552.205. INFORMING PUBLIC OF BASIC RIGHTS AND
 2-13 RESPONSIBILITIES UNDER THIS CHAPTER. (a) An officer for public
 2-14 information shall prominently display a sign in the form prescribed
 2-15 by the attorney general [~~General Services Commission~~] that contains
 2-16 basic information about the rights of a requestor, the
 2-17 responsibilities of a governmental body, and the procedures for
 2-18 inspecting or obtaining a copy of public information under this
 2-19 chapter. The officer shall display the sign at one or more places
 2-20 in the administrative offices of the governmental body where it is
 2-21 plainly visible to:

2-22 (1) members of the public who request public
 2-23 information in person under this chapter; and

2-24 (2) employees of the governmental body whose duties
 2-25 include receiving or responding to requests under this chapter.

2-26 (b) The attorney general [~~General Services Commission~~] by
 2-27 rule shall prescribe the content of the sign and the size, shape,
 2-28 and other physical characteristics of the sign. In prescribing the
 2-29 content of the sign, the attorney general [~~commission~~] shall
 2-30 include plainly written basic information about the rights of a
 2-31 requestor, the responsibilities of a governmental body, and the
 2-32 procedures for inspecting or obtaining a copy of public information
 2-33 under this chapter that, in the opinion of the attorney general
 2-34 [~~commission~~], is most useful for requestors to know and for
 2-35 employees of governmental bodies who receive or respond to requests
 2-36 for public information to know.

2-37 SECTION 4. Subsection (b), Section 552.231, Government
 2-38 Code, is amended to read as follows:

2-39 (b) The written statement must include:

2-40 (1) a statement that the information is not available
 2-41 in the requested form;

2-42 (2) a description of the form in which the information
 2-43 is available;

2-44 (3) a description of any contract or services that
 2-45 would be required to provide the information in the requested form;

2-46 (4) a statement of the estimated cost of providing the
 2-47 information in the requested form, as determined in accordance with
 2-48 the rules established by the attorney general [~~General Services
 2-49 Commission~~] under Section 552.262; and

2-50 (5) a statement of the anticipated time required to
 2-51 provide the information in the requested form.

2-52 SECTION 5. Subsection (b), Section 552.2615, Government
 2-53 Code, is amended to read as follows:

2-54 (b) A request described by Subsection (a) is considered to
 2-55 have been withdrawn by the requestor if the requestor does not
 2-56 respond in writing to the itemized statement by informing the
 2-57 governmental body within 10 business days after the date the
 2-58 statement is sent to the requestor that:

2-59 (1) the requestor will accept the estimated charges;

2-60 (2) the requestor is modifying the request in response
 2-61 to the itemized statement; or

2-62 (3) the requestor has sent to the attorney general
 2-63 [~~Texas Building and Procurement Commission~~] a complaint alleging
 2-64 that the requestor has been overcharged for being provided with a
 2-65 copy of the public information.

2-66 SECTION 6. Section 552.262, Government Code, is amended to
 2-67 read as follows:

2-68 Sec. 552.262. RULES OF THE ATTORNEY GENERAL [~~GENERAL
 2-69 SERVICES COMMISSION~~]. (a) The attorney general [~~General Services~~

3-1 ~~Commission~~] shall adopt rules for use by each governmental body in
 3-2 determining charges for providing copies of public information
 3-3 under this subchapter and in determining the charge, deposit, or
 3-4 bond required for making public information that exists in a paper
 3-5 record available for inspection as authorized by Sections
 3-6 552.271(c) and (d). The rules adopted by the attorney general
 3-7 [~~General Services Commission~~] shall be used by each governmental
 3-8 body in determining charges for providing copies of public
 3-9 information and in determining the charge, deposit, or bond
 3-10 required for making public information that exists in a paper
 3-11 record available for inspection, except to the extent that other
 3-12 law provides for charges for specific kinds of public information.
 3-13 The charges for providing copies of public information may not be
 3-14 excessive and may not exceed the actual cost of producing the
 3-15 information or for making public information that exists in a paper
 3-16 record available for inspection. A governmental body, other than
 3-17 an agency of state government, may determine its own charges for
 3-18 providing copies of public information and its own charge, deposit,
 3-19 or bond for making public information that exists in a paper record
 3-20 available for inspection but may not charge an amount that is
 3-21 greater than 25 percent more than the amount established by the
 3-22 attorney general [~~General Services Commission~~] unless the
 3-23 governmental body requests an exemption under Subsection (c).

