

BILL ANALYSIS

Senate Research Center
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H.B. 2783
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, the Office of the Attorney General (OAG), a requestor, or another party who is injured by a violation of the Public Information Act (PIA) may sue to enforce PIA's provisions. Currently, the PIA requires the court to assess court costs and reasonable attorney fees incurred by a plaintiff who substantially prevails in one of these lawsuits, unless the court finds that the governmental body reasonably relied on a court or OAG decision.

Because of the way this provision is currently worded, governmental bodies may avoid paying court costs and attorney fees, even if they committed an egregious violation, by disclosing the requested information immediately before the court issues a ruling. Open government advocates report that some governmental bodies are taking advantage of this loophole to harass requestors—essentially requiring requestors to pay for a lawsuit in order to get public information. This not only thwarts the transparency purposes of the PIA, but it also wastes the state's limited judicial resources.

H.B. 2783 addresses this problem by allowing, but not requiring, a court to assess court costs and attorney fees against a governmental body that voluntarily releases the requested information after filing an answer to the underlying PIA lawsuit. This narrowly-tailored fix gives courts the flexibility they need to hold bad actors accountable.

H.B. 2783 amends current law relating to the assessment of litigation costs and attorney fees in certain lawsuits under the public information law.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 552.323(a), Government Code, to authorize the court, in an action brought under Section 552.321 (Suit for Writ of Mandamus) or 552.3215 (Declaratory Judgment or Injunctive Relief), to assess costs of litigation and reasonable attorney fees incurred by a plaintiff who substantially prevails or to assess costs of litigation and reasonable attorney fees incurred by a plaintiff to whom a governmental body voluntarily releases the requested information after filing an answer to the suit, except that the court is prohibited from assessing those costs and fees against a governmental body if the court finds that the governmental body acted in reasonable reliance on certain legal documents.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2017.