

AN ACT

relating to the standards, methods, and procedures used by governmental bodies in taking certain actions and managing certain information, including standards, methods, and procedures relating to electronic notices by the Texas Commission on Environmental Quality, electronically stored information provided by a governmental body, confidentiality of e-mail addresses provided to a governmental body, and determinations regarding whether property is pollution control property for ad valorem tax purposes.

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

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

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

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

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

4 (b) The commission shall strive to reduce duplication in
5 reporting requirements throughout the agency.

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

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

13 (1) the anticipated environmental benefits from the
14 installation of the facility, device, or method for the control of
15 air, water, or land pollution;

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

18 (3) the purpose of the installation of such facility,
19 device, or method, and the proportion of the installation that is
20 pollution control property.

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

26 (d) Following submission of the information required by
27 Subsection (c), the executive director of the Texas [~~Natural~~

1 ~~Resource Conservation~~] Commission on Environmental Quality shall
2 determine if the facility, device, or method is used wholly or
3 partly as a facility, device, or method for the control of air,
4 water, or land pollution. As soon as practicable, the executive
5 director shall send notice by regular mail or by electronic means to
6 the chief appraiser of the appraisal district for the county in
7 which the property is located that the person has applied for a
8 determination under this subsection. The executive director shall
9 issue a letter to the person stating the executive director's
10 determination of whether the facility, device, or method is used
11 wholly or partly to control pollution and, if applicable, the
12 proportion of the property that is pollution control property. The
13 executive director shall send a copy of the letter by regular mail
14 or by electronic means to the chief appraiser of the appraisal
15 district for the county in which the property is located.

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

1 the person seeking the determination and provide a copy to the chief
2 appraiser as provided by Subsection (d). A new determination of the
3 executive director may be appealed to the commission in the manner
4 provided by this subsection. A proceeding under this subsection is
5 not a contested case for purposes of Chapter 2001, Government Code.

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

15 SECTION 3. Section 11.31, Tax Code, is amended by adding
16 Subsections (g-1) and (n) to read as follows:

17 (g-1) The standards and methods for making a determination
18 under this section that are established in the rules adopted under
19 Subsection (g) apply uniformly to all applications for
20 determinations under this section, including applications relating
21 to facilities, devices, or methods for the control of air, water, or
22 land pollution included on a list adopted by the Texas Commission on
23 Environmental Quality under Subsection (k).

24 (n) The Texas Commission on Environmental Quality shall
25 establish a permanent advisory committee consisting of
26 representatives of industry, appraisal districts, taxing units,
27 and environmental groups, as well as members who are not

1 representatives of any of those entities but have substantial
2 technical expertise in pollution control technology and
3 environmental engineering, to advise the commission regarding the
4 implementation of this section. Chapter 2110, Government Code,
5 does not apply to the size, composition, or duration of the advisory
6 committee.

7 SECTION 4. As soon as practicable after the effective date
8 of this Act, the Texas Commission on Environmental Quality shall
9 appoint the initial members of the advisory committee under Section
10 11.31(n), Tax Code, as added by this Act.

11 SECTION 5. (a) The change in law made by Sections
12 11.31(g-1) and (n), Tax Code, applies only to a determination that
13 is not final on the effective date of this Act on an application
14 that was filed on or after January 1, 2009.

15 (b) A determination that is not final on the effective date
16 of this Act on an application that was filed before January 1, 2009,
17 is governed by the law in effect before the effective date of this
18 Act, and that law is continued in effect for that purpose.

19 SECTION 6. The change in law made by Sections 11.31(g-1) and
20 (n), Tax Code, applies only to ad valorem taxes imposed for a tax
21 year beginning on or after the effective date of this Act.

22 SECTION 7. Section 552.137, Government Code, is amended to
23 read as follows:

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

25 (a) Except as otherwise provided by this section, an e-mail
26 address of a member of the public that is provided for the purpose
27 of communicating electronically with a governmental body is

1 confidential and not subject to disclosure under this chapter.

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

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

6 (1) provided to a governmental body by a person who has
7 a contractual relationship with the governmental body or by the
8 contractor's agent;

9 (2) provided to a governmental body by a vendor who
10 seeks to contract with the governmental body or by the vendor's
11 agent;

12 (3) contained in a response to a request for bids or
13 proposals, contained in a response to similar invitations
14 soliciting offers or information relating to a potential contract,
15 or provided to a governmental body in the course of negotiating the
16 terms of a contract or potential contract; ~~or~~

17 (4) provided to a governmental body on a letterhead,
18 coversheet, printed document, or other document made available to
19 the public; or

20 (5) provided to a governmental body for the purpose of
21 providing public comment on or receiving notices related to an
22 application for a license as defined by Section 2001.003(2) of this
23 code, or receiving orders or decisions from a governmental body.

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

27 SECTION 8. Section 552.228, Government Code, is amended to

1 read as follows:

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

6 (b) If public information exists in an electronic or
7 magnetic medium, the requestor may request a copy [~~either on paper~~
8 ~~or~~] in an electronic medium, such as on diskette or on magnetic
9 tape. A governmental body shall provide a copy in the requested
10 medium if:

11 (1) the governmental body has the technological
12 ability to produce a copy of the requested information in the
13 requested medium;

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

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

19 (c) If a governmental body is unable to comply with a
20 request to produce a copy of information in a requested medium for
21 any of the reasons described by this section, the governmental body
22 shall provide [~~a paper copy of the requested information or~~] a copy
23 in another medium that is acceptable to the requestor. A
24 governmental body is not required to copy information onto a
25 diskette or other material provided by the requestor but may use its
26 own supplies.

27 SECTION 9. The changes in law made to Section 552.228,

1 Government Code, by this Act apply only to requests received by the
2 agency on or after September 1, 2009. Requests received by the
3 agency before the effective date of this Act are governed by the
4 former law, and that law is continued in effect for that purpose.

5 SECTION 10. Except as otherwise provided by this Act, this
6 Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 3544 was passed by the House on May 5, 2009, by the following vote: Yeas 144, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3544 on May 25, 2009, by the following vote: Yeas 142, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3544 was passed by the Senate, with amendments, on May 22, 2009, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor