

BILL ANALYSIS

S.B. 889
By: Wentworth
State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The citizens of Texas entrust the government to perform certain functions and carry out certain duties with the understanding that, in exchange, the government will operate in a transparent manner. The Public Information Act provides a means for that transparency but, in some situations, the government's duty to provide information under the Act is misused for harassment or retaliatory purposes at the expense of the taxpayers. Governmental bodies have spent, in some instances, hundreds of thousands of dollars of taxpayer money responding to requests for public information.

S.B. 889 allows governmental bodies to recoup certain costs related to a response for public information under certain conditions. The bill also sets forth the method for calculating the allowable charge for expenses incurred in responding to such requests.

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. Amends Section 552.261, Government Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Provides an exception for this subsection provided by Subsection (a-1) and changes the number of pages from 50 to 100;

(a-1) Authorizes the charge for providing a requestor in any calendar month with at least 100 pages of responsive paper records in compliance with Subsection (a), in connection with a subsequent request by that requestor in that month to the same governmental body for one or more pages of public information in a paper record, to include costs of materials, overhead, the charge for each page of the paper record that is photocopied at the rate of 10 cents a page, and any other cost or expense incurred in locating, compiling, and photocopying the public information to comply with the request or to provide the copies. Provides that this subsection does not apply to police blotters maintained by a criminal justice agency that are compiled chronologically and required by law or long-standing practice to be available to the public.

SECTION 2. Amends Section 552.2615(a), Government Code, to require the governmental body to provide the requestor with a written itemized statement that details certain estimated charges if a request for a copy of public information will result in a charge exceeding \$40 or a request to inspect a paper record will result in a charge exceeding \$40 under Section 552.271 (Inspection Of Public Information In Paper Record If Copy Not Requested) or 552.2715 (Charge For Making Available Public Information In Paper Records In Certain Circumstances).

SECTION 3. Amends Section 552.263, Government Code, as follows:

Sec. 552.263. New heading: BOND FOR PAYMENT OF COSTS OR CASH PREPAYMENT FOR PUBLIC INFORMATION. (a) Authorizes an officer for public information or the officer's agent to require a deposit or bond for payment of anticipated costs for making the public information available for inspection or for the preparation of

a copy of public information, as applicable, if the officer or agent has provided the requestor with the required written itemized statement detailing the estimated charge for providing the copy and if the charge for making the public information available for inspection or providing the copy of the public information specifically requested by the requestor is estimated by the governmental body to exceed a certain amount.

(b)-(f) Makes conforming changes.

SECTION 4. Amends Section 552.264, Government Code, by striking the words "state agency" and replacing them with "governmental body."

SECTION 5. Amends Subchapter F, Chapter 552, Government Code, by adding Section 552.2715, as follows:

Sec. 552.2715. CHARGE FOR MAKING AVAILABLE PUBLIC INFORMATION IN PAPER RECORDS IN CERTAIN CIRCUMSTANCES. Authorizes a governmental body to charge for making responsive public information available if, notwithstanding Section 552.271 (Inspection Of Public Information In Paper Record If Copy Not Requested), in any calendar month a requestor has been provided with or had access for the purpose of inspection to at least 50 pages of responsive paper records in compliance with one or more requests for copies of public information, in connection with a subsequent request in that month from the same requestor to the same governmental body to make available for inspection any public information that exists in a paper records. Requires the charge to be calculated at the rate of 10 cents a page plus any other cost or expense incurred in locating, compiling, and producing the public information to comply with the subsequent request to inspect the public information. Provides that this section does not apply to police blotters maintained by a criminal justice agency that are compiled chronologically and required by law or long-standing practice to be available to the public.

SECTION 6. Effective date: September 1, 2007.

EFFECTIVE DATE

September 1, 2007.