

By: Watson

S.B. No. 1571

A BILL TO BE ENTITLED

AN ACT

relating to information subject to the public information law.

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

SECTION 1. Section 552.002, Government Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) In this chapter, "public information" means information that is created, collected, assembled, possessed, used, relied upon, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body; ~~or~~

(2) for a governmental body and the governmental body owns the information or has a right of access to it; or

(3) by any person, including a government agency, board, or institution or an individual, corporation or other business entity, or nonprofit organization that performs a public function, provides research or consulting services, or conducts a study at the request of a governmental body; or

(d) In this chapter, "public information" includes information stored in electronic format that contains public documents, public records, or a communication of official business, regardless of whether the information is stored on a server or in a computer facility owned or maintained by a governmental body.

SECTION 2. Section 552.003, Government Code, is amended by

1 adding Subdivisions (1-a) and (4-a) and amending Subdivision (5) to
2 read as follows:

3 (1-a) "Administer" includes functions performed
4 pursuant to a contract to which a governmental body is a party,
5 including functions that have been completely delegated to a
6 nongovernmental entity.

7 (4-a) "Public function" means:

8 (A) a function performed or administered by:

9 (i) a governmental body; or

10 (ii) an elected or appointed public
11 official of the state or any political subdivision of the state; and

12 (B) functions that are, wholly or partly,
13 supported with public funds.

14 (5) "Public funds" means funds of the state or of a
15 governmental subdivision of the state, including funds received
16 from the federal government or as a result of intergovernmental
17 transfers.

18 SECTION 3. Subchapter Z, Chapter 2252, Government Code, is
19 amended by adding Section 2252.907 to read as follows:

20 Sec. 2252.907. CONTRACTS INVOLVING EXCHANGE OR CREATION OF
21 PUBLIC INFORMATION. (a) A contract between a governmental entity
22 that receives state funds and a vendor, institution, individual,
23 corporation or other business entity, or nonprofit organization
24 that performs a public function involving the exchange or creation
25 of public information must:

26 (1) be drafted in consideration of the requirements of
27 Chapter 552; and

1 (2) if the information is to be exchanged or stored in
2 an electronic format, contain a provision that the vendor or other
3 contracting entity must make the information available in a
4 specific electronic format that is:

5 (A) agreed on in the contract; and

6 (B) accessible by the public.

7 (b) The requirements of Subsection (a) apply to contracts
8 between the vendor or other contracting entity that performs a
9 public function and a subcontractor engaged to further the
10 performance of the public function.

11 (c) This section may not be waived by contract or otherwise.

12 (d) In this section, "governmental entity" means:

13 (1) a state agency, board, commission, office,
14 department, or other entity in the executive, judicial, or
15 legislative branch of state government, including an institution of
16 higher education as defined by Section 61.003, Education Code; and

17 (2) a political subdivision, including a county,
18 municipality, school district, or other special district or
19 authority of this state.

20 SECTION 4. (a) The changes in law made by this Act by
21 amending Sections 552.002 and 552.003, Government Code, apply only
22 to a request for the disclosure of public information made on or
23 after the effective date of this Act. A request for the disclosure
24 of public information made before the effective date of this Act is
25 governed by the law in effect immediately before the effective date
26 of this Act, and that law is continued in effect for that purpose.

27 (b) Section 2252.907, Government Code, as added by this Act,

1 applies only to a contract for which a governmental entity first
2 advertises or otherwise solicits bids, proposals, offers, or
3 qualifications on or after the effective date of this Act. A
4 contract for which a governmental entity advertised or otherwise
5 solicited bids, proposals, offers, or qualifications before the
6 effective date of this Act is governed by the law in effect
7 immediately before the effective date of this Act, and that law is
8 continued in effect for that purpose.

9 SECTION 5. This Act takes effect September 1, 2011.