

1-1 By: Watson S.B. No. 1347
 1-2 (In the Senate - Filed March 6, 2017; March 14, 2017, read
 1-3 first time and referred to Committee on Business & Commerce;
 1-4 April 24, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 0; April 24, 2017,
 1-6 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 S.B. No. 1347 By: Nichols

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

1-21 relating to an expedited response by a governmental body to a
 1-22 request for public information.

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

1-24 SECTION 1. Section 552.2615(g), Government Code, is amended
 1-25 to read as follows:

1-26 (g) The time deadlines imposed by this section do not affect
 1-27 the application of a time deadline imposed on a governmental body
 1-28 under Subchapter G or J.

1-29 SECTION 2. Section 552.263(e), Government Code, is amended
 1-30 to read as follows:

1-31 (e) For purposes of Subchapters F, ~~and~~ G, and J, a request
 1-32 for a copy of public information is considered to have been received
 1-33 by a governmental body on the date the governmental body receives
 1-34 the deposit or bond for payment of anticipated costs or unpaid
 1-35 amounts if the governmental body's officer for public information
 1-36 or the officer's agent requires a deposit or bond in accordance with
 1-37 this section.

1-38 SECTION 3. Section 552.302, Government Code, is amended to
 1-39 read as follows:

1-40 Sec. 552.302. FAILURE TO MAKE TIMELY REQUEST FOR ATTORNEY
 1-41 GENERAL DECISION; PRESUMPTION THAT INFORMATION IS PUBLIC. If a
 1-42 governmental body does not request an attorney general decision as
 1-43 provided by Section 552.301 or in response to an appeal under
 1-44 Subchapter J and provide the requestor with the information
 1-45 required by Sections 552.301(d) and (e-1) or Section 552.404(b),
 1-46 the information requested in writing is presumed to be subject to
 1-47 required public disclosure and must be released unless there is a
 1-48 compelling reason to withhold the information.

1-49 SECTION 4. Section 552.352, Government Code, is amended by
 1-50 adding Subsection (d) to read as follows:

1-51 (d) It is an affirmative defense to prosecution under
 1-52 Subsection (a) that the defendant released information under
 1-53 Subchapter J and did not release confidential information
 1-54 intentionally, as defined by Section 6.03, Penal Code.

1-55 SECTION 5. Chapter 552, Government Code, is amended by
 1-56 adding Subchapter J to read as follows:

1-57 SUBCHAPTER J. EXPEDITED RESPONSE PROCEDURE

1-58 Sec. 552.401. REQUEST FOR ATTORNEY GENERAL DECISION NOT
 1-59 REQUIRED. (a) Subject to Subsection (b) and Sections 552.403 and
 1-60 552.405, a governmental body that receives a written request for

2-1 information and complies with the requirements of this subchapter
 2-2 may withhold any information it makes a good faith determination is
 2-3 excepted from required public disclosure under this chapter without
 2-4 the necessity of requesting a decision from the attorney general
 2-5 under Subchapter G.

2-6 (b) If the requested information may involve a person's
 2-7 interests as provided by Section 552.305, the governmental body may
 2-8 not respond to the request under Subsection (a).

2-9 Sec. 552.402. RESPONSE REQUIREMENTS. (a) A governmental
 2-10 body that withholds information under this subchapter must respond
 2-11 to the requestor not later than the fifth business day after the
 2-12 date the governmental body receives a written request for that
 2-13 information by providing the requestor with:

2-14 (1) a list of the exceptions under Subchapter C and, if
 2-15 applicable, the judicial decisions or constitutional or statutory
 2-16 laws the governmental body determines are applicable to the
 2-17 information being withheld;

2-18 (2) all information the governmental body determines
 2-19 is not excepted from disclosure, including, if applicable,
 2-20 partially redacted information with the redacted portions clearly
 2-21 marked and labeled with the exceptions the governmental body relied
 2-22 on to redact the information;

2-23 (3) a description of the volume and type of
 2-24 information withheld; and

2-25 (4) a notice form promulgated by the attorney general
 2-26 that includes, at a minimum:

2-27 (A) a unique identification number assigned by
 2-28 the governmental body;

2-29 (B) a description of the appeal procedure;

2-30 (C) an appeal form the requestor must use to
 2-31 appeal the withholding of information under this subchapter;

2-32 (D) a reference to the requestor's rights under
 2-33 this chapter; and

2-34 (E) the name of an individual who holds an active
 2-35 training certificate issued under Section 552.406 and a
 2-36 confirmation by that individual that the individual reviewed and
 2-37 approved the response.

