

House Bill 3033
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subchapter A, Chapter 552, Government Code, is amended by adding Section 552.0031 to read as follows:

Sec. 552.0031. BUSINESS DAYS. (a) Except as provided by this section, in this chapter "business day" means a day other than:

(1) a Saturday or Sunday;

(2) a national holiday under Section 662.003(a); or

(3) a state holiday under Section 662.003(b).

(b) The fact that an employee works from an alternative work site does not affect whether a day is considered a business day under this chapter.

(c) An optional holiday under Section 662.003(c) is not a business day of a governmental body if the officer for public information of the governmental body observes the optional holiday.

(d) A holiday established by the governing body of an institution of higher education under Section 662.011(a) is not a business day of the institution of higher education.

(e) The Friday before or Monday after a holiday described by Subsection (a)(2) or (3) is not a business day of a governmental body if the holiday occurs on a Saturday or Sunday and the governmental body observes the holiday on that Friday or Monday.

(f) Subject to the requirements of this subsection, a governmental body may designate a day on which the governmental body's administrative offices are closed or operating with minimum staffing as a nonbusiness day. The designation of a nonbusiness day for an independent school district must be made by the board of trustees. The designation of a nonbusiness day for a governmental body other than an independent school district must be made by the executive director or other chief administrative officer. A

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SECTION 1. Subchapter A, Chapter 552, Government Code, is amended by adding Section 552.0031 to read as follows:

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(1) a Saturday or Sunday;

(2) a national holiday under Section 662.003(a); or

(3) a state holiday under Section 662.003(b).

(b) The fact that an employee works from an alternative work site does not affect whether a day is considered a business day under this chapter.

(c) An optional holiday under Section 662.003(c) is not a business day of a governmental body if the officer for public information of the governmental body observes the optional holiday.

(d) A holiday established by the governing body of an institution of higher education under Section 662.011(a) is not a business day of the institution of higher education.

(e) The Friday before or Monday after a holiday described by Subsection (a)(2) or (3) is not a business day of a governmental body if the holiday occurs on a Saturday or Sunday and the governmental body observes the holiday on that Friday or Monday.

(f) Subject to the requirements of this subsection, a governmental body may designate a day on which the governmental body's administrative offices are closed or operating with minimum staffing as a nonbusiness day. The designation of a nonbusiness day for an independent school district must be made by the board of trustees. The designation of a nonbusiness day for a governmental body other than an independent school district must be made by the executive director or other chief administrative officer. A

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governmental body may designate not more than 10 nonbusiness days under this subsection each calendar year. A governmental body shall make a good faith effort to post advance notice of the nonbusiness days designated under this subsection on the governmental body's Internet website.

SECTION 2. Section 552.012, Government Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) The attorney general may require each public official of a governmental body to complete the course of training if the attorney general determines that the governmental body has failed to comply with a requirement of this chapter. The attorney general must notify each public official in writing of the attorney general's determination and the requirement to complete the training. A public official who receives notice from the attorney general under this subsection must complete the training not later than the 60th day after the date the official receives the notice.

No equivalent provision.

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governmental body may designate not more than 10 nonbusiness days under this subsection each calendar year.

SECTION 2. Same as House version.

SECTION __. Section 552.103, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The exception to disclosure provided by this section does not apply to information requested under this chapter if:

(1) the information relates to a general, primary, or special election, as those terms are defined by Section 1.005, Election Code;

(2) the information is in the possession of a governmental body that administers elections described by Subdivision (1); and

(3) the governmental body described by Subdivision (2) is not

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a governmental body described by Section 552.003(1)(A)(i).
[FA2(2)]

SECTION 3. Section 552.108(c), Government Code, is amended to read as follows:

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime. A governmental body shall promptly release basic information responsive to a request made under this chapter unless the governmental body seeks to withhold the information as provided by another provision of this chapter, and regardless of whether the governmental body requests an attorney general decision under Subchapter G regarding other information subject to the request.

