

By: Lucio III

H.B. No. 3544

A BILL TO BE ENTITLED

1 AN ACT
2 relating to electronic notices by the Texas Commission on
3 Environmental Quality, electronically stored information provided
4 by a governmental body, and confidentiality of e-mail addresses
5 provided to a governmental body.

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

7 SECTION 1. Section 5.128, Water Code, is amended to read as
8 follows:

9 Sec. 5.128. ELECTRONIC REPORTING TO COMMISSION; ELECTRONIC
10 TRANSMISSION OF INFORMATION BY COMMISSION; REDUCTION OF DUPLICATE
11 REPORTING. (a) The commission shall encourage the use of
12 electronic reporting through the Internet, to the extent
13 practicable, for reports required by the commission.
14 Notwithstanding any other law, the commission may:

15 (1) adjust fees as necessary to encourage electronic
16 reporting and the use of the commission's electronic document
17 receiving system. An electronic report must be submitted in a
18 format prescribed by the commission. The commission may consult
19 with the Department of Information Resources on developing a simple
20 format for use in implementing this subsection; and

21 (2) utilize electronic means of transmission of
22 information, including notices, orders, and decisions issued or
23 sent by the commission.

24 (b) The commission shall strive to reduce duplication in

1 reporting requirements throughout the agency.

2 SECTION 2. Sections 11.31(c), (d), (e), and (i), Tax Code,
3 are amended to read as follows:

4 (c) In applying for an exemption under this section, a
5 person seeking the exemption shall present in a permit application
6 or permit exemption request to the executive director of the Texas
7 [~~Natural Resource Conservation~~] Commission on Environmental
8 Quality information detailing:

9 (1) the anticipated environmental benefits from the
10 installation of the facility, device, or method for the control of
11 air, water, or land pollution;

12 (2) the estimated cost of the pollution control
13 facility, device, or method; and

14 (3) the purpose of the installation of such facility,
15 device, or method, and the proportion of the installation that is
16 pollution control property.

17 If the installation includes property that is not used wholly
18 for the control of air, water, or land pollution, the person seeking
19 the exemption shall also present such financial or other data as the
20 executive director requires by rule for the determination of the
21 proportion of the installation that is pollution control property.

22 (d) Following submission of the information required by
23 Subsection (c), the executive director of the Texas [~~Natural~~
24 ~~Resource Conservation~~] Commission on Environmental Quality shall
25 determine if the facility, device, or method is used wholly or
26 partly as a facility, device, or method for the control of air,
27 water, or land pollution. As soon as practicable, the executive

1 director shall send notice by regular mail or by electronic means to
2 the chief appraiser of the appraisal district for the county in
3 which the property is located that the person has applied for a
4 determination under this subsection. The executive director shall
5 issue a letter to the person stating the executive director's
6 determination of whether the facility, device, or method is used
7 wholly or partly to control pollution and, if applicable, the
8 proportion of the property that is pollution control property. The
9 executive director shall send a copy of the letter by regular mail
10 or by electronic means to the chief appraiser of the appraisal
11 district for the county in which the property is located.

12 (e) Not later than the 20th day after the date of receipt of
13 the letter issued by the executive director, the person seeking the
14 exemption or the chief appraiser may appeal the executive
15 director's determination to the Texas ~~[Natural Resource~~
16 ~~Conservation]~~ Commission on Environmental Quality. The commission
17 shall consider the appeal at the next regularly scheduled meeting
18 of the commission for which adequate notice may be given. The
19 person seeking the determination and the chief appraiser may
20 testify at the meeting. The commission may remand the matter to the
21 executive director for a new determination or deny the appeal and
22 affirm the executive director's determination. On issuance of a
23 new determination, the executive director shall issue a letter to
24 the person seeking the determination and provide a copy to the chief
25 appraiser as provided by Subsection (d). A new determination of the
26 executive director may be appealed to the commission in the manner
27 provided by this subsection. A proceeding under this subsection is

1 not a contested case for purposes of Chapter 2001, Government Code.

2 (i) A person seeking an exemption under this section shall
3 provide to the chief appraiser a copy of the letter issued by the
4 executive director of the Texas [~~Natural Resource Conservation~~
5 Commission on Environmental Quality under Subsection (d)
6 determining that the facility, device, or method is used wholly or
7 partly as pollution control property. The chief appraiser shall
8 accept a final determination by the executive director as
9 conclusive evidence that the facility, device, or method is used
10 wholly or partly as pollution control property.

11 SECTION 3. Section 552.137, Government Code, is amended to
12 read as follows:

13 Sec. 552.137. CONFIDENTIALITY OF CERTAIN E-MAIL ADDRESSES.

14 (a) Except as otherwise provided by this section, an e-mail address
15 of a member of the public that is provided for the purpose of
16 communicating electronically with a governmental body is
17 confidential and not subject to disclosure under this chapter.

18 (b) Confidential information described by this section that
19 relates to a member of the public may be disclosed if the member of
20 the public affirmatively consents to its release.

21 (c) Subsection (a) does not apply to an e-mail address:

22 (1) provided to a governmental body by a person who has
23 a contractual relationship with the governmental body or by the
24 contractor's agent;

25 (2) provided to a governmental body by a vendor who
26 seeks to contract with the governmental body or by the vendor's
27 agent;

1 (3) contained in a response to a request for bids or
2 proposals, contained in a response to similar invitations
3 soliciting offers or information relating to a potential contract,
4 or provided to a governmental body in the course of negotiating the
5 terms of a contract or potential contract; ~~[or]~~

6 (4) provided to a governmental body on a letterhead,
7 coversheet, printed document, or other document made available to
8 the public; or

9 (5) provided to a governmental body by a person for the
10 purpose of providing public comment, or receiving notices, orders,
11 or decisions from a governmental body.

12 (d) Subsection (a) does not prevent a governmental body from
13 disclosing an e-mail address for any reason to another governmental
14 body or to a federal agency.

15 SECTION 4. Section 552.228, Government Code, is amended to
16 read as follows:

17 Sec. 552.228. PROVIDING SUITABLE COPY OF PUBLIC INFORMATION
18 WITHIN REASONABLE TIME. (a) It shall be a policy of a governmental
19 body to provide a suitable copy of public information within a
20 reasonable time after the date on which the copy is requested.

21 (b) If public information exists in an electronic or
22 magnetic medium, the requestor may request a copy [~~either on paper~~
23 ~~or~~] in an electronic medium, such as on diskette or on magnetic
24 tape. A governmental body shall provide a copy in the requested
25 medium if:

26 (1) the governmental body has the technological
27 ability to produce a copy of the requested information in the

1 requested medium;

2 (2) the governmental body is not required to purchase
3 any software or hardware to accommodate the request; and

4 (3) provision of a copy of the information in the
5 requested medium will not violate the terms of any copyright
6 agreement between the governmental body and a third party.

7 (c) If a governmental body is unable to comply with a
8 request to produce a copy of information in a requested medium for
9 any of the reasons described by this section, the governmental body
10 shall provide [~~a paper copy of the requested information or~~] a copy
11 in another medium that is acceptable to the requestor. A
12 governmental body is not required to copy information onto a
13 diskette or other material provided by the requestor but may use its
14 own supplies.

15 SECTION 5. The changes in law made to Section 552.228,
16 Government Code, by this Act apply only to requests received by the
17 agency on or after September 1, 2009. Requests received by the
18 agency before the effective date of this Act are governed by the
19 former law, and that law is continued in effect for that purpose.

20 SECTION 6. Except as otherwise provided by the Act, this Act
21 takes effect September 1, 2009.