

By: Wentworth

S.B. No. 727

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. Sections 552.009(a), (b), and (c), Government Code, are amended to read as follows:

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

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

(A) the attorney general's office;

(B) the comptroller's office;

(C) the Department of Public Safety;

(D) the Department of Information Resources;

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

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

(2) five public members, appointed by the Texas Building and Procurement [~~General Services~~] Commission; and

(3) a representative of each of the following types of local governments, appointed by the Texas Building and Procurement [~~General Services~~] Commission:

(A) a municipality;

(B) a county; and

(C) a school district.

1 (b) The representative of the Texas Building and  
2 Procurement [~~General Services~~] Commission is the presiding officer  
3 of the committee. The committee shall meet as prescribed by  
4 committee procedures or at the call of the presiding officer.

5 (c) The committee shall advise the Texas Building and  
6 Procurement [~~General Services~~] Commission regarding the  
7 commission's performance of its duties under this chapter.

8 SECTION 2. Section 552.205, Government Code, is amended to  
9 read as follows:

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

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

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

24 (b) The Texas Building and Procurement [~~General Services~~]  
25 Commission by rule shall prescribe the content of the sign and the  
26 size, shape, and other physical characteristics of the sign. In  
27 prescribing the content of the sign, the commission shall include

1 plainly written basic information about the rights of a requestor,  
2 the responsibilities of a governmental body, and the procedures for  
3 inspecting or obtaining a copy of public information under this  
4 chapter that, in the opinion of the commission, is most useful for  
5 requestors to know and for employees of governmental bodies who  
6 receive or respond to requests for public information to know.

7 SECTION 3. Section 552.221(b), Government Code, is amended  
8 to read as follows:

9 (b) An officer for public information complies with  
10 Subsection (a) by offering, at a minimum:

11 (1) to provide [~~providing~~] the public information for  
12 inspection or duplication in the offices of the governmental body;  
13 or

14 (2) to send [~~sending~~] copies of the public information  
15 by first class United States mail if the person requesting the  
16 information requests that copies be provided and pays the postage  
17 and any other applicable charges that the requestor has accrued  
18 under Subchapter F.

19 SECTION 4. Sections 552.225(a) and (b), Government Code,  
20 are amended to read as follows:

21 (a) A requestor must complete the examination of the  
22 information not later than the 10th business day after the date the  
23 custodian of the information makes it available [~~to the person~~]. If  
24 the requestor does not complete the examination of the information  
25 within 10 business days after the date the custodian of the  
26 information makes the information available and does not file a  
27 request for additional time under Subsection (b), the requestor is

1 considered to have withdrawn the request.

2 (b) The officer for public information shall extend the  
3 initial examination period by an additional 10 business days if,  
4 within the initial period, the requestor files with the officer for  
5 public information a written request for additional time. The  
6 officer for public information shall extend an additional  
7 examination period by another 10 business days if, within the  
8 additional period, the requestor files with the officer for public  
9 information a written request for more additional time.

10 SECTION 5. Section 552.231, Government Code, is amended by  
11 amending Subsections (b) and (d) and adding Subsection (d-1) to  
12 read as follows:

13 (b) The written statement must include:

14 (1) a statement that the information is not available  
15 in the requested form;

16 (2) a description of the form in which the information  
17 is available;

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

20 (4) a statement of the estimated cost of providing the  
21 information in the requested form, as determined in accordance with  
22 the rules established by the Texas Building and Procurement  
23 [~~General Services~~] Commission under Section 552.262; and

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

26 (d) On providing the written statement to the requestor as  
27 required by this section, the governmental body does not have any

1 further obligation to provide the information in the requested form  
2 or in the form in which it is available unless within 30 days  
3 [~~until~~] the requestor states in writing to the governmental body  
4 that the requestor:

5 (1) wants the governmental body to provide the  
6 information in the requested form according to the cost and time  
7 parameters set out in the statement or according to other terms to  
8 which the requestor and the governmental body agree; or

9 (2) wants the information in the form in which it is  
10 available.