2-38 (b) The governmental body shall retain, at a minimum, an
 2-39 electronic or paper copy of the notice it provides to the requestor
 2-40 under Subsection (a)(4) for the length of time the governmental
 2-41 body retains the request for information.

2-42 Sec. 552.403. APPEAL. (a) On receipt of a response by a
 2-43 governmental body under this subchapter, the requestor may appeal
 2-44 the withholding of information in the response not later than the
 2-45 30th calendar day after the date the requestor receives the
 2-46 response.

2-47 (b) The requestor must submit the appeal to the governmental
 2-48 body that responded under this subchapter on the appeal form
 2-49 provided to the requestor by the governmental body under Section
 2-50 552.402(a)(4).

2-51 (c) The appeal is considered a new request and is subject to
 2-52 the procedural requirements of Section 552.404.

2-53 (d) A governmental body may not seek to narrow or clarify an
 2-54 appeal made under this subchapter under Section 552.222(b).

2-55 (e) A governmental body may not respond to a requestor under
 2-56 Section 552.232 in response to an appeal made under this
 2-57 subchapter.

2-58 (f) Notwithstanding Sections 552.024(c)(2), 552.1175(f),
 2-59 552.130(c), 552.136(c), and 552.138(c), a governmental body must
 2-60 request an attorney general decision to withhold information
 2-61 described by those provisions in response to an appeal.

2-62 Sec. 552.404. REQUEST FOR ATTORNEY GENERAL DECISION IN
 2-63 RESPONSE TO APPEAL. (a) Except as otherwise provided by this
 2-64 subchapter:

2-65 (1) the appeal is subject to the provisions of this
 2-66 chapter; and

2-67 (2) an attorney general's decision that was requested
 2-68 under this section is considered to be a decision under Subchapter
 2-69 G.

3-1 (b) A governmental body that receives an appeal under
3-2 Section 552.403 shall, within a reasonable time, but not later than
3-3 the 10th business day after the date the governmental body receives
3-4 the appeal, submit to the attorney general:
3-5 (1) a request for the attorney general's decision;
3-6 (2) a copy of the original written request for
3-7 information;
3-8 (3) a copy of the appeal form received by the
3-9 governmental body;
3-10 (4) a signed statement as to the date on which the
3-11 appeal was received by the governmental body or evidence sufficient
3-12 to establish the date;
3-13 (5) the exceptions that apply and written comments
3-14 stating the reasons why the stated exceptions apply that would
3-15 allow the information to be withheld;
3-16 (6) if the governmental body provided partially
3-17 redacted information to the requestor in its initial response under
3-18 this subchapter, an unredacted copy of the information the
3-19 governmental body provided to the requestor with the copy clearly
3-20 marked indicating the released portions and the withheld portions
3-21 labeled with the exceptions the governmental body relied on to
3-22 withhold the information; and
3-23 (7) a copy of the specific information the
3-24 governmental body seeks to withhold, or representative samples of
3-25 the information, labeled to indicate which exceptions apply to
3-26 which parts of the copy.
3-27 (c) A governmental body that receives an appeal under
3-28 Section 552.403 shall, within a reasonable time, but not later than
3-29 the 10th business day after the date the governmental body receives
3-30 the appeal, send a copy of the comments submitted under Subsection
3-31 (b)(5) to the requestor. If the written comments disclose or
3-32 contain the substance of the information requested, the copy of the
3-33 comments provided to the requestor must be a redacted copy.
3-34 Sec. 552.405. ELIGIBILITY. Before a governmental body may
3-35 respond to a request under this subchapter:
3-36 (1) the governmental body's public information officer
3-37 or the officer's designee must hold an active training certificate
3-38 issued under Section 552.406; and
3-39 (2) the governmental body may not have had its
3-40 authorization to rely on this subchapter revoked under Section
3-41 552.407.
3-42 Sec. 552.406. TRAINING. (a) The public information
3-43 officer for a governmental body that responds to a request under
3-44 this subchapter or the officer's designee must have completed in
3-45 the four years preceding the response a course of training of not
3-46 less than four hours or more than six hours regarding the
3-47 responsibilities of the governmental body under this subchapter.
3-48 (b) The attorney general shall ensure that the training is
3-49 made available. The attorney general shall prepare and from time to
3-50 time revise at least one course of training that is available in an
3-51 online presentation format. The online training may be broken into
3-52 separate sections. The online training must provide a means to
3-53 verify that the trainee observed and comprehended the full online
3-54 training session or, if applicable, each section of the training.
3-55 (c) At a minimum, the training must include instruction in:
3-56 (1) the general background of the legal requirements
3-57 for the governmental body's use of this subchapter and related law;
3-58 (2) the applicability of this subchapter to
3-59 governmental bodies;
3-60 (3) the procedures and requirements for complying with
3-61 an appeal under this subchapter;
3-62 (4) the role of the attorney general under this
3-63 subchapter; and
3-64 (5) penalties and other consequences for failing to
3-65 comply with this subchapter.
3-66 (d) For a governmental body with its main offices located in
3-67 a county with a population of 250,000 or less, the public
3-68 information officer or the officer's designee must complete the
3-69 training in person or online. For a governmental body with its main

