

By: Bettencourt

S.B. No. 1492

A BILL TO BE ENTITLED

AN ACT

relating to an expedited response by a governmental body to a request for public information.

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

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

(g) The time deadlines imposed by this section do not affect the application of a time deadline imposed on a governmental body under Subchapter G or K.

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

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

SECTION 3. Section 552.302, Government Code, is amended to read as follows:

Sec. 552.302. FAILURE TO MAKE TIMELY REQUEST FOR ATTORNEY GENERAL DECISION; PRESUMPTION THAT INFORMATION IS PUBLIC. If a governmental body does not request an attorney general decision as provided by Section 552.301 or in response to an appeal under

1 Subchapter K and provide the requestor with the information  
2 required by Sections 552.301(d) and (e-1) or Section 552.405(b),  
3 the information requested in writing is presumed to be subject to  
4 required public disclosure and must be released unless there is a  
5 compelling reason to withhold the information.

6 SECTION 4. Section 552.321(a), Government Code, is amended  
7 to read as follows:

8 (a) A requestor or the attorney general may file suit for a  
9 writ of mandamus compelling a governmental body to make information  
10 available for public inspection if the governmental body refuses to  
11 request an attorney general's decision as provided by Subchapter G  
12 or Section 552.405 or refuses to supply public information or  
13 information that the attorney general has determined is public  
14 information that is not excepted from disclosure under Subchapter  
15 C.

16 SECTION 5. Section 552.352, Government Code, is amended by  
17 adding Subsection (d) to read as follows:

18 (d) It is an affirmative defense to prosecution under  
19 Subsection (a) that the defendant released information under  
20 Subchapter K and did not release confidential information  
21 intentionally, as defined by Section 6.03, Penal Code.

22 SECTION 6. Section 552.353(b), Government Code, is amended  
23 to read as follows:

24 (b) It is an affirmative defense to prosecution under  
25 Subsection (a) that the officer for public information reasonably  
26 believed that public access to the requested information was not  
27 required and that:

1 (1) the officer acted in reasonable reliance on a  
2 court order or a written interpretation of this chapter contained  
3 in an opinion of a court of record or of the attorney general issued  
4 under Subchapter G;

5 (2) the officer requested a decision from the attorney  
6 general in accordance with Subchapter G or Section 552.405, and the  
7 decision is pending; or

8 (3) not later than the 10th calendar day after the date  
9 of receipt of a decision by the attorney general that the  
10 information is public, the officer or the governmental body for  
11 whom the defendant is the officer for public information filed a  
12 petition for a declaratory judgment against the attorney general in  
13 a Travis County district court seeking relief from compliance with  
14 the decision of the attorney general, as provided by Section  
15 552.324, and the cause is pending.

16 SECTION 7. Chapter 552, Government Code, is amended by  
17 adding Subchapter K to read as follows:

18 SUBCHAPTER K. EXPEDITED RESPONSE PROCEDURE

19 Sec. 552.401. APPLICABILITY. (a) This subchapter does not  
20 apply to a request for information that may involve a person's  
21 privacy or property interest under Section 552.305.

22 (b) This subchapter applies to a governmental body only if:

23 (1) the governmental body's officer for public  
24 information or the officer's designee holds an active training  
25 certificate issued under Section 552.406; and

26 (2) the governmental body's authorization to respond  
27 to a request for information under this subchapter is not revoked

1 under Section 552.407 on the date the request is received.

2 Sec. 552.402. REQUEST FOR ATTORNEY GENERAL DECISION NOT  
3 REQUIRED. Subject to Section 552.404, a governmental body that  
4 receives a written request for information and complies with the  
5 requirements of this subchapter may withhold any information it  
6 makes a good faith determination is excepted from required public  
7 disclosure under this chapter without the necessity of requesting a  
8 decision from the attorney general under Subchapter G.