SECTION 3. Same as House version.

No equivalent provision.

SECTION __. Subchapter C, Chapter 552, Government Code, is amended by adding Section 552.163 to read as follows:

Sec. 552.163. EXCEPTION: CONFIDENTIALITY OF CERTAIN ATTORNEY GENERAL SETTLEMENT NEGOTIATIONS. (a) In this section, "attorney general settlement communication" means documentary materials or information collected, assembled, drafted, developed, used, received, or maintained by or on behalf of the attorney general with respect to an investigation or litigation conducted under Subchapter E, Chapter 17, Business & Commerce Code, and that reflects or is regarding negotiations made for the purpose of achieving a resolution of a matter without the need for continuing with litigation or trial.

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(b) An attorney general settlement communication is privileged and not subject to disclosure under this chapter from the date the attorney general's investigation begins, as indicated in the attorney general's case management records, until the earlier of:

(1) the 90th day after the date settlement discussions are terminated; or

(2) the earliest of the date:

(A) the case is reported closed in the attorney general's case management records;

(B) the final judgment, assurance of voluntary compliance, or other settlement agreement is entered by the court, and the period for filing a notice of appeal has passed;

(C) the settlement documents are executed by all parties, if the documents are not filed in court;

(D) the order of dismissal or nonsuit disposing of all parties is entered by the court; or

(E) all appeals are finalized.

(c) For the purpose of this section, a settlement communication does not include a document attached to or referenced in a delivered settlement proposal that is subject to disclosure under this chapter. [FA1(3)]

SECTION 4. Section 552.271, Government Code, is amended by adding Subsection (e) to read as follows:

(e) A requestor who has exceeded a limit established by a governmental body under Section 552.275 may not inspect public information on behalf of another requestor unless the requestor who exceeded the limit has paid each statement issued by the governmental body under Section 552.275(e).

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SECTION 5. Section 552.272, Government Code, is amended by adding Subsection (f) to read as follows:

(f) A requestor who has exceeded a limit established by a governmental body under Section 552.275 may not inspect public information on behalf of another requestor unless the requestor who exceeded the limit has paid each statement issued by the governmental body under Section 552.275(e).

SECTION 6. Section 552.275, Government Code, is amended by amending Subsections (d), (g), and (h) and adding Subsections (n) and (o) to read as follows:

(d) If a governmental body establishes a time limit under Subsection (a), each time the governmental body complies with a request for public information, the governmental body shall provide the 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 amount of time spent preparing the written statement may not be included in the amount of time included in the statement provided to the requestor under this subsection unless the requestor's time limit for the period has been exceeded.

(g) If a governmental body provides a requestor with a the written statement under Subsection (e) or (o) and the time limits prescribed by Subsection (a) regarding the requestor have been exceeded, the governmental body is not required to produce public information for inspection or duplication or to provide copies of public information in response to the requestor's request unless on or before the 10th day after the date the governmental body provided the written statement

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SECTION 5. Same as House version.

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under that subsection, the requestor submits payment of the amount stated in the written statement provided under Subsection (e) or provides identification or submits payment as required by Subsection (o), as applicable.

(h) If the requestor fails or refuses to provide identification or submit payment under Subsection (g), the requestor is considered to have withdrawn the requestor's pending request for public information.

(n) A governmental body may request photo identification from a requestor for the sole purpose of establishing that the requestor has not:

(1) exceeded a limit established by the governmental body under Subsection (a); and

(2) concealed the requestor's identity.

(o) A request for photo identification under Subsection (n) must include a statement under Subsection (e) applicable to the requestor who has exceeded a limit established by the governmental body and a statement that describes each specific reason why Subsection (n) may apply to the requestor. The governmental body shall 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. A requestor from whom a governmental body has requested photo identification under Subsection (n) may decline to provide identification and obtain the requested information by paying the charge assessed in the statement.

