

By: Smithee

H.B. No. 2874

A BILL TO BE ENTITLED

AN ACT

relating to the assessment of litigation costs and attorney fees in certain lawsuits under the public information law.

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

SECTION 1. Section 552.323, Government Code, is amended to read as follows:

Sec. 552.323. ASSESSMENT OF COSTS OF LITIGATION AND REASONABLE ATTORNEY FEES. (a) Except as provided by Subsections (b) and (c), in [In] an action brought under Section 552.321, [or] 552.3215, 552.324, or 552.325, the court shall assess costs of litigation and reasonable attorney fees incurred by a plaintiff or intervening requestor:

(1) who substantially prevails; or

(2) to whom a governmental body voluntarily releases the requested information, unless before suit is filed:

(A) the body releases the information; or

(B) the body certifies a date and hour within a reasonable time when the information will be available for inspection or duplication.

(b) The [except that the] court may not assess [these] costs or [and] fees against a governmental body under Subsection (a) if the court finds that the governmental body acted in reasonable reliance on:

(1) a judgment or an order of a court applicable to the

1 governmental body;

2 (2) the published opinion of an appellate court; or

3 (3) a written decision of the attorney general,
4 including a decision issued under Subchapter G or an opinion issued
5 under Section 402.042.

6 (c) Notwithstanding Subsection (a), in an action brought
7 under Section 552.325 by a person or entity other than a
8 governmental body or officer for public information, the court
9 shall assess costs of litigation and reasonable attorney fees
10 incurred by an intervening requestor if the intervening requestor
11 substantially prevails.

12 ~~[(b) In an action brought under Section 552.324, the court~~
13 ~~may not assess costs of litigation or reasonable attorney's fees~~
14 ~~incurred by a plaintiff or defendant who substantially prevails~~
15 ~~unless the court finds the action or the defense of the action was~~
16 ~~groundless in fact or law. In exercising its discretion under this~~
17 ~~subsection, the court shall consider whether the conduct of the~~
18 ~~governmental body had a reasonable basis in law and whether the~~
19 ~~litigation was brought in good faith.]~~

20 SECTION 2. The changes in law made by this Act apply only to
21 a request for public information received by a governmental body or
22 officer for public information on or after the effective date of
23 this Act.

24 SECTION 3. This Act takes effect September 1, 2023.