

AN ACT

relating to public information pertaining to the official business of governmental bodies and to contracts by certain state governmental entities that involve the exchange or creation of public information.

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

SECTION 1. Section 552.002, Government Code, is amended to read as follows:

Sec. 552.002. DEFINITION OF PUBLIC INFORMATION; MEDIA CONTAINING PUBLIC INFORMATION. (a) In this chapter, "public information" means information that is written, produced, collected, assembled, 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:

(A) owns the information; ~~[or]~~

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body ~~[it]~~.

1 (a-1) Information is in connection with the transaction of
2 official business if the information is created by, transmitted to,
3 received by, or maintained by an officer or employee of the
4 governmental body in the officer's or employee's official capacity,
5 or a person or entity performing official business or a
6 governmental function on behalf of a governmental body, and
7 pertains to official business of the governmental body.

8 (a-2) The definition of "public information" provided by
9 Subsection (a) applies to and includes any electronic communication
10 created, transmitted, received, or maintained on any device if the
11 communication is in connection with the transaction of official
12 business.

13 (b) The media on which public information is recorded
14 include:

- 15 (1) paper;
- 16 (2) film;
- 17 (3) a magnetic, optical, ~~[or]~~ solid state, or other
18 device that can store an electronic signal;
- 19 (4) tape;
- 20 (5) Mylar; and
- 21 (6) any physical material on which information may be
22 recorded, including linen, ~~[+~~
23 ~~[(7)]~~ silk, ~~[+~~ and
24 ~~[(8)]~~ vellum.

25 (c) The general forms in which the media containing public
26 information exist include a book, paper, letter, document, e-mail,
27 Internet posting, text message, instant message, other electronic

1 communication, printout, photograph, film, tape, microfiche,
2 microfilm, photostat, sound recording, map, and drawing and a
3 voice, data, or video representation held in computer memory.

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

6 (2-a) "Official business" means any matter over which a
7 governmental body has any authority, administrative duties, or
8 advisory duties.

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

11 Sec. 2252.907. CONTRACTS INVOLVING EXCHANGE OR CREATION OF
12 PUBLIC INFORMATION. (a) A contract between a state governmental
13 entity and a nongovernmental vendor involving the exchange or
14 creation of public information as defined by Section 552.002 that
15 the state governmental entity collects, assembles, or maintains or
16 has a right of access to must:

17 (1) be drafted in consideration of the requirements of
18 Chapter 552; and

19 (2) contain a provision that requires the vendor to
20 make the information not otherwise excepted from disclosure under
21 Chapter 552 available in a specific format that is:

22 (A) agreed upon in the contract; and

23 (B) accessible by the public.

24 (b) This section may not be waived by contract or otherwise.

25 (c) A request for public information regarding a contract
26 described by this section must be submitted to the officer or
27 employee responsible for responding to open records requests for

1 the state governmental entity that executed the contract.

2 (d) In this section, "state governmental entity" means a
3 state agency, board, commission, office, department, or other
4 agency in the executive or legislative branch of state government.

5 SECTION 4. Section 2252.907, Government Code, as added by
6 this Act, applies only to a contract for which a state governmental
7 entity first advertises or otherwise solicits bids, proposals,
8 offers, or qualifications on or after the effective date of this
9 Act. A contract for which a state governmental entity advertised or
10 otherwise solicited bids, proposals, offers, or qualifications
11 before the effective date of this Act is governed by the law in
12 effect immediately before the effective date of this Act, and that
13 law is continued in effect for that purpose.

14 SECTION 5. This Act takes effect September 1, 2013.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1368 passed the Senate on April 25, 2013, by the following vote: Yeas 24, Nays 4; and that the Senate concurred in House amendments on May 24, 2013, by the following vote: Yeas 27, Nays 4.

Secretary of the Senate

I hereby certify that S.B. No. 1368 passed the House, with amendments, on May 22, 2013, by the following vote: Yeas 93, Nays 56, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor