

By: Wentworth

S.B. No. 889

A BILL TO BE ENTITLED

AN ACT

relating to the charges for certain public information maintained by a governmental body.

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

SECTION 1. Section 552.261, Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the public information, including costs of materials, labor, and overhead. Except as provided by Subsection (a-1), if ~~if~~ a request is for 100 ~~50~~ or fewer pages of paper records, the charge for providing the copy of the public information may not include costs of materials, labor, or overhead, but shall be limited to the charge for each page of the paper record that is photocopied, unless the pages to be photocopied are located in:

(1) two or more separate buildings that are not physically connected with each other; or

(2) a remote storage facility.

(a-1) If in any calendar month a requestor has been provided 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, the charge for

providing the copy of the responsive public information may 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 actually incurred in locating, compiling, and photocopying the public information to comply with the request or to provide the copies. 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. Subsection (a), Section 552.2615, Government Code, is amended to read as follows:

(a) If a request for a copy of public information will result in the imposition of a charge under this subchapter that exceeds \$40, or a request to inspect a paper record will result in the imposition of a charge under Section 552.271 or 552.2715 that exceeds \$40, the governmental body shall provide the requestor with a written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If an alternative less costly method of viewing the records is available, the statement must include a notice that the requestor may contact the governmental body regarding the alternative method. The governmental body must inform the requestor of the responsibilities imposed on the requestor by this section and of the rights granted by this entire section and give the requestor the information needed to respond, including:

(1) that the requestor must provide the governmental body with a mailing, facsimile transmission, or electronic mail

1 address to receive the itemized statement and that it is the
2 requestor's choice which type of address to provide;

3 (2) that the request is considered automatically
4 withdrawn if the requestor does not respond in writing to the
5 itemized statement and any updated itemized statement in the time
6 and manner required by this section; and

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

13 SECTION 3. Section 552.263, Government Code, is amended to
14 read as follows:

15 Sec. 552.263. BOND FOR PAYMENT OF COSTS OR CASH PREPAYMENT
16 FOR [~~PREPARATION OF COPY OF~~] PUBLIC INFORMATION. (a) An officer
17 for public information or the officer's agent may require a deposit
18 or bond for payment of anticipated costs for making the public
19 information available for inspection or for the preparation of a
20 copy of public information, as applicable, if the officer for
21 public information or the officer's agent has provided the
22 requestor with the required written itemized statement detailing
23 the estimated charge for providing the copy and if the charge for
24 making the public information available for inspection or providing
25 the copy of the public information specifically requested by the
26 requestor is estimated by the governmental body to exceed:

27 (1) \$100, if the governmental body has more than 15

1 full-time employees; or

2 (2) \$50, if the governmental body has fewer than 16
3 full-time employees.

4 (b) The officer for public information or the officer's
5 agent may not require a deposit or bond be paid under Subsection (a)
6 as a down payment for the inspection or copies of public information
7 that the requestor may request in the future.

8 (c) An officer for public information or the officer's agent
9 may require a deposit or bond for payment of unpaid amounts owing to
10 the governmental body in relation to previous requests that the
11 requestor has made under this chapter before making public
12 information available for inspection or preparing a copy of public
13 information in response to a new request if those unpaid amounts
14 exceed \$100. The officer for public information or the officer's
15 agent may not seek payment of those unpaid amounts through any other
16 means.

17 (d) The governmental body must fully document the existence
18 and amount of those unpaid amounts or the amount of any anticipated
19 costs, as applicable, before requiring a deposit or bond under this
20 section. The documentation is subject to required public
21 disclosure under this chapter.

22 (e) For purposes of Subchapters F and G, a request to
23 inspect or for a copy of public information is considered to have
24 been received by a governmental body on the date the governmental
25 body receives the deposit or bond for payment of anticipated costs
26 or unpaid amounts if the governmental body's officer for public
27 information or the officer's agent requires a deposit or bond in

1 accordance with this section.

2 (f) A requestor who fails to make a deposit or post a bond
3 required under Subsection (a) before the 10th day after the date the
4 deposit or bond is required is considered to have withdrawn the
5 request to inspect or for the copy of the public information that
6 precipitated the requirement of the deposit or bond.

7 SECTION 4. Section 552.264, Government Code, is amended to
8 read as follows:

9 Sec. 552.264. COPY OF PUBLIC INFORMATION REQUESTED BY
10 MEMBER OF LEGISLATURE. One copy of public information that is
11 requested from a governmental body [~~state agency~~] by a member,
12 agency, or committee of the legislature under Section 552.008 shall
13 be provided without charge.

14 SECTION 5. Subchapter F, Chapter 552, Government Code, is
15 amended by adding Section 552.2715 to read as follows:

16 Sec. 552.2715. CHARGE FOR MAKING AVAILABLE PUBLIC
17 INFORMATION IN PAPER RECORDS IN CERTAIN CIRCUMSTANCES.
18 Notwithstanding Section 552.271, if in any calendar month a
19 requestor has been provided with at least 100 pages of responsive
20 paper records in compliance with one or more requests for copies of
21 public information or has had at least 100 pages of responsive paper
22 records made available for inspection in compliance with one or
23 more requests to inspect public information, in connection with a
24 subsequent request in that month from the same requestor to the same
25 governmental body to make available for inspection any public
26 information that exists in a paper record, the governmental body
27 may charge for making the responsive public information available

1 for inspection, except that no charge may be made for making the
2 responsive public information available for inspection if
3 responsive paper records are wholly contained in one document,
4 regardless of the number of pages contained in that document. The
5 charge must be calculated at the rate of 10 cents a page plus any
6 other cost or expense actually incurred in locating, compiling, and
7 producing the public information to comply with the subsequent
8 request to inspect the public information. The amount of this
9 charge relating to the cost of locating, compiling, and producing
10 the public information shall be established by rules prescribed by
11 the attorney general under Sections 552.262(a) and (b). This
12 section does not apply to police blotters maintained by a criminal
13 justice agency that are compiled chronologically and required by
14 law or long-standing practice to be available to the public.

15 SECTION 6. This Act takes effect September 1, 2007.