

1-1 By: Wentworth S.B. No. 669
1-2 (In the Senate - Filed February 14, 2011;
1-3 February 23, 2011, read first time and referred to Select Committee
1-4 on Open Government; May 2, 2011, reported adversely, with
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1-6 0; May 2, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 669 By: Wentworth

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to requests to inspect or be provided with copies of
1-11 information under the public information law.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subdivision (2), Section 552.003, Government
1-14 Code, is amended to read as follows:

1-15 (2) "Manipulation" means the process of modifying,
1-16 reordering, or decoding of information with human intervention.
1-17 The term includes a search of one or more e-mail or text message
1-18 accounts and the retrieval and transfer of e-mails or text messages
1-19 that are responsive to a request for public information into a paper
1-20 or other format that can be provided to or inspected by the
1-21 requestor.

1-22 SECTION 2. Subsection (b), Section 552.221, Government
1-23 Code, is amended to read as follows:

1-24 (b) An officer for public information complies with
1-25 Subsection (a) by:

1-26 (1) providing the public information for inspection or
1-27 duplication in the offices of the governmental body; [~~or~~]

1-28 (2) sending copies of the public information by first
1-29 class United States mail if the person requesting the information
1-30 requests that copies be provided and pays the postage and any other
1-31 applicable charges that the requestor has accrued under Subchapter
1-32 F;

1-33 (3)(A) informing the person requesting the
1-34 information, in writing, that the public information is available
1-35 on an Internet website that is:

1-36 (i) owned, controlled, or maintained by the
1-37 governmental body; and

1-38 (ii) accessible to members of the general
1-39 public;

1-40 (B) providing the person, in writing, the exact
1-41 Internet location or uniform resource locator (URL) address where
1-42 the person can access the public information; and

1-43 (C) if the person informs the governmental body
1-44 that the person does not have access to the Internet, providing the
1-45 person the choice of:

1-46 (i) access to a computer terminal at no
1-47 charge so that the person can access the public information on the
1-48 Internet website; or

1-49 (ii) a copy of the public information in
1-50 another medium that is acceptable to the requestor; or

1-51 (4)(A) posting the public information on an Internet
1-52 website that is:

1-53 (i) owned, controlled, or maintained by the
1-54 governmental body; and

1-55 (ii) accessible to members of the general
1-56 public;

1-57 (B) informing the person requesting the
1-58 information, in writing, that the public information is available
1-59 on the Internet website;

1-60 (C) providing the person, in writing, the exact
1-61 Internet location or uniform resource locator (URL) address where
1-62 the person can access the public information; and

1-63 (D) if the person informs the governmental body

2-1 that the person does not have access to the Internet, providing the
2-2 person the choice of:

2-3 (i) access to a computer terminal at no
2-4 charge so that the person can access the public information on the
2-5 Internet website; or

2-6 (ii) a copy of the public information in
2-7 another medium that is acceptable to the requestor.

2-8 SECTION 3. Subsection (a), Section 552.228, Government
2-9 Code, is amended to read as follows:

2-10 (a) It shall be a policy of a governmental body to provide a
2-11 suitable copy of public information within a reasonable time after
2-12 the date on which the copy is requested. This policy of a
2-13 governmental body is considered to be fulfilled if the governmental
2-14 body complies with Section 552.221(b).

2-15 SECTION 4. Subsection (a), Section 552.261, Government
2-16 Code, is amended to read as follows:

2-17 (a) The charge for providing a copy of public information
2-18 shall be an amount that reasonably includes all costs related to
2-19 reproducing the public information, including costs of materials,
2-20 labor, and overhead. Except as provided by Section 552.275(e), if
2-21 [If] a request is for 50 or fewer pages of paper records, the charge
2-22 for providing the copy of the public information may not include
2-23 costs of materials, labor, or overhead, but shall be limited to the
2-24 charge for each page of the paper record that is photocopied, unless
2-25 the pages to be photocopied are located in:

2-26 (1) two or more separate buildings that are not
2-27 physically connected with each other; or

2-28 (2) a remote storage facility.

2-29 SECTION 5. Section 552.263, Government Code, is amended by
2-30 adding Subsection (e-1) to read as follows:

2-31 (e-1) If a requestor modifies the request in response to the
2-32 requirement of a deposit or bond authorized by this section, the
2-33 modified request is considered a separate request for the purposes
2-34 of this chapter and is considered received on the date the
2-35 governmental body receives the written modified request.

