

By: Wentworth

S.B. No. 1182

A BILL TO BE ENTITLED

AN ACT

relating to the public information law.

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

SECTION 1. 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 2. Section 552.263(a), Government Code, is amended to read as follows:

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

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

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

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

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

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

(a) The attorney general shall:

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

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

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

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

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

(b) In an action brought under Section 552.324 ~~[552.353(b)(3)]~~, the court may assess costs of litigation and reasonable attorney's fees incurred by a plaintiff or defendant who substantially prevails. In exercising its discretion under this subsection, the court shall consider whether the conduct of ~~the~~

1 ~~officer for public information of]~~ the governmental body had a
2 reasonable basis in law and whether the litigation was brought in
3 good faith.

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

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

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

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

16 (b) The governmental body must bring the suit not later than
17 the 30th calendar day after the date the governmental body receives
18 the decision of the attorney general determining that the requested
19 information must be disclosed to the requestor [being challenged].

20 If the governmental body does not bring suit within that period, the
21 governmental body shall comply with the decision of the attorney
22 general. If a governmental body wishes to preserve an affirmative
23 defense for its officer for public information as provided in
24 Section 552.353(b)(3), suit must be filed within the deadline
25 provided in Section 552.353(b)(3) [This subsection does not affect
26 ~~the earlier deadline for purposes of Section 552.353(b)(3) for a~~
27 ~~suit brought by an officer for public information].~~

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

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

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

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

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

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

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

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

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

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

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

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

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