

## **BILL ANALYSIS**

Senate Research Center

S.B. 602  
By: Rodriguez  
Open Government  
9/7/2011  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Section 552.263 (Bond for Payment of Costs or Cash Prepayment for Preparation of Copy of Public Information), Government Code, allows an officer for public information to require a deposit or bond for payment of anticipated costs for the preparation of a copy of public information. The charge for a governmental body that has more than 15 full-time employees is \$100. If a requestor fails to make a deposit or post a bond before the 10th business day, the request is considered withdrawn. On occasion, there is some negotiation on the scope of the request. Subsequently, when the requestor modifies the request, there is a question regarding the effective date related to the 10-day rule.

In addition, Section 552.301 (Request for Attorney General Decision), Government Code, allows a governmental body to request a decision from the attorney general about whether a request falls within one of the exceptions under Subchapter C. The governmental body must ask for the attorney general's decision and state the exceptions that apply within a reasonable time but not later than the 10th business day after receiving the written request. There are other deadlines for responses to the requestor but there is no guidance on when to start the clock. Without some reference beyond the postmark, it is possible to infer a violation of the response deadlines.

Finally, in Section 552.130 (Exception: Motor Vehicle Records), Government Code, a motor vehicle operator or driver's license or permit, motor vehicle title or registration are exempted from public information requests. Similarly, under Section 552.136 (Confidentiality of Credit Card, Debit Card, Charge Card, and Access Device Numbers), Government Code, credit card, debit card, charge card, or access device numbers are confidential. This information may appear in various forms in government documents. It would be cumbersome to request permission to redact this information from other information that governmental bodies must release to the public.

S.B. 602 amends current law relating to confidential information under the public information law and to procedures and deadlines under the public information law in relation to the redaction of certain confidential information by a governmental body.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the attorney general in SECTION 22 (Section 552.130, Government Code) and SECTION 27 (Section 552.136, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 51.217, Education Code, by adding Subsection (g), as follows:

(g) Provides that the personal information of an individual maintained in an institution's emergency notification system is confidential and is not subject to disclosure under Chapter 552 (Public Information), Government Code. Provides that, in this subsection, "personal information" includes an e-mail address or telephone number maintained in order to notify an individual of an emergency.

SECTION 2. Amends Section 552.022, Government Code, as follows:

Sec. 552.022. CATEGORIES OF PUBLIC INFORMATION; EXAMPLES.  
(a) Provides that, without limiting the amount or kind of information that is public information under this chapter, certain categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law, rather than providing that, without limiting the amount or kind of information that is public information under this chapter, certain categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law.

(b) Prohibits a court in this state from ordering a governmental body or an officer for public information to withhold from public inspection any category of public information described by Subsection (a) or to not produce the category of public information for inspection or duplication, unless the category of information is confidential under this chapter or other law, rather than unless the category of information is expressly made confidential under other law.

SECTION 3. Amends the heading to Section 552.102, Government Code, to read as follows:

Sec. 552.102. EXCEPTION: CONFIDENTIALITY OF CERTAIN PERSONNEL INFORMATION.

SECTION 4. Amends the heading to Section 552.109, Government Code, to read as follows:

Sec. 552.109. EXCEPTION: CONFIDENTIALITY OF CERTAIN PRIVATE COMMUNICATIONS OF AN ELECTED OFFICE HOLDER.

SECTION 5. Amends the heading to Section 552.110, Government Code, to read as follows:

Sec. 552.110. EXCEPTION: CONFIDENTIALITY OF TRADE SECRETS; CONFIDENTIALITY OF CERTAIN COMMERCIAL OR FINANCIAL INFORMATION.

SECTION 6. Amends the heading to Section 552.113, Government Code, to read as follows:

Sec. 552.113. EXCEPTION: CONFIDENTIALITY OF GEOLOGICAL OR GEOPHYSICAL INFORMATION.

SECTION 7. Amends the heading to Section 552.114, Government Code, to read as follows:

Sec. 552.114. EXCEPTION: CONFIDENTIALITY OF STUDENT RECORDS.

SECTION 8. Amends the heading to Section 552.115, Government Code, to read as follows:

Sec. 552.115. EXCEPTION: CONFIDENTIALITY OF BIRTH AND DEATH RECORDS.

SECTION 9. Amends the heading to Section 552.117, Government Code, to read as follows:

Sec. 552.117. EXCEPTION: CONFIDENTIALITY OF CERTAIN ADDRESSES, TELEPHONE NUMBERS, SOCIAL SECURITY NUMBERS, AND PERSONAL FAMILY INFORMATION.

SECTION 10. Amends the heading to Section 552.118, Government Code, to read as follows:

Sec. 552.118. EXCEPTION: CONFIDENTIALITY OF OFFICIAL PRESCRIPTION FORM.

SECTION 11. Amends the heading to Section 552.119, Government Code, to read as follows:

Sec. 552.119. EXCEPTION: CONFIDENTIALITY OF CERTAIN PHOTOGRAPHS OF PEACE OFFICERS.

SECTION 12. Amends the heading to Section 552.120, Government Code, to read as follows:

Sec. 552.120. EXCEPTION: CONFIDENTIALITY OF CERTAIN RARE BOOKS AND ORIGINAL MANUSCRIPTS.

SECTION 13. Amends the heading to Section 552.121, Government Code, to read as follows:

Sec. 552.121. EXCEPTION: CONFIDENTIALITY OF CERTAIN DOCUMENTS HELD FOR HISTORICAL RESEARCH.

SECTION 14. Amends the heading to Section 552.123, Government Code, to read as follows:

Sec. 552.123. EXCEPTION: CONFIDENTIALITY OF NAME OF APPLICANT FOR CHIEF EXECUTIVE OFFICER OF INSTITUTION OF HIGHER EDUCATION.

SECTION 15. Amends the heading to Section 552.1235, Government Code, to read as follows:

Sec. 552.1235. EXCEPTION: CONFIDENTIALITY OF IDENTITY OF PRIVATE DONOR TO INSTITUTION OF HIGHER EDUCATION.

SECTION 16. Amends the heading to Section 552.124, Government Code, to read as follows:

Sec. 552.124. EXCEPTION: CONFIDENTIALITY OF RECORDS OF LIBRARY OR LIBRARY SYSTEM.

SECTION 17. Amends the heading to Section 552.126, Government Code, to read as follows:

Sec. 552.126. EXCEPTION: CONFIDENTIALITY OF NAME OF APPLICANT FOR SUPERINTENDENT OF PUBLIC SCHOOL DISTRICT.

SECTION 18. Amends the heading to Section 552.127, Government Code, to read as follows:

Sec. 552.127. EXCEPTION: CONFIDENTIALITY OF PERSONAL INFORMATION RELATING TO PARTICIPANTS IN NEIGHBORHOOD CRIME WATCH ORGANIZATION.

SECTION 19. Amends the heading to Section 552.128, Government Code, to read as follows:

Sec. 552.128. EXCEPTION: CONFIDENTIALITY OF CERTAIN INFORMATION SUBMITTED BY POTENTIAL VENDOR OR CONTRACTOR.

SECTION 20. Amends the heading to Section 552.129, Government Code, to read as follows:

Sec. 552.129. CONFIDENTIALITY OF CERTAIN MOTOR VEHICLE INSPECTION INFORMATION.

SECTION 21. Amends the heading to Section 552.130, Government Code, to read as follows:

Sec. 552.130. EXCEPTION: CONFIDENTIALITY OF CERTAIN MOTOR VEHICLE RECORDS.

SECTION 22. Amends Section 552.130, Government Code, by adding Subsections (c)-(e), as follows:

(c) Authorizes a governmental body, subject to Chapter 730 (Motor Vehicle Records Disclosure Act), Transportation Code, to redact information described by Subsections (a)(1) (relating to information excepted from the requirements of Section 552.021 if the

information relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state) and (3) (relating to information excepted from the requirements of Section 552.021 if the information relates to a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document) from any information the governmental body discloses under Section 552.021 (Availability of Public Information) without the necessity of requesting a decision from the attorney general under Subchapter G (Attorney General Decisions).

(d) Entitles the requestor, if, under Subsection (c), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, to seek a decision from the attorney general about the matter. Requires the attorney general by rule to establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. Requires the attorney general to promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. Requires the attorney general to 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. Authorizes the requestor or the governmental body to appeal a decision of the attorney general under this subsection to a Travis County district court.

(e) Requires a governmental body that redacts or withholds information under Subsection (c) to provide the following information to the requestor on a form prescribed by the attorney general:

(1) a description of the redacted or withheld information;

(2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

SECTION 23. Amends the heading to Section 552.131, Government Code, to read as follows:

Sec. 552.131. EXCEPTION: CONFIDENTIALITY OF CERTAIN ECONOMIC DEVELOPMENT INFORMATION.

SECTION 24. Amends the heading to Section 552.133, Government Code, to read as follows:

Sec. 552.133. EXCEPTION: CONFIDENTIALITY OF PUBLIC POWER UTILITY COMPETITIVE MATTERS.

SECTION 25. Amends the heading to Section 552.134, Government Code, to read as follows:

Sec. 552.134. EXCEPTION: CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO INMATE OF DEPARTMENT OF CRIMINAL JUSTICE.

