

By: Wentworth

S.B. No. 1812

A BILL TO BE ENTITLED

AN ACT

relating to oral requests for public information.

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

SECTION 1. Subchapter E, Chapter 552, Government Code, is amended by adding Section 552.2215 to read as follows:

Sec. 552.2215. ORAL REQUESTS FOR PUBLIC INFORMATION. (a) A request for public information may be oral or in writing. An oral request for public information may be made in person or by telephone but must be made directly to the officer for public information or an individual specifically authorized by that officer to accept an oral request for public information on behalf of the officer.

(b) The Texas Building and Procurement Commission, in consultation with the attorney general, shall by rule prescribe the contents of a form to be used by an officer for public information in memorializing an oral request for public information. At a minimum, the form must contain:

(1) the full name of the requestor;

(2) a daytime telephone number at which the requestor can be reached;

(3) a specific description of the information requested with sufficient specificity to enable the officer for public information to ascertain what is requested;

(4) a statement as to whether the requestor seeks to inspect, duplicate, or to inspect and duplicate the requested

1 information;

2 (5) the mailing address to which any requested copies
3 of public information are to be sent;

4 (6) the day of the week, date, and time that the oral
5 request was received by the officer or designated individual; and

6 (7) the printed name and signature of the officer for
7 public information or designated individual who received the
8 request.

9 (c) If the information sought is of a type or category that
10 requires the requestor to verify the requestor's identity, before
11 the information may be produced and as soon as practicable, the
12 officer for public information or designated individual shall
13 inform the requestor of that fact.

14 (d) In addition to accepting oral requests in person or by
15 telephone, a governmental body or an officer for public information
16 may establish an automated public information request telephone
17 line that is answered by an automated voicemail or answering
18 machine, prompts a caller to provide the information described by
19 Subsections (b)(1)-(5), and automatically stores the information
20 provided by the caller and the day of the week, date, and time the
21 telephone call was received.

22 (e) On request, the Texas Building and Procurement
23 Commission shall provide sufficient copies of the form prescribed
24 by Subsection (b) to a governmental body or an officer for public
25 information. The commission may impose and collect a reasonable
26 amount for the costs of printing and providing the forms.

27 SECTION 2. Sections 552.301(a), (b), (d), and (e),

1 Government Code, are amended to read as follows:

2 (a) A governmental body that receives a written or oral
3 request for information that it wishes to withhold from public
4 disclosure and that it considers to be within one of the exceptions
5 under Subchapter C must ask for a decision from the attorney general
6 about whether the information is within that exception if there has
7 not been a previous determination about whether the information
8 falls within one of the exceptions.

9 (b) The governmental body must ask for the attorney
10 general's decision and state the exceptions that apply within a
11 reasonable time but not later than the 10th business day after the
12 date of receiving the written or oral request.

13 (d) A governmental body that requests an attorney general
14 decision under Subsection (a) must provide to the requestor within
15 a reasonable time but not later than the 10th business day after the
16 date of receiving the requestor's written or oral request:

17 (1) a written statement that the governmental body
18 wishes to withhold the requested information and has asked for a
19 decision from the attorney general about whether the information is
20 within an exception to public disclosure; and

21 (2) a copy of the governmental body's written
22 communication to the attorney general asking for the decision or,
23 if the governmental body's written communication to the attorney
24 general discloses the requested information, a redacted copy of
25 that written communication.

26 (e) A governmental body that requests an attorney general
27 decision under Subsection (a) must within a reasonable time but not

1 later than the 15th business day after the date of receiving the
2 written or oral request:

3 (1) submit to the attorney general:

4 (A) written comments stating the reasons why the
5 stated exceptions apply that would allow the information to be
6 withheld;

7 (B) if applicable, a copy of the written request
8 for information;

9 (C) as applicable, a signed statement as to the
10 date on which the written request for information was received by
11 the governmental body or evidence sufficient to establish that
12 date, a copy of the form completed under Section 552.2215(b), or a
13 copy of the information stored under Section 552.2215(d); and

14 (D) a copy of the specific information requested,
15 or submit representative samples of the information if a voluminous
16 amount of information was requested; and

17 (2) label that copy of the specific information, or of
18 the representative samples, to indicate which exceptions apply to
19 which parts of the copy.

20 SECTION 3. Section 552.302, Government Code, is amended to
21 read as follows:

22 Sec. 552.302. FAILURE TO MAKE TIMELY REQUEST FOR ATTORNEY
23 GENERAL DECISION; PRESUMPTION THAT INFORMATION IS PUBLIC. If a
24 governmental body does not request an attorney general decision as
25 provided by Section 552.301 and provide the requestor with the
26 information required by Section 552.301(d), the information
27 requested [~~in writing~~] is presumed to be subject to required public

1 disclosure and must be released unless there is a compelling reason
2 to withhold the information.

3 SECTION 4. Section 552.305(d), Government Code, is amended
4 to read as follows:

5 (d) If release of a person's proprietary information may be
6 subject to exception under Section 552.101, 552.110, 552.113, or
7 552.131, the governmental body that requests an attorney general
8 decision under Section 552.301 shall make a good faith attempt to
9 notify that person of the request for the attorney general
10 decision. Notice under this subsection must:

11 (1) be in writing and sent within a reasonable time not
12 later than the 10th business day after the date the governmental
13 body receives the request for the information; and

14 (2) include:

15 (A) as applicable, a copy of the written request
16 for the information, if any, received by the governmental body, a
17 copy of the form completed under Section 552.2215(b), or a copy of
18 the information stored under Section 552.2215(d); and

19 (B) a statement, in the form prescribed by the
20 attorney general, that the person is entitled to submit in writing
21 to the attorney general within a reasonable time not later than the
22 10th business day after the date the person receives the notice:

23 (i) each reason the person has as to why the
24 information should be withheld; and

25 (ii) a letter, memorandum, or brief in
26 support of that reason.

27 SECTION 5. (a) Section 552.2215, Government Code, as added

1 by this Act, and Sections 552.301, 552.302, and 552.305, Government
2 Code, as amended by this Act, apply only to a request for public
3 information that is made on or after January 1, 2006. A request for
4 public information made before January 1, 2006, is governed by the
5 law in effect on the date the request was made, and the former law is
6 continued in effect for that purpose.

7 (b) Not later than December 1, 2005, the Texas Building and
8 Procurement Commission by rule shall adopt the form required by
9 Section 552.2215(b), Government Code, as added by this Act.

10 SECTION 6. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2005.