

BILL ANALYSIS

S.B. 669
By: Wentworth
State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that statutory provisions relating to requests to inspect or be provided with copies of information under the public information law are in need of modification. S.B. 669 seeks to amend certain statutory provisions relating to requests to inspect or be provided with copies of information under the public information law.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the attorney general in SECTION 6 of this bill.

ANALYSIS

S.B. 669 amends the Government Code to establish that an officer for public information of a governmental body complies with the requirement to promptly produce public information for certain purposes by posting public information on an Internet website that is owned, controlled, or maintained by the governmental body and accessible to members of the general public; informing the person requesting the information, in writing, that requested public information is available on the Internet website; providing the person requesting the information, in writing, the exact Internet location or uniform resource locator (URL) address where the person can access the public information; and if the person informs the governmental body that the person does not have access to the Internet, providing the person the choice of access to a computer terminal at no charge so that the person can access the public information on the Internet website or a copy of the public information in another medium that is acceptable to the requestor.

S.B. 669, in a provision of law requiring that it be a policy of a governmental body to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested, provides that this policy is considered to be fulfilled if the governmental body complies with a provision establishing the conditions under which an officer for public information of a governmental body complies with the requirement to promptly produce public information for certain purposes.

S.B. 669, in a provision establishing, in a request for 50 or fewer pages of paper records, that the charge for providing the copy of the public information may not include certain costs, makes an exception for requests that require large amounts of employee or personnel time that require an estimate of costs to be provided to the requestor.

S.B. 669 establishes that if a requestor of a copy of public information modifies the request in response to the requirement of a deposit or bond authorized by state law for payment of costs or cash prepayment for preparation of a copy of the public information, the modified request is considered a separate request for the purposes of public information law and is considered received on the date the governmental body receives the written modified request.

S.B. 669 authorizes a governmental body to require payment of the actual costs incurred in

responding to a request for public information if, on the date the governmental body receives the request, the requestor has submitted to the governmental body seven or more written requests for information during the preceding 31 calendar days. The bill requires, if a governmental body requires payment of actual costs in connection with such a request for public information, the governmental body to provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request. The bill requires the written estimate to be provided to the requestor on or before the 10th day after the date on which the public information was requested.

S.B. 669 establishes that if a governmental body provides a requestor with the written estimate, the governmental body is not required to produce public information for inspection or duplication or to provide copies of public information in response to the requestor's request unless on or before the 10th day after the date the governmental body provided the written estimate, the requestor submits a statement in writing to the governmental body in which the requestor commits to pay the actual costs incurred in complying with the requestor's request. The bill establishes that if the requestor fails or refuses to submit the written statement of commitment to pay actual costs, the requestor is considered to have withdrawn the requestor's pending request for public information.

S.B. 669 authorizes an officer for public information or the officer's agent to require a deposit or bond for payment of unpaid amounts owing to the governmental body in relation to previous requests in which the requestor agreed to make a payment as provided by the bill's provisions before responding to a new request. The bill prohibits the officer for public information or the officer's agent from seeking payment of those unpaid amounts through any other means. The bill requires the governmental body to fully document the existence and amount of those unpaid amounts or the amount of any anticipated costs, as applicable, before requiring a deposit or bond under provisions of the bill relating to multiple public information requests to a governmental body. The bill establishes that the documentation is subject to required public disclosure under public information law. The bill requires the attorney general by rule to define "actual costs" for the purpose of provisions of the bill relating to multiple public information requests to a governmental body. The bill establishes that those provisions of the bill do not prohibit a governmental body from providing a copy of public information without charge or at a reduced rate or from waiving a charge for providing a copy of public information under statutory provisions relating to waiver or reduction of a charge for providing a copy of public information.

S.B. 669 makes provisions of the bill relating to multiple public information requests to a governmental body inapplicable if the requestor is an individual who, for a substantial portion of the individual's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information for and is seeking the information for any of the entities specified in the bill.

S.B. 669 makes provisions of the bill relating to multiple public information requests to a governmental body inapplicable if the requestor is an elected official of the United States, the State of Texas, a political subdivision of Texas, or a representative of a publicly funded legal services organization exempted from federal income taxation under the federal Internal Revenue Code of 1986.

S.B. 669 defines "manipulation" for purposes of public information law.

EFFECTIVE DATE

September 1, 2011.