

By: Ortiz, Jr.

H.B. No. 3522

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the open records steering committee, reports by the
3 attorney general on costs of copies, and certain deadlines, costs,
4 and suits filed under the public information law.

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

6 SECTION 1. The heading to Section 552.009, Government Code,
7 is amended to read as follows:

8 Sec. 552.009. OPEN RECORDS STEERING COMMITTEE: ADVICE TO
9 ATTORNEY GENERAL [~~COMMISSION~~]; ELECTRONIC AVAILABILITY OF PUBLIC
10 INFORMATION.

11 SECTION 2. Section 552.263(a), Government Code, is amended
12 to read as follows:

13 (a) An officer for public information or the officer's agent
14 may require a deposit or bond for payment of anticipated costs for
15 the preparation of a copy of public information if:

16 (1) the officer for public information or the
17 officer's agent has provided the requestor with the [~~required~~]
18 written itemized statement required under Section 552.2615
19 detailing the estimated charge for providing the copy; and

20 (2) [~~if~~] the charge for providing the copy of the
21 public information specifically requested by the requestor is
22 estimated by the governmental body to exceed:

23 (A) [~~(1)~~] \$100, if the governmental body has more
24 than 15 full-time employees; or

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

3 SECTION 3. Section 552.274(a), Government Code, as amended
4 by Chapters 329 (S.B. 727) and 716 (S.B. 452), Acts of the 79th
5 Legislature, Regular Session, 2005, is reenacted to read as
6 follows:

7 (a) The attorney general shall:

8 (1) biennially update a report prepared by the
9 attorney general about the charges made by state agencies for
10 providing copies of public information; and

11 (2) provide a copy of the updated report on the
12 attorney general's open records page on the Internet not later than
13 March 1 of each even-numbered year.

14 SECTION 4. Section 552.301(e-1), Government Code, is
15 amended to read as follows:

16 (e-1) A governmental body that submits written comments to
17 the attorney general under Subsection (e)(1)(A) shall send a copy
18 of those comments to the person who requested the information from
19 the governmental body not later than the 15th business day after the
20 date of receiving the written request. If the written comments
21 disclose or contain the substance of the information requested, the
22 copy of the comments provided to the person must be a redacted copy.

23 SECTION 5. Section 552.323(b), Government Code, is amended
24 to read as follows:

25 (b) In an action brought under Section 552.324
26 [~~552.353(b)(3)~~], the court may assess costs of litigation and
27 reasonable attorney's fees incurred by a plaintiff or defendant who

1 substantially prevails. In exercising its discretion under this
2 subsection, the court shall consider whether the conduct of [~~the~~
3 ~~officer for public information of~~] the governmental body had a
4 reasonable basis in law and whether the litigation was brought in
5 good faith.

6 SECTION 6. Section 552.324, Government Code, is amended to
7 read as follows:

8 Sec. 552.324. SUIT BY GOVERNMENTAL BODY. (a) The only
9 suit a governmental body [~~or officer for public information~~] may
10 file seeking to withhold information from a requestor is a suit
11 that:

12 (1) is filed in a Travis County district court against
13 the attorney general in accordance with Section [~~Sections~~] 552.325;
14 [~~and 552.353~~] and

15 (2) seeks declaratory relief from compliance with
16 [~~that challenges~~] a decision by the attorney general issued under
17 Subchapter G.

18 (b) The governmental body must bring the suit not later than
19 the 30th calendar day after the date the governmental body receives
20 the decision of the attorney general determining that the requested
21 information must be disclosed to the requestor [~~being challenged~~].
22 If the governmental body does not bring suit within that period, the
23 governmental body shall comply with the decision of the attorney
24 general. If a governmental body wishes to preserve an affirmative
25 defense for its officer for public information as provided in
26 Section 552.353(b)(3), suit must be filed within the deadline
27 provided in Section 552.353(b)(3) [~~This subsection does not affect~~

1 ~~the earlier deadline for purposes of Section 552.353(b)(3) for a~~
2 ~~suit brought by an officer for public information].~~

3 SECTION 7. Section 552.325(b), Government Code, is amended
4 to read as follows:

5 (b) The governmental body, officer for public information,
6 or other person or entity that files the suit shall demonstrate to
7 the court that the governmental body, officer for public
8 information, or other person or entity made a timely good faith
9 effort to inform the requestor, by certified mail or by another
10 written method of notice that requires the return of a receipt, of:

11 (1) the existence of the suit, including the subject
12 matter and cause number of the suit and the court in which the suit
13 is filed;

14 (2) the requestor's right to intervene in the suit or
15 to choose to not participate in the suit;

16 (3) the fact that the suit is against the attorney
17 general in Travis County district court; and

18 (4) the address and phone number of the office of the
19 attorney general.

20 SECTION 8. Sections 552.353(b) and (c), Government Code,
21 are amended to read as follows:

22 (b) It is an affirmative defense to prosecution under
23 Subsection (a) that the officer for public information reasonably
24 believed that public access to the requested information was not
25 required and that ~~[the officer]~~:

26 (1) the officer acted in reasonable reliance on a
27 court order or a written interpretation of this chapter contained

1 in an opinion of a court of record or of the attorney general issued
2 under Subchapter G;

3 (2) the officer requested a decision from the attorney
4 general in accordance with Subchapter G, and the decision is
5 pending; or

6 (3) not later than the 10th calendar day after the date
7 of receipt of a decision by the attorney general that the
8 information is public, the governmental body for whom the defendant
9 is the officer for public information filed a petition for a
10 declaratory judgment [~~, a writ of mandamus, or both,~~] against the
11 attorney general in a Travis County district court seeking relief
12 from compliance with the decision of the attorney general, as
13 provided by Section 552.324, and the cause [~~a petition~~] is pending.

14 (c) It is an affirmative defense to prosecution under
15 Subsection (a) that the officer for public information or another
16 [~~a~~] person or entity has, not later than the 10th calendar day after
17 the date of receipt by a governmental body of a decision by the
18 attorney general that the information is public, filed a cause of
19 action seeking relief from compliance with the decision of the
20 attorney general, as provided by Section 552.325, and the cause is
21 pending.

22 SECTION 9. This Act takes effect September 1, 2009.