S.B. No. 1368

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; [ex]

(2) for a governmental body and the governmental body:

(A) owns the information; [ex]

(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 [il].
(a-1) 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 pertains to official business of the governmental body.

(a-2) The definition of "public information" provided by Subsection (a) 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.

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

1. paper;
2. film;
3. a magnetic, optical, [or] solid state, or other device that can store an electronic signal;
4. tape;
5. Mylar; and
6. any physical material on which information may be recorded, including linen[+][+][+]

(c) The general forms in which the media containing public information exist include a book, paper, letter, document, e-mail, Internet posting, text message, instant message, other electronic
communication, printout, photograph, film, tape, microfiche,
microfilm, photostat, sound recording, map, and drawing and a
voice, data, or video representation held in computer memory.

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

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

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

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

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

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

(A) agreed upon in the contract; and

(B) accessible by the public.

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

(c) A request for public information regarding a contract
described by this section must be submitted to the officer or
employee responsible for responding to open records requests for
the state governmental entity that executed the contract.

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

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

SECTION 5. This Act takes effect September 1, 2013.
S.B. No. 1368

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