3-24 (b) The rules of the attorney general [~~General Services~~
 3-25 ~~Commission~~] shall prescribe the methods for computing the charges
 3-26 for providing copies of public information in paper, electronic,
 3-27 and other kinds of media and the charge, deposit, or bond required
 3-28 for making public information that exists in a paper record
 3-29 available for inspection. The rules shall establish costs for
 3-30 various components of charges for providing copies of public
 3-31 information that shall be used by each governmental body in
 3-32 providing copies of public information or making public information
 3-33 that exists in a paper record available for inspection.

3-34 (c) A governmental body may request that it be exempt from
 3-35 part or all of the rules adopted by the attorney general [~~General~~
 3-36 ~~Services Commission~~] for determining charges for providing copies
 3-37 of public information or the charge, deposit, or bond required for
 3-38 making public information that exists in a paper record available
 3-39 for inspection. The request must be made in writing to the attorney
 3-40 general [~~General Services Commission~~] and must state the reason for
 3-41 the exemption. If the attorney general [~~General Services~~
 3-42 ~~Commission~~] determines that good cause exists for exempting a
 3-43 governmental body from a part or all of the rules, the attorney
 3-44 general [~~commission~~] shall give written notice of the determination
 3-45 to the governmental body within 90 days of the request. On receipt
 3-46 of the determination, the governmental body may amend its charges
 3-47 for providing copies of public information or its charge, deposit,
 3-48 or bond required for making public information that exists in a
 3-49 paper record available for inspection according to the
 3-50 determination of the attorney general [~~General Services~~
 3-51 ~~Commission~~].

3-52 (d) The attorney general [~~General Services Commission~~]
 3-53 shall publish annually in the Texas Register a list of the
 3-54 governmental bodies that have authorization from the attorney
 3-55 general [~~General Services Commission~~] to adopt any modified rules
 3-56 for determining the cost of providing copies of public information
 3-57 or making public information that exists in a paper record
 3-58 available for inspection.

3-59 (e) The rules of the attorney general [~~General Services~~
 3-60 ~~Commission~~] do not apply to a state governmental body that is not a
 3-61 state agency for purposes of Subtitle D, Title 10.

3-62 SECTION 7. Section 552.269, Government Code, is amended to
 3-63 read as follows:

3-64 Sec. 552.269. OVERCHARGE OR OVERPAYMENT FOR COPY OF PUBLIC
 3-65 INFORMATION. (a) A person who believes the person has been
 3-66 overcharged for being provided with a copy of public information
 3-67 may complain to the attorney general [~~Texas Building and~~
 3-68 ~~Procurement Commission~~] in writing of the alleged overcharge,
 3-69 setting forth the reasons why the person believes the charges are

4-1 excessive. The attorney general [~~Texas Building and Procurement~~
 4-2 ~~Commission~~] shall review the complaint and make a determination in
 4-3 writing as to the appropriate charge for providing the copy of the
 4-4 requested information. The governmental body shall respond to the
 4-5 attorney general [~~Texas Building and Procurement Commission~~] to any
 4-6 written questions asked of the governmental body by the attorney
 4-7 general [~~commission~~] regarding the charges for providing the copy
 4-8 of the public information. The response must be made to the
 4-9 attorney general [~~Texas Building and Procurement Commission~~]
 4-10 within 10 business days after the date the questions are received by
 4-11 the governmental body. If the attorney general [~~Texas Building and~~
 4-12 ~~Procurement Commission~~] determines that a governmental body has
 4-13 overcharged for providing the copy of requested public information,
 4-14 the governmental body shall promptly adjust its charges in
 4-15 accordance with the determination of the attorney general [~~Texas~~
 4-16 ~~Building and Procurement Commission~~].