SECTION 7. Subchapter G, Chapter 552, Government Code, is amended by adding Section 552.3031 to read as follows:
Sec. 552.3031. ELECTRONIC SUBMISSION OF

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SECTION 7. Subchapter G, Chapter 552, Government Code, is amended by adding Section 552.3031 to read as follows:
Sec. 552.3031. ELECTRONIC SUBMISSION OF

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REQUEST FOR ATTORNEY GENERAL DECISION. (a) This section does not apply to a request for an attorney general decision made under this subchapter if:

(1) the governmental body requesting the decision:

(A) has fewer than 16 full-time employees; or

(B) is located in a county with a population of less than 150,000; or

(2) the amount or format of responsive information at issue in a particular request makes use of the attorney general's electronic filing system impractical or impossible.

(b) A governmental body that requests an attorney general decision under this subchapter must submit the request through the attorney general's designated electronic filing system.

(c) The attorney general may adopt rules necessary to implement this section, including rules that define the amount or type of formatting of information described by Subsection (a)(2) that makes use of the electronic filing system impractical or impossible.

SECTION 8. Section 552.306, Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Section 552.011, the attorney general shall promptly render a decision requested under this subchapter, consistent with the standards of due process, determining whether the requested information is within one of the exceptions of Subchapter C. The attorney general shall render the decision not later than the 45th business day after

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REQUEST FOR ATTORNEY GENERAL DECISION. (a) This section does not apply to a request for an attorney general decision made under this subchapter if:

(1) the governmental body requesting the decision:

(A) has fewer than 16 full-time employees; or

(B) is located in a county with a population of less than 150,000;

(2) the amount or format of responsive information at issue in a particular request makes use of the attorney general's electronic filing system impractical or impossible; or

(3) the request is hand delivered to the office of the attorney general.

(b) A governmental body that requests an attorney general decision under this subchapter must submit the request through the attorney general's designated electronic filing system.

(c) The attorney general may adopt rules necessary to implement this section, including rules that define the amount or type of formatting of information described by Subsection (a)(2) that makes use of the electronic filing system impractical or impossible.

SECTION 8. Section 552.306, Government Code, is amended by adding Subsections (c) and (d) to read as follows:

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~~the date the attorney general received the request for a decision. [If the attorney general is unable to issue the decision within the 45-day period, the attorney general may extend the period for issuing the decision by an additional 10 business days by informing the governmental body and the requestor, during the original 45-day period, of the reason for the delay.]~~

~~(c) A governmental body shall as soon as practicable but not later than the 30th day after the date the attorney general issues an opinion under Subsection (b) regarding information requested under this chapter:~~

~~(1) provide the requestor of the information an itemized estimate of charges for production of the information if the estimate is required by Section 552.2615;~~

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~~(c) A governmental body shall as soon as practicable but within a reasonable period of time after the date the attorney general issues an opinion under Subsection (b) regarding information requested under this chapter:~~

~~(1) provide the requestor of the information an itemized estimate of charges for production of the information if the estimate is required by Section 552.2615;~~

~~(2) if the requested information is voluminous:~~

~~(A) take the following actions if the governmental body determines that it is able to disclose the information in a single batch:~~

~~(i) provide a written certified notice to the requestor and the attorney general that it is impractical or impossible for the governmental body to produce the information within a reasonable period of time;~~

~~(ii) include in the notice the date and hour that the governmental body will disclose the information to the requestor, which may not be later than the 15th business day after the date the governmental body provides the notice; and~~

~~(iii) produce the information at the date and time included in the notice; or~~

~~(B) take the following actions if the governmental body determines that it is unable to disclose the information in a single batch:~~

~~(i) provide a written certified notice to the requestor and the~~

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- (2) produce the information if it is required to be produced;
- (3) notify the requestor in writing that the governmental body is withholding the information as authorized by the opinion;
- or
- (4) notify the requestor in writing that the governmental body has filed suit against the attorney general under Section 552.324 regarding the information.