2-36 SECTION 6. Subchapter F, Chapter 552, Government Code, is
2-37 amended by adding Section 552.276 to read as follows:

2-38 Sec. 552.276. MULTIPLE REQUESTS TO A GOVERNMENTAL BODY.

2-39 (a) Notwithstanding Sections 552.261, 552.262, 552.271, and
2-40 552.272, a governmental body may require payment of the actual
2-41 costs incurred in responding to a request for public information
2-42 if, on the date the governmental body receives the request, the
2-43 requestor has submitted to the governmental body seven or more
2-44 written requests for information during the preceding 31 calendar
2-45 days.

2-46 (b) If a governmental body requires payment of actual costs
2-47 in connection with a request for public information described by
2-48 Subsection (a), the governmental body shall provide the requestor
2-49 with a written estimate of the total cost, including materials,
2-50 personnel time, and overhead expenses, necessary to comply with the
2-51 request. The written estimate must be provided to the requestor on
2-52 or before the 10th day after the date on which the public
2-53 information was requested.

2-54 (c) If a governmental body provides a requestor with the
2-55 written statement under Subsection (b), the governmental body is
2-56 not required to produce public information for inspection or
2-57 duplication or to provide copies of public information in response
2-58 to the requestor's request unless on or before the 10th day after
2-59 the date the governmental body provided the written statement under
2-60 that subsection, the requestor submits a statement in writing to
2-61 the governmental body in which the requestor commits to pay the
2-62 actual costs incurred in complying with the requestor's request.

2-63 (d) If the requestor fails or refuses to submit the written
2-64 statement under Subsection (c), the requestor is considered to have
2-65 withdrawn the requestor's pending request for public information.

2-66 (e) An officer for public information or the officer's agent
2-67 may require a deposit or bond for payment of unpaid amounts owing to
2-68 the governmental body in relation to previous requests in which the
2-69 requestor agreed to make a payment as provided by Subsection (c)

3-1 before responding to a new request. The officer for public
3-2 information or the officer's agent may not seek payment of those
3-3 unpaid amounts through any other means.

3-4 (f) The governmental body must fully document the existence
3-5 and amount of those unpaid amounts or the amount of any anticipated
3-6 costs, as applicable, before requiring a deposit or bond under this
3-7 section. The documentation is subject to required public
3-8 disclosure under this chapter.

3-9 (g) The attorney general by rule shall define "actual costs"
3-10 for the purpose of this section.

3-11 (h) This section does not prohibit a governmental body from
3-12 providing a copy of public information without charge or at a
3-13 reduced rate under Section 552.267 or from waiving a charge for
3-14 providing a copy of public information under that section.

3-15 (i) This section does not apply if the requestor is an
3-16 individual who, for a substantial portion of the individual's
3-17 livelihood or for substantial financial gain, gathers, compiles,
3-18 prepares, collects, photographs, records, writes, edits, reports,
3-19 investigates, processes, or publishes news or information for and
3-20 is seeking the information for:

3-21 (1) a radio or television broadcast station that holds
3-22 a broadcast license for an assigned frequency issued by the Federal
3-23 Communications Commission;

3-24 (2) a newspaper that is qualified under Section
3-25 2051.044 to publish legal notices or is a free newspaper of general
3-26 circulation and that is published at least once a week and available
3-27 and of interest to the general public in connection with the
3-28 dissemination of news;

3-29 (3) a newspaper of general circulation that is
3-30 published on the Internet by a news medium engaged in the business
3-31 of disseminating news or information to the general public; or

3-32 (4) a magazine that is published at least once a week
3-33 or on the Internet by a news medium engaged in the business of
3-34 disseminating news or information to the general public.

3-35 (j) This section does not apply if the requestor is an
3-36 elected official of the United States, this state, or a political
3-37 subdivision of this state.

3-38 (k) This section does not apply if the requestor is a
3-39 representative of a publicly funded legal services organization
3-40 that is exempt from federal income taxation under Section 501(a),
3-41 Internal Revenue Code of 1986, as amended, by being listed as an
3-42 exempt entity under Section 501(c)(3) of that code.

3-43 SECTION 7. The changes in law made by this Act apply only to
3-44 a request for information that is received by a governmental body or
3-45 an officer for public information on or after the effective date of
3-46 this Act. A request for information that was received before the
3-47 effective date of this Act is governed by the law in effect on the
3-48 date the request was received, and the former law is continued in
3-49 effect for that purpose.

3-50 SECTION 8. This Act takes effect September 1, 2011.

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