

## **BILL ANALYSIS**

H.B. 2248  
By: Van Arsdale  
State Affairs  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

After a suit challenging an open records letter ruling is filed by a governmental body or a third party against the Office of the Attorney General (“OAG”), a requestor sometimes withdraws its request for the information in the suit (e.g., they have lost interest; the information still remaining is not of interest to them, and sometimes the requestor moves and cannot be located). In this situation, it is a waste of judicial and party resources to continue litigation. Section 301(f) says a governmental body cannot, however, ask for another ruling if it has received a ruling that requires disclosure and a court has not made a final decision. Thus, there is still a controversy between the OAG and the governmental body or a third party plaintiff, but there is no longer a requestor who wants the information. To avoid the consequences, a governmental body/third party may continue to contest the ruling, but the result is meaningless in one respect because a requestor no longer exists.

It makes more sense for the parties to dismiss the case, let the governmental body seek another ruling if it receives another request for the information, and if it receives the same ruling as before, to challenge it in court at that time. Chances are another request for the same information will not be received and if it is, the governmental body's position regarding disclosure may have changed.

Currently, if a governmental body wants to, the OAG will stipulate, by an agreed order, that it will not treat the ruling as a prior ruling under 552.301(f) in such a situation. But there is no guarantee that a requestor would recognize such an agreement in the face of 552.301(f).

House Bill 2248 would amend Section 552.301 of the Government Code by adding subsection(g). The proposed amendment recognizes the situations described above and allows a lawsuit to be non-suited if a requestor indicates, in writing, that he or she no longer desires the information and the attorney general agrees.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Section 552.301, Government Code, is amended by adding Subsection (g) to read as follows:

(g) A governmental body may ask for another decision from the attorney general concerning the precise information that was at issue in a prior decision made by the attorney general under this subchapter if:

- (1) a suit challenging the prior decision was timely filed against the attorney general in accordance with this chapter concerning the precise information at issue;
- (2) the attorney general determines that the requestor has voluntarily withdrawn the request for the information in writing or has abandoned the request; and
- (3) the parties agree to dismiss the lawsuit.

SECTION 2. Subchapter H, Chapter 552, Government Code, is amended by adding Section 552.327 to read as follows:

Sec. 552.327. DISMISSAL OF SUIT DUE TO REQUESTOR'S WITHDRAWAL OR ABANDONMENT OF REQUEST. A court may dismiss a suit challenging a decision of the attorney general brought in accordance with this chapter if:

- (1) all parties to the suit agree to the dismissal; and
- (2) the attorney general determines and represents to the court that the requestor has voluntarily withdrawn the request for information in writing or has abandoned the request.

SECTION 3. This Act takes effect September 1, 2007.

**EFFECTIVE DATE**

September 1, 2007.