4-17 (b) A person who overpays for a copy of public information
 4-18 because a governmental body refuses or fails to follow the rules for
 4-19 charges adopted by the attorney general [~~Texas Building and~~
 4-20 ~~Procurement Commission~~] is entitled to recover three times the
 4-21 amount of the overcharge if the governmental body did not act in
 4-22 good faith in computing the costs.

4-23 SECTION 8. The section heading to Section 552.274,
 4-24 Government Code, is amended to read as follows:

4-25 Sec. 552.274. REPORTS BY ATTORNEY GENERAL [~~GENERAL SERVICES~~
 4-26 ~~COMMISSION~~] AND STATE AGENCIES ON COST OF COPIES.

4-27 SECTION 9. Subsections (a) and (b), Section 552.274,
 4-28 Government Code, are amended to read as follows:

4-29 (a) The attorney general [~~General Services Commission~~]
 4-30 shall:

4-31 (1) biennially update a report prepared by the
 4-32 attorney general [~~commission~~] about the charges made by state
 4-33 agencies for providing copies of public information; and

4-34 (2) provide a copy of the updated report to each state
 4-35 agency not later than March 1 of each even-numbered year.

4-36 (b) Not later than December 1 of each odd-numbered year,
 4-37 each state agency shall provide the attorney general [~~General~~
 4-38 ~~Services Commission~~] detailed information, for use by the attorney
 4-39 general [~~commission~~] in preparing the report required by Subsection
 4-40 (a), describing the agency's procedures for charging and collecting
 4-41 fees for providing copies of public information.

4-42 SECTION 10. Subsection (d), Section 405.031, Government
 4-43 Code, is amended to read as follows:

4-44 (d) The fees established by the attorney general [~~State~~
 4-45 ~~Purchasing and General Services Commission~~] under Chapter 552[7]
 4-46 apply to uncertified copies of records in the secretary of state's
 4-47 office.

4-48 SECTION 11. Subsection (d), Section 402.081, Labor Code, is
 4-49 amended to read as follows:

4-50 (d) The commission may charge a reasonable fee for making
 4-51 available for inspection any of its information that contains
 4-52 confidential information that must be redacted before the
 4-53 information is made available. However, when a request for
 4-54 information is for the inspection of 10 or fewer pages, and a copy
 4-55 of the information is not requested, the commission may charge only
 4-56 the cost of making a copy of the page from which confidential
 4-57 information must be redacted. The fee for access to information
 4-58 under Chapter 552, Government Code, shall be in accord with the
 4-59 rules of the attorney general [~~General Services Commission~~] that
 4-60 prescribe the method for computing the charge for copies under that
 4-61 chapter.

4-62 SECTION 12. (a) On the effective date of this Act:

4-63 (1) except as provided by Paragraph (F), Subdivision
 4-64 (1), Subsection (a), Section 552.009, Government Code, as amended
 4-65 by this Act, all powers and duties of the Texas Building and
 4-66 Procurement Commission under the public information law, Chapter
 4-67 552, Government Code, are transferred to the attorney general;

4-68 (2) all appropriations to the Texas Building and
 4-69 Procurement Commission for the purpose of performing those duties,

5-1 all personnel of the Texas Building and Procurement Commission who
5-2 are employed to perform those duties, and all records and other
5-3 property of the Texas Building and Procurement Commission used to
5-4 perform those duties are transferred to the attorney general;

5-5 (3) all rules, forms, and signs adopted or prescribed
5-6 by the Texas Building and Procurement Commission or its predecessor
5-7 under Chapter 552, Government Code, are continued in effect as if
5-8 they were rules, forms, or signs adopted or prescribed by the
5-9 attorney general until they are repealed or otherwise changed by
5-10 the attorney general; and

5-11 (4) a reference in law to the Texas Building and
5-12 Procurement Commission, the General Services Commission, the State
5-13 Purchasing and General Services Commission, or the State Board of
5-14 Control in relation to the performance of the transferred duties is
5-15 considered to be a reference to the attorney general.

5-16 (b) The validity of an authorization granted, determination
5-17 made, or other action taken by the Texas Building and Procurement
5-18 Commission or its predecessor under Chapter 552, Government Code,
5-19 is not affected by the transfer of powers and duties under this Act.

5-20 SECTION 13. This Act takes effect September 1, 2005.

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