9 Sec. 552.403. RESPONSE REQUIREMENTS. (a) A governmental  
10 body that withholds information under this subchapter must respond  
11 to the requestor not later than the 10th business day after the date  
12 the governmental body receives a written request for that  
13 information by providing the requestor with:

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

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

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

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

27 (A) a unique identification number assigned by

1 the governmental body;

2 (B) a description of the appeal procedure;

3 (C) an appeal form the requestor must use to  
4 appeal the withholding of information under this subchapter;

5 (D) a reference to the requestor's rights under  
6 this chapter;

7 (E) the name of the individual who has received  
8 training under Section 552.406; and

9 (F) a confirmation from the individual named in  
10 Paragraph (E) that the individual reviewed and approved the  
11 response.

12 (b) The governmental body shall retain, at a minimum, an  
13 electronic or paper copy of the notice it provides to the requestor  
14 under Subsection (a)(4) for the length of time the governmental  
15 body retains the request for information.

16 Sec. 552.404. APPEAL. (a) On receipt of a response by a  
17 governmental body under Section 552.403, the requestor may appeal  
18 the withholding of information in the response not later than the  
19 30th calendar day after the date the requestor receives the  
20 response.

21 (b) The requestor must submit the appeal to the governmental  
22 body that responded under Section 552.403 on the appeal form  
23 provided to the requestor under Section 552.403(a)(4).

24 (c) The appeal is considered a new request and is subject to  
25 the procedural requirements of Section 552.405.

26 (d) A governmental body may not seek to narrow or clarify an  
27 appeal made under this section under Section 552.222(b).

1 (e) A governmental body may not respond to a requestor under  
2 Section 552.232 in response to an appeal made under this section.

3 (f) Notwithstanding Sections 552.024(c)(2), 552.1175(f),  
4 552.130(c), 552.136(c), and 552.138(c), a governmental body must  
5 request an attorney general decision to withhold information  
6 described by those provisions in response to an appeal.

7 Sec. 552.405. REQUEST FOR ATTORNEY GENERAL DECISION IN  
8 RESPONSE TO APPEAL. (a) Except as provided by this subchapter:

9 (1) an appeal made under Section 552.404 is subject to  
10 the provisions of this chapter; and

11 (2) an attorney general's decision requested under  
12 this section is considered to be a decision under Subchapter G.

13 (b) A governmental body that receives an appeal under  
14 Section 552.404 shall, within a reasonable time, but not later than  
15 the fifth business day after the date the governmental body  
16 receives the appeal, submit to the attorney general:

17 (1) a request for an attorney general's decision;

18 (2) a copy of the original written request for  
19 information;

20 (3) a signed statement as to the date on which the  
21 written response required by Section 552.403 was provided to the  
22 requestor, or evidence sufficient to establish that date;

23 (4) a copy of the appeal form received by the  
24 governmental body;

25 (5) a signed statement as to the date on which the  
26 appeal was received by the governmental body, or evidence  
27 sufficient to establish the date;

1           (6) the exceptions that apply and written comments  
2 stating the reasons why the stated exceptions apply that would  
3 allow the information to be withheld;

4           (7) if the governmental body provided partially  
5 redacted information to the requestor in its initial response under  
6 Section 552.403, an unredacted copy of the information the  
7 governmental body provided to the requestor with the copy clearly  
8 marked indicating the released portions and the withheld portions  
9 labeled with the exceptions the governmental body relied on to  
10 withhold the information; and

11           (8) a copy of the specific information the  
12 governmental body seeks to withhold, or representative samples of  
13 the information, labeled to indicate which exceptions apply to  
14 which parts of the copy.

15           (c) A governmental body that receives an appeal under  
16 Section 552.404 shall, within a reasonable time, but not later than  
17 the fifth business day after the date the governmental body  
18 receives the appeal, send a copy of the comments submitted under  
19 Subsection (b)(6) to the requestor. If the written comments  
20 disclose or contain the substance of the information requested, the  
21 copy of the comments provided to the requestor must be a redacted  
22 copy.

23           Sec. 552.406. TRAINING. (a) The public information  
24 officer for a governmental body that responds to a request under  
25 this subchapter or the officer's designee must have completed in  
26 the four years preceding the response a course of training of not  
27 less than four hours or more than six hours regarding the

1 responsibilities of the governmental body under this subchapter.

