

By: Wentworth
(Menendez)

S.B. No. 669

A BILL TO BE ENTITLED

AN ACT

relating to requests to inspect or be provided with copies of information under the public information law.

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

SECTION 1. Subdivision (2), Section 552.003, Government Code, is amended to read as follows:

(2) "Manipulation" means the process of modifying, reordering, or decoding of information with human intervention. The term includes a search of one or more e-mail or text message accounts and the retrieval and transfer of e-mails or text messages that are responsive to a request for public information into a paper or other format that can be provided to or inspected by the requestor.

SECTION 2. Subsection (b), Section 552.221, Government Code, is amended to read as follows:

(b) An officer for public information complies with Subsection (a) by:

(1) providing the public information for inspection or duplication in the offices of the governmental body; ~~or~~

(2) sending copies of the public information by first class United States mail if the person requesting the information requests that copies be provided and pays the postage and any other applicable charges that the requestor has accrued under Subchapter F;

1 (3)(A) informing the person requesting the
2 information, in writing, that the public information is available
3 on an Internet website that is:

4 (i) owned, controlled, or maintained by the
5 governmental body; and

6 (ii) accessible to members of the general
7 public;

8 (B) providing the person, in writing, the exact
9 Internet location or uniform resource locator (URL) address where
10 the person can access the public information; and

11 (C) if the person informs the governmental body
12 that the person does not have access to the Internet, providing the
13 person the choice of:

14 (i) access to a computer terminal at no
15 charge so that the person can access the public information on the
16 Internet website; or

17 (ii) a copy of the public information in
18 another medium that is acceptable to the requestor; or

19 (4)(A) posting the public information on an Internet
20 website that is:

21 (i) owned, controlled, or maintained by the
22 governmental body; and

23 (ii) accessible to members of the general
24 public;

25 (B) informing the person requesting the
26 information, in writing, that the public information is available
27 on the Internet website;

1 (C) providing the person, in writing, the exact
2 Internet location or uniform resource locator (URL) address where
3 the person can access the public information; and

4 (D) if the person informs the governmental body
5 that the person does not have access to the Internet, providing the
6 person the choice of:

7 (i) access to a computer terminal at no
8 charge so that the person can access the public information on the
9 Internet website; or

10 (ii) a copy of the public information in
11 another medium that is acceptable to the requestor.

12 SECTION 3. Subsection (a), Section 552.228, Government
13 Code, is amended to read as follows:

14 (a) It shall be a policy of a governmental body to provide a
15 suitable copy of public information within a reasonable time after
16 the date on which the copy is requested. This policy of a
17 governmental body is considered to be fulfilled if the governmental
18 body complies with Section 552.221(b).

19 SECTION 4. Subsection (a), Section 552.261, Government
20 Code, is amended to read as follows:

21 (a) The charge for providing a copy of public information
22 shall be an amount that reasonably includes all costs related to
23 reproducing the public information, including costs of materials,
24 labor, and overhead. Except as provided by Section 552.275(e), if
25 [~~if~~] a request is for 50 or fewer pages of paper records, the charge
26 for providing the copy of the public information may not include
27 costs of materials, labor, or overhead, but shall be limited to the

1 charge for each page of the paper record that is photocopied, unless
2 the pages to be photocopied are located in:

3 (1) two or more separate buildings that are not
4 physically connected with each other; or

5 (2) a remote storage facility.

6 SECTION 5. Section 552.263, Government Code, is amended by
7 adding Subsection (e-1) to read as follows:

8 (e-1) If a requestor modifies the request in response to the
9 requirement of a deposit or bond authorized by this section, the
10 modified request is considered a separate request for the purposes
11 of this chapter and is considered received on the date the
12 governmental body receives the written modified request.

