

BILL ANALYSIS

S.B. 1563
By: Ellis
Government Efficiency & Reform
Committee Report (Amended)

BACKGROUND AND PURPOSE

It is widely accepted that government should be transparent and accountable to the people it serves, and legislators generally realize the value of providing the public with access to information about government business. Since state public information law was originally enacted in the early 1970s there have been vast changes in the way business, including government business, is conducted. Advances in technology over these decades have provided additional venues and made governing easier in some respects, but they also have added a layer of complexity to interpreting public information law.

Interested observers note that while issues regarding the state's public information law often focus on what constitutes public information in terms of the content of such information as opposed to the media in which it is transmitted, there have been attorney general opinions that address the issue of new technology and public business being conducted on private accounts. The parties also have expressed concern that public information law does not address situations in which private entities are contracted to perform governmental functions in an attempt to reduce costs and improve efficiency, and have found a number of attorney general opinions that address this issue.

In order to update public information law to accommodate these developments, S.B. 1563 seeks to codify existing attorney general opinions regarding public information law as it relates to the use of technology and the use of third-party contractors to perform governmental functions.

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. 1563 amends the Government Code to redefine "public information" to include information that is written or produced by certain entities under a law or ordinance or in connection with the transaction of official business. The bill further redefines the term to include information that is written, produced, collected, assembled, or maintained under those circumstances for a governmental body that spends or contributes public money for such writing, production, collection, assembly, or maintenance and information that is written, produced, collected, assembled, or maintained by an individual officer or employee of a governmental body in the officer's or employee's official capacity if the information pertains to official business of the governmental body. The bill establishes that the definition applies to and includes any electronic communication created, transmitted, received, or maintained on any device if the communication is in connection with the transaction of official business.

S.B. 1563 establishes that information is in connection with the transaction of official business if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer's or employee's official capacity or a person or

entity performing official business or a governmental function on behalf of a governmental body and the information pertains to official business of the governmental body. The bill includes any physical material on which information may be recorded and any device that can store an electronic signal among the media on which public information is recorded and includes an e-mail, Internet posting, text message, instant message, and other form of electronic communication among the general forms in which media containing public information exist. The bill defines "official business" for purposes of state open meetings law to mean any matter over which a governmental body has authority or administrative or advisory duties.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

EXPLANATION OF AMENDMENTS

Committee Amendment No. 1

Committee Amendment No. 1 removes a provision defining "official business."