11 (d-1) If a requestor does not make a timely written  
12 statement under Subsection (d), the requestor is considered to have  
13 withdrawn the request for information.

14 SECTION 6. Section 552.2615(a), Government Code, is amended  
15 to read as follows:

16 (a) If a request for a copy of public information will  
17 result in the imposition of a charge under this subchapter that  
18 exceeds \$40, or a request to inspect a paper record will result in  
19 the imposition of a charge under Section 552.271 that exceeds \$40,  
20 the governmental body shall provide the requestor with a written  
21 itemized statement that details all estimated charges that will be  
22 imposed, including any allowable charges for labor or personnel  
23 costs. If an alternative less costly method of viewing the records  
24 is available, the statement must include a notice that the  
25 requestor may contact the governmental body regarding the  
26 alternative method. The governmental body must inform the  
27 requestor of the responsibilities [~~duties~~] imposed on the requestor

1 by this section and of the rights granted by this entire section and  
2 give the requestor the information needed to respond, including:

3 (1) that the requestor must provide the governmental  
4 body with a mailing, facsimile transmission, or electronic mail  
5 address to receive the itemized statement and that it is the  
6 requestor's choice which type of address to provide;

7 (2) that the request is considered automatically  
8 withdrawn if the requestor does not respond in writing to the  
9 itemized statement and any updated itemized statement in the time  
10 and manner required by this section; and

11 (3) that the requestor may respond to the statement by  
12 delivering the written response to the governmental body by mail,  
13 in person, by facsimile transmission if the governmental body is  
14 capable of receiving documents transmitted in that manner, or by  
15 electronic mail if the governmental body has an electronic mail  
16 address.

17 SECTION 7. Section 552.262, Government Code, is amended to  
18 read as follows:

19 Sec. 552.262. RULES OF THE TEXAS BUILDING AND PROCUREMENT  
20 [~~GENERAL SERVICES~~] COMMISSION. (a) The Texas Building and  
21 Procurement [~~General Services~~] Commission shall adopt rules for use  
22 by each governmental body in determining charges for providing  
23 copies of public information under this subchapter and in  
24 determining the charge, deposit, or bond required for making public  
25 information that exists in a paper record available for inspection  
26 as authorized by Sections 552.271(c) and (d). The rules adopted by  
27 the Texas Building and Procurement [~~General Services~~] Commission

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

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

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

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

26 (e) The rules of the Texas Building and Procurement [~~General~~  
27 ~~Services~~] Commission do not apply to a state governmental body that



1 is not a state agency for purposes of Subtitle D, Title 10.

2 SECTION 8. Section 552.274, Government Code, is amended to  
3 read as follows:

4 Sec. 552.274. REPORTS BY TEXAS BUILDING AND PROCUREMENT  
5 ~~[GENERAL SERVICES]~~ COMMISSION AND STATE AGENCIES ON COST OF COPIES.

6 (a) The Texas Building and Procurement ~~[General Services]~~  
7 Commission shall:

8 (1) biennially update a report prepared by the  
9 commission about the charges made by state agencies for providing  
10 copies of public information; and

11 (2) provide a copy of the updated report on the  
12 commission's open records page on the Internet ~~[to each state~~  
13 ~~agency]~~ not later than March 1 of each even-numbered year.

14 ~~(b) [Not later than December 1 of each odd-numbered year,~~  
15 ~~each state agency shall provide the General Services Commission~~  
16 ~~detailed information, for use by the commission in preparing the~~  
17 ~~report required by Subsection (a), describing the agency's~~  
18 ~~procedures for charging and collecting fees for providing copies of~~  
19 ~~public information.~~

20 ~~[(c)]~~ Before the 30th day after the date on which a regular  
21 session of the legislature convenes, each state agency shall issue  
22 a report that describes that agency's procedures for charging and  
23 collecting fees for providing copies of public information. A  
24 state agency may comply with this subsection by posting the report  
25 on the agency's open records page or another easily accessible page  
26 on the agency's website on the Internet.