13 SECTION 6. Subchapter F, Chapter 552, Government Code, is
14 amended by adding Section 552.276 to read as follows:

15 Sec. 552.276. MULTIPLE REQUESTS TO A GOVERNMENTAL BODY.

16 (a) Notwithstanding Sections 552.261, 552.262, 552.271, and
17 552.272, a governmental body may require payment of the actual
18 costs incurred in responding to a request for public information
19 if, on the date the governmental body receives the request, the
20 requestor has submitted to the governmental body seven or more
21 written requests for information during the preceding 31 calendar
22 days.

23 (b) If a governmental body requires payment of actual costs
24 in connection with a request for public information described by
25 Subsection (a), the governmental body shall provide the requestor
26 with a written estimate of the total cost, including materials,
27 personnel time, and overhead expenses, necessary to comply with the

1 request. The written estimate must be provided to the requestor on
2 or before the 10th day after the date on which the public
3 information was requested.

4 (c) If a governmental body provides a requestor with the
5 written statement under Subsection (b), the governmental body is
6 not required to produce public information for inspection or
7 duplication or to provide copies of public information in response
8 to the requestor's request unless on or before the 10th day after
9 the date the governmental body provided the written statement under
10 that subsection, the requestor submits a statement in writing to
11 the governmental body in which the requestor commits to pay the
12 actual costs incurred in complying with the requestor's request.

13 (d) If the requestor fails or refuses to submit the written
14 statement under Subsection (c), the requestor is considered to have
15 withdrawn the requestor's pending request for public information.

16 (e) An officer for public information or the officer's agent
17 may require a deposit or bond for payment of unpaid amounts owing to
18 the governmental body in relation to previous requests in which the
19 requestor agreed to make a payment as provided by Subsection (c)
20 before responding to a new request. The officer for public
21 information or the officer's agent may not seek payment of those
22 unpaid amounts through any other means.

23 (f) The governmental body must fully document the existence
24 and amount of those unpaid amounts or the amount of any anticipated
25 costs, as applicable, before requiring a deposit or bond under this
26 section. The documentation is subject to required public
27 disclosure under this chapter.

1 (g) The attorney general by rule shall define "actual costs"
2 for the purpose of this section.

3 (h) This section does not prohibit a governmental body from
4 providing a copy of public information without charge or at a
5 reduced rate under Section 552.267 or from waiving a charge for
6 providing a copy of public information under that section.

7 (i) This section does not apply if the requestor is an
8 individual who, for a substantial portion of the individual's
9 livelihood or for substantial financial gain, gathers, compiles,
10 prepares, collects, photographs, records, writes, edits, reports,
11 investigates, processes, or publishes news or information for and
12 is seeking the information for:

13 (1) a radio or television broadcast station that holds
14 a broadcast license for an assigned frequency issued by the Federal
15 Communications Commission;

16 (2) a newspaper that is qualified under Section
17 2051.044 to publish legal notices or is a free newspaper of general
18 circulation and that is published at least once a week and available
19 and of interest to the general public in connection with the
20 dissemination of news;

21 (3) a newspaper of general circulation that is
22 published on the Internet by a news medium engaged in the business
23 of disseminating news or information to the general public; or

24 (4) a magazine that is published at least once a week
25 or on the Internet by a news medium engaged in the business of
26 disseminating news or information to the general public.

27 (j) This section does not apply if the requestor is an

1 electd official of the United States, this state, or a political
2 subdivision of this state.

3 (k) This section does not apply if the requestor is a
4 representative of a publicly funded legal services organization
5 that is exempt from federal income taxation under Section 501(a),
6 Internal Revenue Code of 1986, as amended, by being listed as an
7 exempt entity under Section 501(c)(3) of that code.

8 SECTION 7. The changes in law made by this Act apply only to
9 a request for information that is received by a governmental body or
10 an officer for public information on or after the effective date of
11 this Act. A request for information that was received before the
12 effective date of this Act is governed by the law in effect on the
13 date the request was received, and the former law is continued in
14 effect for that purpose.

15 SECTION 8. This Act takes effect September 1, 2011.