

AN ACT

relating to public information and open government.

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

SECTION 1. Subchapter C, Chapter 551, Government Code, is amended by adding Section 551.0415 to read as follows:

Sec. 551.0415. GOVERNING BODY OF MUNICIPALITY: REPORTS ABOUT ITEMS OF COMMUNITY INTEREST REGARDING WHICH NO ACTION WILL BE TAKEN. (a) Notwithstanding Sections 551.041 and 551.042, a quorum of the governing body of a municipality may receive from municipal staff and a member of the governing body may make a report about items of community interest during a meeting of the governing body without having given notice of the subject of the report as required by this subchapter if no action is taken and, except as provided by Section 551.042, possible action is not discussed regarding the information provided in the report.

(b) For purposes of Subsection (a), "items of community interest" includes:

(1) expressions of thanks, congratulations, or condolence;

(2) information regarding holiday schedules;

(3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary

1 recognition for purposes of this subdivision;

2 (4) a reminder about an upcoming event organized or  
3 sponsored by the governing body;

4 (5) information regarding a social, ceremonial, or  
5 community event organized or sponsored by an entity other than the  
6 governing body that was attended or is scheduled to be attended by a  
7 member of the governing body or an official or employee of the  
8 municipality; and

9 (6) announcements involving an imminent threat to the  
10 public health and safety of people in the municipality that has  
11 arisen after the posting of the agenda.

12 SECTION 2. Section 552.008, Government Code, is amended by  
13 adding Subsections (b-1) and (b-2) to read as follows:

14 (b-1) A member, committee, or agency of the legislature  
15 required by a governmental body to sign a confidentiality agreement  
16 under Subsection (b) may seek a decision as provided by Subsection  
17 (b-2) about whether the information covered by the confidentiality  
18 agreement is confidential under law. A confidentiality agreement  
19 signed under Subsection (b) is void to the extent that the agreement  
20 covers information that is finally determined under Subsection  
21 (b-2) to not be confidential under law.

22 (b-2) The member, committee, or agency of the legislature  
23 may seek a decision from the attorney general about the matter. The  
24 attorney general by rule shall establish procedures and deadlines  
25 for receiving information necessary to decide the matter and briefs  
26 from the requestor, the governmental body, and any other interested  
27 person. The attorney general shall promptly render a decision

requested under this subsection, determining whether the  
information covered by the confidentiality agreement is  
confidential under law, not later than the 45th business day after  
the date the attorney general received the request for a decision  
under this subsection. The attorney general shall issue a written  
decision on the matter and provide a copy of the decision to the  
requestor, the governmental body, and any interested person who  
submitted necessary information or a brief to the attorney general  
about the matter. The requestor or the governmental body may appeal  
a decision of the attorney general under this subsection to a Travis  
County district court. A person may appeal a decision of the  
attorney general under this subsection to a Travis County district  
court if the person claims a proprietary interest in the  
information affected by the decision or a privacy interest in the  
information that a confidentiality law or judicial decision is  
designed to protect.

SECTION 3. The heading to Section 552.009, Government Code,  
is amended to read as follows:

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

SECTION 4. Subchapter C, Chapter 552, Government Code, is  
amended by adding Section 552.150 to read as follows:

Sec. 552.150. EXCEPTION: INFORMATION THAT COULD COMPROMISE  
SAFETY OF OFFICER OR EMPLOYEE OF HOSPITAL DISTRICT.

(a) Information in the custody of a hospital district that relates  
to an employee or officer of the hospital district is excepted from

1 the requirements of Section 552.021 if:

2 (1) it is information that, if disclosed under the  
3 specific circumstances pertaining to the individual, could  
4 reasonably be expected to compromise the safety of the individual,  
5 such as information that describes or depicts the likeness of the  
6 individual, information stating the times that the individual  
7 arrives at or departs from work, a description of the individual's  
8 automobile, or the location where the individual works or parks;  
9 and

10 (2) the employee or officer applies in writing to the  
11 hospital district's officer for public information to have the  
12 information withheld from public disclosure under this section and  
13 includes in the application:

14 (A) a description of the information; and

15 (B) the specific circumstances pertaining to the  
16 individual that demonstrate why disclosure of the information could  
17 reasonably be expected to compromise the safety of the individual.

18 (b) On receiving a written request for information  
19 described in an application submitted under Subsection (a)(2), the  
20 officer for public information shall:

21 (1) request a decision from the attorney general in  
22 accordance with Section 552.301 regarding withholding the  
23 information; and

24 (2) include a copy of the application submitted under  
25 Subsection (a)(2) with the request for the decision.