27 (c) ~~[(d)]~~ In this section, "state agency" has the meaning

1 assigned by Sections 2151.002(2)(A) and (C).

2 SECTION 9. Section 552.301, Government Code, is amended by  
3 adding Subsection (e-1) to read as follows:

4 (e-1) A governmental body that submits written comments to  
5 the attorney general under Subsection (e)(1)(A) shall send a copy  
6 of those comments to the person who requested the information from  
7 the governmental body. If the written comments disclose or contain  
8 the substance of the information requested, the copy of the  
9 comments provided to the person must be a redacted copy.

10 SECTION 10. Section 552.302, Government Code, is amended to  
11 read as follows:

12 Sec. 552.302. FAILURE TO MAKE TIMELY REQUEST FOR ATTORNEY  
13 GENERAL DECISION; PRESUMPTION THAT INFORMATION IS PUBLIC. If a  
14 governmental body does not request an attorney general decision as  
15 provided by Section 552.301 and provide the requestor with the  
16 information required by Sections [~~Section~~] 552.301(d) and (e-1),  
17 the information requested in writing is presumed to be subject to  
18 required public disclosure and must be released unless there is a  
19 compelling reason to withhold the information.

20 SECTION 11. Section 552.304, Government Code, is amended to  
21 read as follows:

22 Sec. 552.304. SUBMISSION OF PUBLIC COMMENTS. (a) A person  
23 may submit written comments stating reasons why the information at  
24 issue in a request for an attorney general decision should or should  
25 not be released.

26 (b) A person who submits written comments to the attorney  
27 general under Subsection (a) shall send a copy of those comments to

1 both the person who requested the information from the governmental  
2 body and the governmental body. If the written comments submitted  
3 to the attorney general disclose or contain the substance of the  
4 information requested from the governmental body, the copy of the  
5 comments sent to the person who requested the information must be a  
6 redacted copy.

7 (c) In this section, "written comments" includes a letter, a  
8 memorandum, or a brief.

9 SECTION 12. Section 405.031(d), Government Code, is amended  
10 to read as follows:

11 (d) The fees established by the Texas Building and  
12 Procurement [~~State Purchasing and General Services~~] Commission  
13 under Chapter 552[~~7~~] apply to uncertified copies of records in the  
14 secretary of state's office.

15 SECTION 13. Section 402.081(d), Labor Code, is amended to  
16 read as follows:

17 (d) The commission may charge a reasonable fee for making  
18 available for inspection any of its information that contains  
19 confidential information that must be redacted before the  
20 information is made available. However, when a request for  
21 information is for the inspection of 10 or fewer pages, and a copy  
22 of the information is not requested, the commission may charge only  
23 the cost of making a copy of the page from which confidential  
24 information must be redacted. The fee for access to information  
25 under Chapter 552, Government Code, shall be in accord with the  
26 rules of the Texas Building and Procurement [~~General Services~~]  
27 Commission that prescribe the method for computing the charge for

1 copies under that chapter.

2 SECTION 14. The changes in law made by this Act to Chapter  
3 552, Government Code, apply only in relation to a request for public  
4 information made under that chapter on or after the effective date  
5 of this Act. A request for public information made under Chapter  
6 552, Government Code, that is made before the effective date of this  
7 Act is governed by that chapter as it existed immediately before the  
8 effective date of this Act, and the former law is continued in  
9 effect for that purpose.

10 SECTION 15. This Act takes effect immediately if it  
11 receives a vote of two-thirds of all the members elected to each  
12 house, as provided by Section 39, Article III, Texas Constitution.  
13 If this Act does not receive the vote necessary for immediate  
14 effect, this Act takes effect September 1, 2005.