

BILL ANALYSIS

S.B. 1658
By: Hinojosa
State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

State public information law aims to ensure transparency, openness, and accountability in government. However, technological advances and changes in public information practices have rendered some sections of the law outdated. It is essential to address these issues before they escalate into more significant problems that could undermine the vital purpose state public information law serves. Accordingly, S.B. 1658 seeks to make various revisions and updates to provisions relating to the collection and disclosure of information under state public information law while also establishing that, for purposes of state law governing the state's body worn camera program, a reference to a "recording" by a body worn camera, however phrased, means an audio recording, a video recording, or an audiovisual recording.

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

S.B. 1658 amends the Government Code to revise provisions relating to the collection and disclosure of information under state public information law. Specifically, the bill does the following:

- establishes that the exception from required disclosure for information considered to be confidential by law, either constitutional, statutory, or by judicial decision, does not encompass any of the following:
 - the attorney-client privilege;
 - the work product privilege;
 - another exception to disclosure under state public information law; or
 - a state or federal discovery privilege;
- makes the exception to required disclosure for certain information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime inapplicable with respect to all basic information held by the agency or prosecutor, rather than only basic information about an arrested person, an arrest, or a crime;
- establishes that the exceptions from required disclosure for the following types of information do not constitute compelling reasons for a governmental body to withhold information without requesting an attorney general decision about whether the information is excepted from disclosure:
 - litigation or settlement negotiations involving the state or a political subdivision;

- information related to competition or bidding;
- information related to location or price of property;
- certain legislative documents;
- certain law enforcement, corrections, and prosecutorial information;
- an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency;
- certain information relating to regulation of financial institutions or securities;
- audit working papers;
- test items developed by certain educational institutions, a licensing agency, or a governmental body;
- documents or information privileged under the Texas Environmental, Health, and Safety Audit Privilege Act;
- information about a financial or other incentive being offered to a business prospect by a governmental body or another person but for which an agreement has not been made;
- working papers and electronic communications of administrative law judges at the State Office of Administrative Hearings;
- certain communications with an assistant or employee of the Legislative Budget Board;
- certain memoranda, staff evaluations, or other records prepared by a responsible governmental entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals for a qualifying project under a public-private partnership; and
- the name of an applicant for executive director, chief investment officer, or chief audit executive of the Teacher Retirement System of Texas;
- establishes that the exclusion of an exception to disclosure from the above list does not create a presumption that the exception constitutes a compelling reason for a governmental body to withhold information; and
- repeals the provisions relating to a governmental body's response to requests for information that require programming or manipulation of data.

S.B. 1658 amends the Occupations Code to establish that, for purposes of state law governing the state's body worn camera program, a reference to "recording" by a body worn camera, however phrased, means an audio recording, a video recording, or an audiovisual recording. This applies with respect to a "body worn camera recording," a "recording created with a body worn camera," "information recorded by a body worn camera," "recorded information," and any synonymous word or phrase.

S.B. 1658 amends the Local Government Code to make conforming changes.

S.B. 1658 applies only to a request for public information received on or after the bill's effective date.

S.B. 1658 repeals Section 552.231, Government Code.

EFFECTIVE DATE

September 1, 2023.