26 (c) This section expires September 1, 2013.

27 SECTION 5. Subchapter C, Chapter 552, Government Code, is

1 amended by adding Section 552.151 to read as follows:

2       Sec. 552.151. EXCEPTION: INFORMATION REGARDING SELECT  
3 AGENTS. (a) The following information that pertains to a  
4 biological agent or toxin identified or listed as a select agent  
5 under federal law, including under the Public Health Security and  
6 Bioterrorism Preparedness and Response Act of 2002 (Pub. L. No.  
7 107-188) and regulations adopted under that Act, is excepted from  
8 the requirements of Section 552.021:

9               (1) the specific location of a select agent within an  
10 approved facility;

11               (2) personal identifying information of an individual  
12 whose name appears in documentation relating to the chain of  
13 custody of select agents, including a materials transfer agreement;  
14 and

15               (3) the identity of an individual authorized to  
16 possess, use, or access a select agent.

17       (b) This section does not except from disclosure the  
18 identity of the select agents present at a facility.

19       (c) This section does not except from disclosure the  
20 identity of an individual faculty member or employee whose name  
21 appears or will appear on published research.

22       (d) This section does not except from disclosure otherwise  
23 public information relating to contracts of a governmental body.

24       (e) If a resident of another state is present in Texas and is  
25 authorized to possess, use, or access a select agent in conducting  
26 research or other work at a Texas facility, information relating to  
27 the identity of that individual is subject to disclosure under this

1 chapter only to the extent the information would be subject to  
2 disclosure under the laws of the state of which the person is a  
3 resident.

4 SECTION 6. Subsection (a), Section 552.263, Government  
5 Code, is amended to read as follows:

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

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

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

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

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

20 SECTION 7. Subsection (a), Section 552.274, Government  
21 Code, as amended by Chapters 329 (S.B. 727) and 716 (S.B. 452), Acts  
22 of the 79th Legislature, Regular Session, 2005, is reenacted to  
23 read as follows:

24 (a) The attorney general shall:

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

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

4           SECTION 8. Subsection (e-1), Section 552.301, Government  
5 Code, is amended to read as follows:

6           (e-1) A governmental body that submits written comments to  
7 the attorney general under Subsection (e)(1)(A) shall send a copy  
8 of those comments to the person who requested the information from  
9 the governmental body not later than the 15th business day after the  
10 date of receiving the written request. If the written comments

11 disclose or contain the substance of the information requested, the  
12 copy of the comments provided to the person must be a redacted copy.

13           SECTION 9. Subsection (b), Section 552.323, Government  
14 Code, is amended to read as follows:

15           (b) In an action brought under Section 552.324  
16 ~~[552.353(b)(3)]~~, the court may assess costs of litigation and  
17 reasonable attorney's fees incurred by a plaintiff or defendant who  
18 substantially prevails. In exercising its discretion under this  
19 subsection, the court shall consider whether the conduct of ~~[the~~  
20 ~~officer for public information of]~~ the governmental body had a  
21 reasonable basis in law and whether the litigation was brought in  
22 good faith.

23           SECTION 10. Section 552.324, Government Code, is amended to  
24 read as follows:

25           Sec. 552.324. SUIT BY GOVERNMENTAL BODY. (a) The only  
26 suit a governmental body ~~[or officer for public information]~~ may  
27 file seeking to withhold information from a requestor is a suit

1 that:

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

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

8           (b) The governmental body must bring the suit not later than  
9 the 30th calendar day after the date the governmental body receives  
10 the decision of the attorney general determining that the requested  
11 information must be disclosed to the requestor [~~being challenged~~].  
12 If the governmental body does not bring suit within that period, the  
13 governmental body shall comply with the decision of the attorney  
14 general. If a governmental body wishes to preserve an affirmative  
15 defense for its officer for public information as provided in  
16 Section 552.353(b)(3), suit must be filed within the deadline  
17 provided in Section 552.353(b)(3) [~~This subsection does not affect~~  
18 ~~the earlier deadline for purposes of Section 552.353(b)(3) for a~~  
19 ~~suit brought by an officer for public information]~~.

20           SECTION 11. Subsection (b), Section 552.325, Government  
21 Code, is amended to read as follows:

22           (b) The governmental body, officer for public information,  
23 or other person or entity that files the suit shall demonstrate to  
24 the court that the governmental body, officer for public  
25 information, or other person or entity made a timely good faith  
26 effort to inform the requestor, by certified mail or by another  
27 written method of notice that requires the return of a receipt, of:



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

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

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

8           (4) the address and phone number of the office of the  
9 attorney general.

