By:  Hughes S.B. No. 1463

(In the Senate - Filed March 4, 2019; March 14, 2019, read first time and referred to Committee on Business & Commerce; May 6, 2019, reported adversely, with favorable Committee Substitute by the following vote: Yeas 8, Nays 0; May 6, 2019, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Hancock              X

Nichols              X

Campbell             X

Creighton            X

Menéndez             X

Paxton               X

Schwertner           X

Whitmire                       X

Zaffirini            X

COMMITTEE SUBSTITUTE FOR S.B. No. 1463 By:  Nichols

A BILL TO BE ENTITLED

AN ACT

relating to the availability of financial information of nonprofit corporations for public inspection.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Section 22.353, Business Organizations Code, is amended by adding Subsections (a-1), (c), (d), (e), (f), and (g) to read as follows:

(a-1)  For purposes of this section, "records, books, and annual reports" of a corporation's financial activity:

(1)  include:

(A)  financial records required to be maintained and annual financial reports prepared or approved under Section 22.352;

(B)  any document the Internal Revenue Service requires a corporation that is tax exempt under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt entity under Section 501(c) of that code, to make available to the public;

(C)  documents containing salary or other information related to the compensation of each employee who receives more than $75,000 annually from the corporation;

(D)  other annual reports produced by the corporation;

(E)  financial statements, including audited financial statements; and

(F)  management representation letters prepared in connection with an audit of the corporation; and

(2)  do not include:

(A)  contracts and agreements, including operating and settlement agreements;

(B)  employee personnel files;

(C)  donor names;

(D)  sponsor information; or

(E)  sensitive personal information, including addresses, bank account numbers, and social security numbers.

(c)  If a corporation anticipates that the fee to be charged for preparing a copy of a record or report under Subsection (b) will exceed $100, the corporation may provide notice to the person requesting the copy requiring the person to pay a deposit of all or a portion of the anticipated fee for preparing the copy. The corporation may treat all requests for copies received by the corporation during seven consecutive calendar days from a single person, mailing address, or e-mail address as a single request for purposes of calculating the anticipated fee under this subsection. On the date a corporation provides a copy or copies of a record or report for which the corporation accepted a deposit under this subsection, the corporation shall refund to the requestor the difference between the accepted deposit and the actual costs incurred by the corporation in providing the copy or copies.

(d)  A requestor who fails to pay a deposit required under Subsection (c) not later than the 15th business day after the date the requestor receives notice of the deposit from the corporation is considered to have withdrawn the request for the copy or copies under this section. A person whose request is considered withdrawn under this subsection is not precluded from submitting a new request to the corporation for the same records or reports.

(e)  A corporation may establish a reasonable monthly limit of not less than 15 hours on the total amount of hours per calendar month that the corporation's personnel may spend responding to two or more requests for copies submitted to the corporation by a single requestor during a calendar month.

(f)  Each time a corporation that establishes a monthly time limit under Subsection (e) complies with a request for a copy or copies under this section, the corporation shall provide to the requestor a written statement of the monthly hour limit established under that subsection, the amount of time corporation personnel spent complying with the request, and the cumulative amount of time spent by corporation personnel complying with all requests from that requestor during the applicable calendar month in which the request is made. The corporation may not include the amount of time spent by personnel in preparing a written statement required by this subsection in calculating the amount of time spent complying with a request. A corporation that provides a written statement to a requestor as required by this subsection is not required to respond to additional requests for copies from a requestor who has exceeded the monthly time limit until the following calendar month.

(g)  If a corporation determines that all or part of a person's request for copies is duplicative of a request for which the corporation has previously provided copies to that person, the corporation is not required to provide the duplicative copies to the requestor and shall certify to the requestor that copies of all or part of the requested record or report, as applicable, were previously provided to the requestor and that the corporation is not required to provide the duplicative copies to the requestor.

SECTION 2.  This Act takes effect September 1, 2019.

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