

House Bill 3107
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

(e) A request is considered to have been withdrawn if the requestor fails to inspect or duplicate the public information in the offices of the governmental body on or before the 60th day after the date the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

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

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

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

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

(a-1) For purposes of this section, all county officials who

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SECTION 1. Same as House version.

SECTION 2. Same as House version.

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

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

(a-1) For purposes of this section, all county officials who

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have designated the same officer for public information may calculate the amount of time that personnel are required to spend collectively for purposes of the monthly or yearly limit.

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

(d) If a governmental body establishes a time limit under Subsection (a), each time the governmental body complies with a request for public information, the governmental body shall provide the requestor with a written statement of the amount of personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that requestor during the applicable monthly or yearly [~~12-month~~] period. The amount of time spent preparing the written statement may not be included in the amount of time included in the statement provided to the requestor under this subsection.

(e) Subject to Subsection (e-1), if [~~if~~] in connection with a request for public information, the cumulative amount of personnel time spent complying with requests for public information from the same requestor equals or exceeds the limit established by the governmental body under Subsection (a), the governmental body shall provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request. The written estimate must be provided to the requestor on or before the 10th day after the date on which the public information was requested. The amount of this charge relating to the cost of locating, compiling, and producing the

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have designated the same officer for public information may calculate the amount of time that personnel are required to spend collectively for purposes of the monthly or yearly limit.

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

(d) If a governmental body establishes a time limit under Subsection (a), each time the governmental body complies with a request for public information, the governmental body shall provide the requestor with a written statement of the amount of personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that requestor during the applicable monthly or yearly [~~12-month~~] period. The amount of time spent preparing the written statement may not be included in the amount of time included in the statement provided to the requestor under this subsection.

(e) Subject to Subsection (e-1), if [~~if~~] in connection with a request for public information, the cumulative amount of personnel time spent complying with requests for public information from the same requestor equals or exceeds the limit established by the governmental body under Subsection (a), the governmental body shall provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request. The written estimate must be provided to the requestor on or before the 10th day after the date on which the public information was requested. The amount of this charge relating to the cost of locating, compiling, and producing the

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public information shall be established by rules prescribed by the attorney general under Sections 552.262(a) and (b).

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

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

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

~~[(2)] payment of~~ the amount stated in the written statement provided under Subsection (e).

(h) If the requestor fails or refuses to submit payment ~~the~~

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public information shall be established by rules prescribed by the attorney general under Sections 552.262(a) and (b).

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

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

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

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

(h) If the requestor fails or refuses to submit payment ~~the~~

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~~written statement~~] under Subsection (g), the requestor is considered to have withdrawn the requestor's pending request for public information.

(j) This section does not apply if the requestor is an individual who, for a substantial portion of the individual's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information for and is seeking the information for dissemination by a news medium or communication service provider, including:

(1) an individual who supervises or assists in gathering, preparing, and disseminating the news or information; or

(2) an individual who is or was a journalist, scholar, or researcher employed by an institution of higher education at the time the person made the request for information [a radio or television broadcast station that holds a broadcast license for an assigned frequency issued by the Federal Communications Commission;

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

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

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

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~~written statement~~] under Subsection (g), the requestor is considered to have withdrawn the requestor's pending request for public information.

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

(1) dissemination by a news medium or communication service provider, including:

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

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

(2) creation or maintenance of an abstract plant as described by Section 2501.004, Insurance Code [a radio or television broadcast station that holds a broadcast license for an assigned frequency issued by the Federal Communications Commission;

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

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

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

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(m) In this section:

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

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

(A) print;

(B) television;

(C) radio;

(D) photographic;

(E) mechanical;

(F) electronic; and

(G) other means, known or unknown, that are accessible to the public.

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

(i) If the district or county attorney determines not to bring an action under this section, the complainant is entitled to file the complaint with the attorney general before the 31st day after the date the complaint is returned to the complainant. A complainant is entitled to file a complaint with the attorney general on or after the 90th day after the date the complainant

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(m) In this section:

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

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

(A) print;

(B) television;

(C) radio;

(D) photographic;

(E) mechanical;

(F) electronic; and

(G) other means, known or unknown, that are accessible to the public.

SECTION 4. Same as House version.

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files the complaint with a district or county attorney if the district or county attorney has not brought an action under this section. On receipt of the written complaint, the attorney general shall comply with each requirement in Subsections (g) and (h) in the time required by those subsections. If the attorney general decides to bring an action under this section against a governmental body located only in one county in response to the complaint, the attorney general must comply with Subsection (c).

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

SECTION 6. This Act takes effect September 1, 2017.

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SECTION 5. Same as House version.

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