

1-1 By: Wentworth S.B. No. 889
1-2 (In the Senate - Filed February 26, 2007; March 7, 2007,
1-3 read first time and referred to Committee on State Affairs;
1-4 April 4, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 4, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 889 By: Williams

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the charges for certain public information maintained
1-11 by a governmental body.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 552.261, Government Code, is amended by
1-14 amending Subsection (a) and adding Subsection (a-1) to read as
1-15 follows:

1-16 (a) The charge for providing a copy of public information
1-17 shall be an amount that reasonably includes all costs related to
1-18 reproducing the public information, including costs of materials,
1-19 labor, and overhead. Except as provided by Subsection (a-1), if
1-20 ~~[If]~~ a request is for 50 or fewer pages of paper records, the charge
1-21 for providing the copy of the public information may not include
1-22 costs of materials, labor, or overhead, but shall be limited to the
1-23 charge for each page of the paper record that is photocopied, unless
1-24 the pages to be photocopied are located in:

1-25 (1) two or more separate buildings that are not
1-26 physically connected with each other; or

1-27 (2) a remote storage facility.

1-28 (a-1) If in any calendar month a requestor has been provided
1-29 at least 50 pages of responsive paper records in compliance with
1-30 Subsection (a), in connection with a subsequent request by that
1-31 requestor in that month to the same governmental body for one or
1-32 more pages of public information in a paper record, the charge for
1-33 providing the copy of the responsive public information may include
1-34 costs of materials, overhead, the charge for each page of the paper
1-35 record that is photocopied at the rate of 10 cents a page, and any
1-36 other cost or expense incurred in locating, compiling, and
1-37 photocopying the public information to comply with the request or
1-38 to provide the copies. This subsection does not apply to police
1-39 blotters maintained by a criminal justice agency that are compiled
1-40 chronologically and required by law or long-standing practice to be
1-41 available to the public.

1-42 SECTION 2. Subsection (a), Section 552.2615, Government
1-43 Code, is amended to read as follows:

1-44 (a) If a request for a copy of public information will
1-45 result in the imposition of a charge under this subchapter that
1-46 exceeds \$40, or a request to inspect a paper record will result in
1-47 the imposition of a charge under Section 552.271 or 552.2715 that
1-48 exceeds \$40, the governmental body shall provide the requestor with
1-49 a written itemized statement that details all estimated charges
1-50 that will be imposed, including any allowable charges for labor or
1-51 personnel costs. If an alternative less costly method of viewing
1-52 the records is available, the statement must include a notice that
1-53 the requestor may contact the governmental body regarding the
1-54 alternative method. The governmental body must inform the
1-55 requestor of the responsibilities imposed on the requestor by this
1-56 section and of the rights granted by this entire section and give
1-57 the requestor the information needed to respond, including:

1-58 (1) that the requestor must provide the governmental
1-59 body with a mailing, facsimile transmission, or electronic mail
1-60 address to receive the itemized statement and that it is the
1-61 requestor's choice which type of address to provide;

1-62 (2) that the request is considered automatically
1-63 withdrawn if the requestor does not respond in writing to the

itemized statement and any updated itemized statement in the time and manner required by this section; and

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

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

Sec. 552.263. BOND FOR PAYMENT OF COSTS OR CASH PREPAYMENT FOR ~~[PREPARATION OF COPY OF]~~ PUBLIC INFORMATION. (a) An officer for public information or the officer's agent may 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 for public information or the officer's 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:

(1) \$100, if the governmental body has more than 15 full-time employees; or

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

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

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

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

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

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

SECTION 4. Subchapter F, Chapter 552, Government Code, is amended by adding Section 552.2715 to read as follows:

Sec. 552.2715. CHARGE FOR MAKING AVAILABLE PUBLIC INFORMATION IN PAPER RECORDS IN CERTAIN CIRCUMSTANCES. Notwithstanding Section 552.271, if in any calendar month a requestor has been provided with at least 50 pages of responsive paper records in compliance with one or more requests for copies of public information or has had at least 50 pages of responsive paper records made available for inspection in compliance with one or more requests to inspect 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 record, the governmental body

3-1 may charge for making the responsive public information available
3-2 for inspection. The charge must be calculated at the rate of 10
3-3 cents a page plus any other cost or expense incurred in locating,
3-4 compiling, and producing the public information to comply with the
3-5 subsequent request to inspect the public information. This section
3-6 does not apply to police blotters maintained by a criminal justice
3-7 agency that are compiled chronologically and required by law or
3-8 long-standing practice to be available to the public.

3-9 SECTION 5. This Act takes effect September 1, 2007.

3-10 * * * * *