

BILL ANALYSIS

S.B. 1368
By: Davis
Transparency in State Agency Operations, Select
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Concerns have been raised regarding attempts to obtain records from certain third-party private entities under contract with the state to provide goods or services. Interested parties report that the requested records were sometimes not produced because it was thought that a private entity is not subject to state open records law. These parties contend that the records of a private entity under contract with the state to provide goods or services should be subject to open records law to the extent those records are considered public information. S.B. 1368 seeks to impose this requirement.

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. 1368 amends the Government Code to require a contract between a nongovernmental vendor and a state agency, board, commission, office, department, or other agency in the executive or legislative branch of state government that involves the exchange or creation of public information that the state governmental entity collects, assembles, or maintains or to which the governmental entity has a right of access to be drafted in consideration of state information law requirements and to contain a provision that requires the vendor to make the information not otherwise excepted from disclosure under public information law available in a specific format that is agreed upon in the contract and accessible by the public. The bill requires a request for public information regarding such a contract to be submitted to the officer or employee responsible for responding to open records requests for the state governmental entity that executed the contract. The bill prohibits its provisions from being waived by contract or otherwise.

EFFECTIVE DATE

September 1, 2013.