10          SECTION 12. Subsections (b) and (c), Section 552.353,  
11 Government Code, are amended to read as follows:

12          (b) It is an affirmative defense to prosecution under  
13 Subsection (a) that the officer for public information reasonably  
14 believed that public access to the requested information was not  
15 required and that ~~[the officer]~~:

16           (1) the officer acted in reasonable reliance on a  
17 court order or a written interpretation of this chapter contained  
18 in an opinion of a court of record or of the attorney general issued  
19 under Subchapter G;

20           (2) the officer requested a decision from the attorney  
21 general in accordance with Subchapter G, and the decision is  
22 pending; or

23           (3) not later than the 10th calendar day after the date  
24 of receipt of a decision by the attorney general that the  
25 information is public, the officer or the governmental body for  
26 whom the defendant is the officer for public information filed a  
27 petition for a declaratory judgment~~[, a writ of mandamus, or both,]~~

1 against the attorney general in a Travis County district court  
2 seeking relief from compliance with the decision of the attorney  
3 general, as provided by Section 552.324, and the cause [~~a petition~~]  
4 is pending.

5 (c) It is an affirmative defense to prosecution under  
6 Subsection (a) that a person or entity has, not later than the 10th  
7 calendar day after the date of receipt by a governmental body of a  
8 decision by the attorney general that the information is public,  
9 filed a cause of action seeking relief from compliance with the  
10 decision of the attorney general, as provided by Section 552.325,  
11 and the cause is pending.

12 SECTION 13. Section 261.201, Family Code, is amended by  
13 adding Subsections (k) and (l) to read as follows:

14 (k) Notwithstanding Subsection (a), an investigating  
15 agency, other than the department or the Texas Youth Commission, on  
16 request, shall provide to the parent, managing conservator, or  
17 other legal representative of a child who is the subject of reported  
18 abuse or neglect, or to the child if the child is at least 18 years  
19 of age, information concerning the reported abuse or neglect that  
20 would otherwise be confidential under this section. The  
21 investigating agency shall withhold information under this  
22 subsection if the parent, managing conservator, or other legal  
23 representative of the child requesting the information is alleged  
24 to have committed the abuse or neglect.

25 (l) Before a child or a parent, managing conservator, or  
26 other legal representative of a child may inspect or copy a record  
27 or file concerning the child under Subsection (k), the custodian of

1 the record or file must redact:

2           (1) any personally identifiable information about a  
3 victim or witness under 18 years of age unless that victim or  
4 witness is:

5                   (A) the child who is the subject of the report; or  
6                   (B) another child of the parent, managing  
7 conservator, or other legal representative requesting the  
8 information;

9           (2) any information that is excepted from required  
10 disclosure under Chapter 552, Government Code, or other law; and

11           (3) the identity of the person who made the report.

12           SECTION 14. The changes in law made by Section 552.150,  
13 Government Code, as added by this Act, apply in relation to a  
14 request for information made under Chapter 552, Government Code,  
15 before, on, or after the effective date of this Act.

16           SECTION 15. Section 552.151, Government Code, as added by  
17 this Act, applies in relation to:

18                   (1) a request for public information under Chapter  
19 552, Government Code, made before, on, or after the effective date  
20 of this Act; and

21                   (2) information that on the effective date of this Act  
22 has not yet been disclosed that:

23                           (A) was the subject of a request for information  
24 made before the effective date of this Act; and

25                           (B) the attorney general determined before the  
26 effective date of this Act to be subject to disclosure under Chapter  
27 552, Government Code.

1           SECTION 16. (a) Except as provided by Subsection (b) of  
2 this section, this Act takes effect September 1, 2009.

3           (b) Subsections (b-1) and (b-2), Section 552.008,  
4 Government Code, as added by this Act, take effect September 1,  
5 2010.

<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> <div>President of the Senate</div>	<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> <div>Speaker of the House</div>
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I hereby certify that S.B. No. 1182 passed the Senate on April 23, 2009, by the following vote: Yeas 30, Nays 0; May 23, 2009, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 28, 2009, House granted request of the Senate; May 31, 2009, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

I hereby certify that S.B. No. 1182 passed the House, with amendments, on May 20, 2009, by the following vote: Yeas 134, Nays 0, one present not voting; May 28, 2009, House granted request of the Senate for appointment of Conference Committee; May 30, 2009, House adopted Conference Committee Report by the following vote: Yeas 139, Nays 1, two present not voting.

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Chief Clerk of the House

Approved:

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Date

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Governor