

1-1 By: Ashby (Senate Sponsor - Nichols) H.B. No. 3107
 1-2 (In the Senate - Received from the House April 24, 2017;
 1-3 May 11, 2017, read first time and referred to Committee on Business
 1-4 & Commerce; May 22, 2017, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
 1-6 May 22, 2017, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 3107 By: Campbell

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the production of public information under the public
 1-22 information law.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 552.221, Government Code, is amended by
 1-25 adding Subsection (e) to read as follows:

1-26 (e) A request is considered to have been withdrawn if the
 1-27 requestor fails to inspect or duplicate the public information in
 1-28 the offices of the governmental body on or before the 60th day after
 1-29 the date the information is made available or fails to pay the
 1-30 postage and any other applicable charges accrued under Subchapter F
 1-31 on or before the 60th day after the date the requestor is informed
 1-32 of the charges.

1-33 SECTION 2. Section 552.261, Government Code, is amended by
 1-34 adding Subsection (e) to read as follows:

1-35 (e) Except as otherwise provided by this subsection, all
 1-36 requests received in one calendar day from an individual may be
 1-37 treated as a single request for purposes of calculating costs under
 1-38 this chapter. A governmental body may not combine multiple requests
 1-39 under this subsection from separate individuals who submit requests
 1-40 on behalf of an organization.

1-41 SECTION 3. Section 552.275, Government Code, is amended by
 1-42 amending Subsections (a), (b), (d), (e), (g), (h), and (j) and
 1-43 adding Subsections (a-1), (e-1), and (m) to read as follows:

1-44 (a) A governmental body may establish ~~[a]~~ reasonable
 1-45 monthly and yearly limits ~~[limit]~~ on the amount of time that
 1-46 personnel of the governmental body are required to spend producing
 1-47 public information for inspection or duplication by a requestor, or
 1-48 providing copies of public information to a requestor, without
 1-49 recovering its costs attributable to that personnel time.

1-50 (a-1) For purposes of this section, all county officials who
 1-51 have designated the same officer for public information may
 1-52 calculate the amount of time that personnel are required to spend
 1-53 collectively for purposes of the monthly or yearly limit.

1-54 (b) A yearly time limit established under Subsection (a) may
 1-55 not be less than 36 hours for a requestor during the 12-month period
 1-56 that corresponds to the fiscal year of the governmental body. A
 1-57 monthly time limit established under Subsection (a) may not be less
 1-58 than 15 hours for a requestor for a one-month period.

1-59 (d) If a governmental body establishes a time limit under
 1-60 Subsection (a), each time the governmental body complies with a

2-1 request for public information, the governmental body shall provide
 2-2 the requestor with a written statement of the amount of personnel
 2-3 time spent complying with that request and the cumulative amount of
 2-4 time spent complying with requests for public information from that
 2-5 requestor during the applicable monthly or yearly [~~12-month~~]
 2-6 period. The amount of time spent preparing the written statement
 2-7 may not be included in the amount of time included in the statement
 2-8 provided to the requestor under this subsection.

2-9 (e) Subject to Subsection (e-1), if [~~if~~] in connection with
 2-10 a request for public information, the cumulative amount of
 2-11 personnel time spent complying with requests for public information
 2-12 from the same requestor equals or exceeds the limit established by
 2-13 the governmental body under Subsection (a), the governmental body
 2-14 shall provide the requestor with a written estimate of the total
 2-15 cost, including materials, personnel time, and overhead expenses,
 2-16 necessary to comply with the request. The written estimate must be
 2-17 provided to the requestor on or before the 10th day after the date
 2-18 on which the public information was requested. The amount of this
 2-19 charge relating to the cost of locating, compiling, and producing
 2-20 the public information shall be established by rules prescribed by
 2-21 the attorney general under Sections 552.262(a) and (b).

2-22 (e-1) This subsection applies only to a request made by a
 2-23 requestor who has made a previous request to a governmental body
 2-24 that has not been withdrawn, for which the governmental body has
 2-25 located and compiled documents in response, and for which the
 2-26 governmental body has issued a statement under Subsection (e) that
 2-27 remains unpaid on the date the requestor submits the new request. A
 2-28 governmental body is not required to locate, compile, produce, or
 2-29 provide copies of documents or prepare a statement under Subsection
 2-30 (e) in response to a new request described by this subsection until
 2-31 the date the requestor pays each unpaid statement issued under
 2-32 Subsection (e) in connection with a previous request or withdraws
 2-33 the previous request to which the statement applies.