4-1 offices located in a county with a population of more than 250,000,
4-2 the public information officer or the officer's designee must
4-3 complete the training in person from the office of the attorney
4-4 general.

4-5 (e) The office of the attorney general shall provide a
4-6 certificate to a person who completes the training required by this
4-7 section and keep records of the training certificates issued. A
4-8 governmental body shall maintain the training certificate of any
4-9 individual who provides a confirmation under Section
4-10 552.402(a)(4)(E) and make the certificate available for public
4-11 inspection.

4-12 Sec. 552.407. REVOCATION. (a) If the attorney general
4-13 determines that a governmental body failed to comply with the
4-14 requirements of this chapter, the office of the attorney general,
4-15 in its sole discretion, may revoke the governmental body's
4-16 authorization to respond under this subchapter or the training
4-17 certificate issued to an individual responsible for the
4-18 governmental body's failure.

4-19 (b) The attorney general shall create a notice of revocation
4-20 form. The attorney general shall inform a governmental body that
4-21 the attorney general has revoked the governmental body's
4-22 eligibility under Subsection (a) or an individual that the attorney
4-23 general has revoked the individual's training certificate by
4-24 sending the notice of revocation form by certified mail or by
4-25 another written method of notice that requires the return of a
4-26 receipt.

4-27 (c) The notice of revocation provided to a governmental body
4-28 must inform the governmental body of the length of time the
4-29 revocation is in effect. The length of time the governmental body's
4-30 revocation is in effect may not exceed six months from the date the
4-31 governmental body receives the notice of revocation form.

4-32 (d) The notice of revocation form provided to an individual
4-33 must inform the individual that the attorney general has revoked
4-34 the individual's training certificate under Subsection (a). The
4-35 individual must repeat the course of training under Section 552.406
4-36 to obtain a new training certificate.

4-37 (e) If an individual is employed by a governmental body when
4-38 the governmental body's authorization to respond under this
4-39 subchapter is revoked under Subsection (a), and the individual
4-40 obtains employment at a different governmental body with
4-41 authorization to respond under this subchapter, the individual may
4-42 not provide a confirmation under Section 552.402(a)(4)(E) until the
4-43 revocation period for the initial governmental body has expired.

4-44 (f) The office of the attorney general shall publish on its
4-45 Internet website:

4-46 (1) a list that provides the first and last names of
4-47 individuals who hold an active training certificate issued under
4-48 Section 552.406, the date each individual's training was completed,
4-49 and the date each individual's training certificate expires; and

4-50 (2) a list of the governmental bodies that are not
4-51 authorized to respond to a request under this subchapter because
4-52 their authorization has been revoked under Subsection (a).

4-53 Sec. 552.408. REPORT ON IMPLEMENTATION OF SUBCHAPTER.
4-54 (a) For the state fiscal biennium beginning September 1, 2017, the
4-55 attorney general shall collect data detailing the number of:

4-56 (1) requests for decisions in response to appeals the
4-57 attorney general receives under Section 552.404;

4-58 (2) individuals who complete training under Section
4-59 552.406;

4-60 (3) governmental bodies that have their authorization
4-61 to respond under this subchapter revoked under Section 552.407; and

4-62 (4) individuals who have their training certificates
4-63 revoked under Section 552.407.

4-64 (b) Not later than February 1, 2019, the attorney general
4-65 shall make the data collected under Subsection (a) available on the
4-66 attorney general's Internet website for open records.

4-67 (c) This section expires September 1, 2019.

4-68 SECTION 6. The changes in law made by this Act apply only to
4-69 a request for information that is received by a governmental body on

5-1 or after the effective date of this Act. A request for information
5-2 that was received before the effective date of this Act is governed
5-3 by the law that was in effect on the date the request was received,
5-4 and the former law is continued in effect for that purpose.

5-5 SECTION 7. This Act takes effect September 1, 2017.

5-6

* * * * *