SECTION 26. Amends the heading to Section 552.135, Government Code, to read as follows:

Sec. 552.135. EXCEPTION: CONFIDENTIALITY OF CERTAIN INFORMATION HELD BY SCHOOL DISTRICT.

SECTION 27. Amends Section 552.136, Government Code, by adding Subsections (c)-(e), as follows:

(c) Authorizes a governmental body to redact information that must be withheld under Subsection (b) (providing that a credit card, debit card, change card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential) from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(d) Entitles the requestor, if, under Subsection (c), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, to seek a decision from the attorney general about the matter. Requires the attorney general by rule to establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. Requires the attorney general to promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. Requires the attorney general to 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. Authorizes the requestor or the governmental body to appeal a decision of the attorney general under this subsection to a Travis County district court.

(e) Requires a governmental body that redacts or withholds information under Subsection (c) to provide the following information to the requestor on a form prescribed by the attorney general:

- (1) a description of the redacted or withheld information;
- (2) a citation to this section; and
- (3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

SECTION 28. Amends the heading to Section 552.138, Government Code, to read as follows:

Sec. 552.138. EXCEPTION: CONFIDENTIALITY OF FAMILY VIOLENCE SHELTER CENTER AND SEXUAL ASSAULT PROGRAM INFORMATION.

SECTION 29. Amends the heading to Section 552.139, Government Code, to read as follows:

Sec. 552.139. EXCEPTION: CONFIDENTIALITY OF GOVERNMENT INFORMATION RELATED TO SECURITY OR INFRASTRUCTURE ISSUES FOR COMPUTERS.

SECTION 30. Amends the heading to Section 552.140, Government Code, to read as follows:

Sec. 552.140. EXCEPTION: CONFIDENTIALITY OF MILITARY DISCHARGE RECORDS.

SECTION 31. Amends the heading to Section 552.142, Government Code, to read as follows:

Sec. 552.142. EXCEPTION: CONFIDENTIALITY OF RECORDS OF CERTAIN DEFERRED ADJUDICATIONS AND CERTAIN MISDEMEANORS PUNISHABLE BY FINE ONLY.

SECTION 32. Amends the heading to Section 552.145, Government Code, to read as follows:

Sec. 552.145. EXCEPTION: CONFIDENTIALITY OF TEXAS NO-CALL LIST.

SECTION 33. Amends the heading to Section 552.148, Government Code, to read as follows:

Sec. 552.148. EXCEPTION: CONFIDENTIALITY OF CERTAIN PERSONAL INFORMATION MAINTAINED BY MUNICIPALITY PERTAINING TO A MINOR.

SECTION 34. Amends the heading to Section 552.149, Government Code, to read as follows:

Sec. 552.149. EXCEPTION: CONFIDENTIALITY OF RECORDS OF COMPTROLLER OR APPRAISAL DISTRICT RECEIVED FROM PRIVATE ENTITY.

SECTION 35. Amends the heading to Section 552.150, Government Code, to read as follows:

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

SECTION 36. Amends the heading to Section 552.151, Government Code, as added by Chapter 1377 (S.B. 1182), Acts of the 81st Legislature, Regular Session, 2009, to read as follows:

Sec. 552.151. EXCEPTION: CONFIDENTIALITY OF INFORMATION REGARDING SELECT AGENTS.

SECTION 37. Amends the heading to Section 552.151, Government Code, as added by Chapter 283 (S.B. 1068), Acts of the 81st Legislature, Regular Session, 2009, to read as follows:

Sec. 552.151. EXCEPTION: CONFIDENTIALITY OF INFORMATION CONCERNING PUBLIC EMPLOYEE OR OFFICER PERSONAL SAFETY.

SECTION 38. Amends Section 552.263, Government Code, by adding Subsection (e-1), to provide that if a requestor modifies the request in response to the requirement of a deposit or bond authorized by this section, the modified request is considered a separate request for the purposes of this chapter and is considered received on the date the governmental body receives the written modified request.

SECTION 39. Amends Section 552.301, Government Code, by adding Subsection (a-1), to provide that for the purposes of this subchapter, if a governmental body receives a written request by United States mail and cannot adequately establish the actual date on which the governmental body received the request, the written request is considered to have been received by the governmental body on the third business day after the date of the postmark on a properly addressed request.

SECTION 40. Provides that the changes in law made by this Act to Sections 552.022, 552.263, and 552.301, Government Code, apply only to a request for information that is received by a governmental body or an officer for public information on or after the effective date of this Act. Provides that a request for information that was received before the effective date of this Act is governed by the law in effect on the date the request was received, and the former law is continued in effect for that purpose.

SECTION 41. Effective date: September 1, 2011.