2-34 (g) If a governmental body provides a requestor with the
 2-35 written statement under Subsection (e) and the time limits
 2-36 prescribed by Subsection (a) regarding the requestor have been
 2-37 exceeded, the governmental body is not required to produce public
 2-38 information for inspection or duplication or to provide copies of
 2-39 public information in response to the requestor's request unless on
 2-40 or before the 10th day after the date the governmental body provided
 2-41 the written statement under that subsection, the requestor submits
 2-42 payment of [~~a statement in writing to the governmental body in which~~
 2-43 ~~the requestor commits to pay the lesser of:~~

2-44 [~~(1) the actual costs incurred in complying with the~~
 2-45 ~~requestor's request, including the cost of materials and personnel~~
 2-46 ~~time and overhead; or~~

2-47 [~~(2)~~] the amount stated in the written statement
 2-48 provided under Subsection (e).

2-49 (h) If the requestor fails or refuses to submit payment [~~the~~
 2-50 ~~written statement~~] under Subsection (g), the requestor is
 2-51 considered to have withdrawn the requestor's pending request for
 2-52 public information.

2-53 (j) This section does not apply if the requestor is an
 2-54 individual who, for a substantial portion of the individual's
 2-55 livelihood or for substantial financial gain, gathers, compiles,
 2-56 prepares, collects, photographs, records, writes, edits, reports,
 2-57 investigates, processes, or publishes news or information for and
 2-58 is seeking the information for:

2-59 (1) dissemination by a news medium or communication
 2-60 service provider, including:

2-61 (A) an individual who supervises or assists in
 2-62 gathering, preparing, and disseminating the news or information; or

2-63 (B) an individual who is or was a journalist,
 2-64 scholar, or researcher employed by an institution of higher
 2-65 education at the time the person made the request for information;
 2-66 or

2-67 (2) creation or maintenance of an abstract plant as
 2-68 described by Section 2501.004, Insurance Code [~~a radio or~~
 2-69 ~~television broadcast station that holds a broadcast license for an~~

3-1 ~~assigned frequency issued by the Federal Communications~~
3-2 ~~Commission;~~

3-3 ~~[(2) a newspaper that is qualified under Section~~
3-4 ~~2051.044 to publish legal notices or is a free newspaper of general~~
3-5 ~~circulation and that is published at least once a week and available~~
3-6 ~~and of interest to the general public in connection with the~~
3-7 ~~dissemination of news;~~

3-8 ~~[(3) a newspaper of general circulation that is~~
3-9 ~~published on the Internet by a news medium engaged in the business~~
3-10 ~~of disseminating news or information to the general public; or~~

3-11 ~~[(4) a magazine that is published at least once a week~~
3-12 ~~or on the Internet by a news medium engaged in the business of~~
3-13 ~~disseminating news or information to the general public].~~

3-14 (m) In this section:

3-15 (1) "Communication service provider" has the meaning
3-16 assigned by Section 22.021, Civil Practice and Remedies Code.

3-17 (2) "News medium" means a newspaper, magazine or
3-18 periodical, a book publisher, a news agency, a wire service, an
3-19 FCC-licensed radio or television station or a network of such
3-20 stations, a cable, satellite, or other transmission system or
3-21 carrier or channel, or a channel or programming service for a
3-22 station, network, system, or carrier, or an audio or audiovisual
3-23 production company or Internet company or provider, or the parent,
3-24 subsidiary, division, or affiliate of that entity, that
3-25 disseminates news or information to the public by any means,
3-26 including:

- 3-27 (A) print;
- 3-28 (B) television;
- 3-29 (C) radio;
- 3-30 (D) photographic;
- 3-31 (E) mechanical;
- 3-32 (F) electronic; and
- 3-33 (G) other means, known or unknown, that are
3-34 accessible to the public.

3-35 SECTION 4. Section 552.3215(i), Government Code, is amended
3-36 to read as follows:

3-37 (i) If the district or county attorney determines not to
3-38 bring an action under this section, the complainant is entitled to
3-39 file the complaint with the attorney general before the 31st day
3-40 after the date the complaint is returned to the complainant. A
3-41 complainant is entitled to file a complaint with the attorney
3-42 general on or after the 90th day after the date the complainant
3-43 files the complaint with a district or county attorney if the
3-44 district or county attorney has not brought an action under this
3-45 section. On receipt of the written complaint, the attorney general
3-46 shall comply with each requirement in Subsections (g) and (h) in the
3-47 time required by those subsections. If the attorney general
3-48 decides to bring an action under this section against a
3-49 governmental body located only in one county in response to the
3-50 complaint, the attorney general must comply with Subsection (c).

3-51 SECTION 5. The changes in law made by this Act apply only to
3-52 a request for information that is received by a governmental body or
3-53 an officer for public information on or after the effective date of
3-54 this Act. A request for information that was received before the
3-55 effective date of this Act is governed by the law in effect on the
3-56 date the request was received, and the former law is continued in
3-57 effect for that purpose.

3-58 SECTION 6. This Act takes effect September 1, 2017.

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