

BILL ANALYSIS

C.S.H.B. 3167
By: Moody
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law protects governmental bodies subject to state public information law from burdensome requests designed solely to disrupt the body's work by allowing them to impose limitations on how many hours of production or inspection time are allowed and how much work may be done before a requestor may be charged for having their requests completed. C.S.H.B. 3167 seeks to further strengthen the protections against potentially vexatious requestors by providing that a requestor who has exceeded such a limit may not inspect records on behalf of another requestor unless outstanding statements are paid in full and by allowing a governmental body to request photo identification from requestors to establish that the requestor has not exceeded a time limit established by the governmental body and has not concealed their identity.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3167 amends the Government Code to revise provisions regarding public information requests that require large amounts of employee or personnel time by authorizing a governmental body to request photo identification from a requestor for the sole purpose of establishing that the requestor has not exceeded a limit established by the governmental body on the amount of time in a given month or year 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 and that the requestor has not concealed their identity. The bill provides the following with respect to such a request for photo identification:

- the request must include a statement of estimated costs to comply with the request applicable to the requestor who has exceeded an established time limit and a statement that describes each specific reason why the governmental body believes the requestor is a person who has exceeded a time limit;
- the governmental body must accept as proof of a requestor's identification physical presentment of photo identification or an image of the photo identification that is transmitted electronically or through the mail; and
- a requestor who fails or refuses to provide identification is considered to have withdrawn their pending public information request, except that a requestor may decline to provide

requested identification and obtain the requested information by paying the charge assessed in the statement for responding to the request.

Moreover, with respect to a governmental body that has established a monthly or annual time limit and the provision in current law establishing that, when the governmental body provides a 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 period, the time spent preparing the statement may not be included in the amount of time included in the statement, the bill establishes an exception to that provision allowing the time spent preparing the statement to be included in the statement if the requestor's time limit for the applicable period has been exceeded.

C.S.H.B. 3167 prohibits a requestor who has exceeded the monthly or annual time limit established by a governmental body from inspecting public information, either in paper record or electronic record, on behalf of another requester unless the requestor who exceeded the limit has paid each statement issued by the governmental body regarding the total cost of complying with a given request after the requestor has exceeded the limit.

C.S.H.B. 3167 applies only to a public information request received on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3167 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute omits provisions present in the introduced establishing a process for a governmental body to request an opinion from the attorney general under state public information law for relief from a requestor that the governing body alleges is a "vexatious requestor," which the introduced defined as a requestor, or the requestor's agent, servant, employee, or contractor, who submits repeated requests that the governmental body has reason to believe are intended to unreasonably burden or disrupt the official business of the governmental body.

The substitute retains in part the authorization provided in the introduced for a governmental body to request photo identification from a requestor. Whereas in the introduced that authorization was limited to a requestor who has been determined to be a vexatious requestor and for the purpose of determining whether the vexatious requestor is continuing to submit requests anonymously or under a pseudonym, the substitute authorizes a governmental body to request photo identification from any requestor for the sole purpose of establishing that the requestor has not exceeded a limit on the total time spent in a month or annually in response to the requestor's public information requests and has not concealed the requestor's identity. The substitute omits provisions from the introduced authorizing a person who receives such a request to seek relief from the request from the attorney general. Moreover, while both the introduced and the substitute establish that a person's request is considered withdrawn if they fail to provide requested photo identification, the introduced included a period of 10 business days of the request within which the identification must be supplied whereas the substitute does not.

The substitute includes provisions absent from the introduced providing the following with respect to a request for photo identification from a requestor:

- the request must include a statement of estimated costs to comply with the request applicable to the requestor who has exceeded an established time limit and a statement that describes each specific reason why the governmental body believes the requestor is a person who has exceeded a time limit;
- the governmental body must accept as proof of a requestor's identification physical presentment of photo identification or an image of the photo identification that is transmitted electronically or through the mail; and
- a requestor may decline to provide requested identification and obtain the requested information by paying the charge assessed in the statement for responding to the request.

The substitute also revises a provision of current law that prohibits a certain statement provided to a requestor regarding the amount of personnel time spent on their requests from including the time spent preparing that statement by allowing such preparation time to be included if the requestor's time limit for the applicable period has been exceeded. The introduced did not provide this exception.

The introduced prohibited a requestor who has exceeded a governmental body's time limit from inspecting records on someone else's behalf and required the requestor, if they intend to remain anonymous, to pay the attorney general-approved costs of obtaining copies. The substitute prohibits such a requestor from inspecting any public information on behalf of another requestor unless the requestor who exceeded the time limit has paid each statement issued by the governmental body to the requestor regarding the total cost of complying with a given request after the requestor has exceeded the limit.