

BILL ANALYSIS

S.B. 983
By: Ellis
Government Efficiency & Reform
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Litigation under what is commonly known as the Texas Public Information Act generally occurs when there is a dispute as to whether certain documents should be made public under this law or be shown to only one or a few groups under a special right of access. In a court proceeding, evidence that is admitted is usually made a part of the official public record. Concerned parties reason that, since the issue in a public information case is whether or not the documents should be made public in the first place, making the documents in question a part of the public court record would negate the entire proceeding. However, the parties note that an appeals court held that the documents in question are part of the clerk's record so that, if the case goes up on appeal, the court will have a complete record to review.

These situations are currently handled with a court procedure that allows the documents to be introduced to the court in camera. In other words, the parties involved in a court proceeding come to an agreement that the documents should be reviewed in private only by the judge or the clerk assigned to the case but not made part of the public record. Concerned parties contend that the problem with this procedure is that some judges have refused to acknowledge such agreements because they believe the law does not give judges authority to recognize those kinds of agreements. S.B. 983 seeks to address these problems by providing for automatic in camera inspection of the documents.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 983 amends the Government Code to authorize the information at issue in any suit filed under state public information law to be filed with the court for in camera inspection as is necessary for the adjudication of the case. The bill requires the court, on receipt of the information at issue for in camera inspection, to enter an order that prevents release to or access by any person other than the court, a reviewing court of appeals, or parties permitted to inspect the information pursuant to a protective order and requires the order to further note the filing date and time. The bill requires the information at issue filed with the court for in camera inspection to be appended to the order and transmitted by the court to the clerk for filing as "information at issue," to be maintained in a sealed envelope or in a manner that precludes disclosure of the information, and to be transmitted by the clerk to any court of appeal as part of the clerk's record. The bill establishes that such information does not constitute court records within the meaning of a rule of the Texas Rules of Civil Procedure relating to the sealing of court records and prohibits the clerk or any custodian of record from making such information available for public inspection.

EFFECTIVE DATE

September 1, 2013.