

1-1 By: Watson S.B. No. 1571
1-2 (In the Senate - Filed March 11, 2011; March 23, 2011, read
1-3 first time and referred to Select Committee on Open Government;
1-4 May 2, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 4, Nays 0; May 2, 2011, sent
1-6 to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1571 By: Davis

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

1-10 relating to information subject to the public information law.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 552.002, Government Code, is amended by
1-13 amending Subsection (a) and adding Subsection (d) to read as
1-14 follows:

1-15 (a) In this chapter, "public information" means information
1-16 that is created, collected, assembled, possessed, or maintained
1-17 under a law or ordinance or in connection with the transaction of
1-18 official business:

1-19 (1) by a governmental body; [~~or~~]

1-20 (2) for a governmental body and the governmental body
1-21 owns the information or has a right of access to it;

1-22 (3) by an officer or employee of a government agency,
1-23 board, or institution; or

1-24 (4) by an individual, corporation, or other business
1-25 entity that, at the request of a governmental body, performs a
1-26 public function, provides research or consulting services, or
1-27 conducts a study to the extent the public function, research,
1-28 consulting services, or study is directly supported by public
1-29 funds.

1-30 (d) In this chapter, "public information" includes
1-31 information stored in electronic format that contains public
1-32 documents, public records, or a communication of official business,
1-33 regardless of whether the information is stored on a server or in a
1-34 computer facility owned or maintained by a governmental body.

1-35 SECTION 2. Section 552.003, Government Code, is amended by
1-36 adding Subdivision (4-a) and amending Subdivision (5) to read as
1-37 follows:

1-38 (4-a) "Public function" means:

1-39 (A) a function performed or administered by:

1-40 (i) a governmental body; or

1-41 (ii) an elected or appointed public
1-42 official of the state or any political subdivision of the state;

1-43 (B) a function that is, wholly or partly,
1-44 supported with public funds, only to the extent it is directly
1-45 supported by public funds; and

1-46 (C) a function that has been delegated to a
1-47 nongovernmental entity pursuant to a contract to which a
1-48 governmental body is a party.

1-49 (5) "Public funds" means funds of the state or of a
1-50 governmental subdivision of the state, including funds received by
1-51 a governmental body from the federal government or received as a
1-52 result of intergovernmental transfers.

1-53 SECTION 3. Subchapter E, Chapter 552, Government Code, is
1-54 amended by adding Section 552.233 to read as follows:

1-55 Sec. 552.233. REQUESTS FOR PUBLIC INFORMATION RELATED TO A
1-56 GOVERNMENT CONTRACT. (a) A request for public information
1-57 relating to a contract entered into by a governmental body under
1-58 Section 2252.907 must be submitted to the governmental body that
1-59 entered into the contract.

1-60 (b) The vendor, institution, individual, corporation, or
1-61 other business entity that performs a public function under a
1-62 contract entered into under Section 2252.907 shall assemble the
1-63 public information that is the subject of the request under

2-1 Subsection (a) and provide the information to the contracting
2-2 governmental body. The governmental body shall make the
2-3 information available to the requestor or request a decision in
2-4 accordance with this chapter.

2-5 SECTION 4. Subchapter Z, Chapter 2252, Government Code, is
2-6 amended by adding Section 2252.907 to read as follows:

2-7 Sec. 2252.907. CONTRACTS INVOLVING EXCHANGE OR CREATION OF
2-8 PUBLIC INFORMATION. (a) A contract between a governmental body
2-9 and a vendor, institution, individual, corporation, or other
2-10 business entity that performs a public function involving the
2-11 exchange or creation of public information must:

2-12 (1) be drafted in compliance with the disclosure
2-13 requirements of Chapter 552; and

2-14 (2) if the information is to be exchanged or stored in
2-15 an electronic format, contain a provision that the vendor or other
2-16 contracting entity must make the information available to the
2-17 governmental body in a specific electronic format that is:

2-18 (A) agreed on in the contract; and

2-19 (B) accessible by the public.

2-20 (b) The requirements of Subsection (a) apply to contracts
2-21 between the vendor or other contracting entity that performs a
2-22 public function and a subcontractor engaged to further the
2-23 performance of the public function.

2-24 (c) This section may not be waived by contract or otherwise.

2-25 (d) In this section, "governmental body" has the meaning
2-26 assigned by Section 552.003.

2-27 SECTION 5. (a) The changes in law made by this Act by
2-28 amending Sections 552.002 and 552.003, Government Code, and by
2-29 adding Section 552.233, Government Code, apply only to a request
2-30 for the disclosure of public information made on or after the
2-31 effective date of this Act. A request for the disclosure of public
2-32 information made before the effective date of this Act is governed
2-33 by the law in effect immediately before the effective date of this
2-34 Act, and that law is continued in effect for that purpose.

2-35 (b) Section 2252.907, Government Code, as added by this Act,
2-36 applies only to a contract for which a governmental body first
2-37 advertises or otherwise solicits bids, proposals, offers, or
2-38 qualifications on or after the effective date of this Act. A
2-39 contract for which a governmental body advertised or otherwise
2-40 solicited bids, proposals, offers, or qualifications before the
2-41 effective date of this Act is governed by the law in effect
2-42 immediately before the effective date of this Act, and that law is
2-43 continued in effect for that purpose.

2-44 SECTION 6. This Act takes effect September 1, 2011.

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