2 (b) The attorney general shall ensure that the training is  
3 made available. The attorney general shall maintain at least one  
4 updated course of training that is available in an online  
5 presentation format. The online training may be broken into  
6 separate sections. The online training must provide a means to  
7 verify that the trainee observed and comprehended the full online  
8 training session or, if applicable, each section of the training.

9 (c) At a minimum, the training must include instruction in:

10 (1) the general background of the legal requirements  
11 for the governmental body's use of this subchapter and related law;

12 (2) the applicability of this subchapter to  
13 governmental bodies;

14 (3) the procedures and requirements for complying with  
15 an appeal under this subchapter;

16 (4) the role of the attorney general under this  
17 subchapter; and

18 (5) penalties and other consequences for failing to  
19 comply with this subchapter.

20 (d) The office of the attorney general shall provide a  
21 certificate to a person who completes the training required by this  
22 section and keep records of the training certificates issued. A  
23 governmental body shall maintain the training certificate of any  
24 individual who provides a confirmation under Section  
25 552.403(a)(4)(F) and make the certificate available for public  
26 inspection.

27 Sec. 552.407. REVOCATION. (a) If the attorney general



1 determines that a governmental body failed to comply with the  
2 requirements of this chapter, the office of the attorney general,  
3 in its sole discretion, may revoke the governmental body's  
4 authorization to respond under this subchapter or the training  
5 certificate issued to an individual responsible for the  
6 governmental body's failure.

7       (b) The attorney general shall create a notice of revocation  
8 form. The attorney general shall inform a governmental body that  
9 the attorney general has revoked the governmental body's  
10 eligibility under Subsection (a) or an individual that the attorney  
11 general has revoked the individual's training certificate by  
12 sending the notice of revocation form by certified mail or by  
13 another written method of notice that requires the return of a  
14 receipt.

15       (c) The notice of revocation provided to a governmental body  
16 must inform the governmental body of the length of time the  
17 revocation is in effect. The length of time the governmental body's  
18 revocation is in effect may not exceed six months from the date the  
19 governmental body receives the notice of revocation form.

20       (d) The notice of revocation form provided to an individual  
21 must inform the individual that the attorney general has revoked  
22 the individual's training certificate under Subsection (a). The  
23 individual must repeat the course of training under Section 552.406  
24 to obtain a new training certificate.

25       (e) If an individual is employed by a governmental body when  
26 the governmental body's authorization to respond under this  
27 subchapter is revoked under Subsection (a), and the individual

1 obtains employment at a different governmental body with  
2 authorization to respond under this subchapter, the individual may  
3 not provide a confirmation under Section 552.403(a)(4)(F) until the  
4 revocation period for the initial governmental body has expired.

5 (f) The office of the attorney general shall publish on its  
6 Internet website:

7 (1) a list that provides the first and last names of  
8 individuals who hold an active training certificate issued under  
9 Section 552.406, the date each individual's training was completed,  
10 and the date each individual's training certificate expires; and

11 (2) a list of the governmental bodies that are not  
12 authorized to respond to a request under this subchapter because  
13 their authorization has been revoked under Subsection (a).

14 Sec. 552.408. REPORT ON IMPLEMENTATION OF SUBCHAPTER. (a)  
15 For the state fiscal biennium beginning September 1, 2021, the  
16 attorney general shall collect data detailing the number of:

17 (1) requests for decisions in response to appeals the  
18 attorney general receives under Section 552.405;

19 (2) individuals who complete training under Section  
20 552.406;

21 (3) governmental bodies that have their authorization  
22 to respond under this subchapter revoked under Section 552.407; and

23 (4) individuals who have their training certificates  
24 revoked under Section 552.407.

25 (b) Not later than February 1, 2023, the attorney general  
26 shall make the data collected under Subsection (a) available on the  
27 attorney general's Internet website for open records.

1        (c) This section expires September 1, 2023.

2        SECTION 8. The changes in law made by this Act apply only to  
3 a request for information that is received by a governmental body on  
4 or after the effective date of this Act. A request for information  
5 that was received before the effective date of this Act is governed  
6 by the law that was in effect on the date the request was received,  
7 and the former law is continued in effect for that purpose.

8        SECTION 9. This Act takes effect September 1, 2021.