SECTION 9. Section 552.308, Government Code, is amended

- attorney general that it is impractical or impossible for the governmental body to produce the information within a reasonable period of time and in a single batch;
- (ii) include in the notice the date and hour that the governmental body will disclose the first batch of information to the requestor, which may not be later than the 15th business day after the date the governmental body provides the notice;
- (iii) provide a written certified notice to the requestor and the attorney general when each subsequent batch of information is disclosed to the requestor of the date and hour that the governmental body will disclose the next batch of information to the requestor, which may not be later than the 15th business day after the date the governmental body provides the notice;
- and
- (iv) produce the requested information at each date and time included in a notice;
- (3) produce the information if it is required to be produced;
- (4) notify the requestor in writing that the governmental body is withholding the information as authorized by the opinion;
- or
- (5) notify the requestor in writing that the governmental body has filed suit against the attorney general under Section 552.324 regarding the information.
- (d) A governmental body is presumed to have complied with the requirements of Subsection (c) if the governmental body takes an action under that subsection regarding information that is the subject of an opinion issued by the attorney general not later than the 30th day after the date the attorney general issues the opinion. [FA1(1)-(2)]

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to read as follows:

Sec. 552.308. TIMELINESS OF ACTION BY UNITED STATES MAIL, INTERAGENCY MAIL, OR COMMON OR CONTRACT CARRIER. (a) Except as provided by Section 552.3031, when [~~When~~] this subchapter requires a request, notice, or other document to be submitted or otherwise given to a person within a specified period, the requirement is met in a timely fashion if the document is sent to the person by first class United States mail or common or contract carrier properly addressed with postage or handling charges prepaid and:

(1) it bears a post office cancellation mark or a receipt mark of a common or contract carrier indicating a time within that period; or

(2) the person required to submit or otherwise give the document furnishes satisfactory proof that it was deposited in the mail or with a common or contract carrier within that period.

(b) Except as provided by Section 552.3031, when [~~When~~] this subchapter requires an agency of this state to submit or otherwise give to the attorney general within a specified period a request, notice, or other writing, the requirement is met in a timely fashion if:

(1) the request, notice, or other writing is sent to the attorney general by interagency mail; and

(2) the agency provides evidence sufficient to establish that the request, notice, or other writing was deposited in the interagency mail within that period.

SECTION 10. Subchapter G, Chapter 552, Government Code, is amended by adding Section 552.310 to read as

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follows:

Sec. 552.310. SEARCHABLE DATABASE. (a) The office of the attorney general shall make available on the office's Internet website an easily accessible and searchable database consisting of:

(1) each request for an attorney general decision made under this subchapter; and

(2) the attorney general's opinion issued for the request.

(b) The database at a minimum must allow a person to search for a request or opinion described by Subsection (a) by:

(1) the name of the governmental body making the request; and

(2) the exception under Subchapter C that a governmental body asserts in the request applies to its request to withhold information from public disclosure.

(c) The database must allow a person to view the current status of a request described by Subsection (a)(1) and an estimated timeline indicating the date each stage of review of the request will be started and completed.

SECTION 11. The changes in law made by this Act to Sections 552.271, 552.272, and 552.275, Government Code, apply only to a request for information that is received by a governmental body or an officer for public information on or after the effective date of this Act. A request for information that was received before the effective date of this Act is governed by the law in effect on the date the request was received, and the former law is continued in effect for that purpose.

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follows:

Sec. 552.310. SEARCHABLE DATABASE. (a) The office of the attorney general shall make available on the office's Internet website an easily accessible and searchable database consisting of:

(1) **information identifying** each request for an attorney general decision made under this subchapter; and

(2) the attorney general's opinion issued for the request.

(b) The database at a minimum must allow a person to search for a request or opinion described by Subsection (a) by:

(1) the name of the governmental body making the request; and

(2) the exception under Subchapter C that a governmental body asserts in the request applies to its request to withhold information from public disclosure.

(c) The database must allow a person to view the current status of a request described by Subsection (a)(1) and an estimated timeline indicating the date each stage of review of the request will be started and completed.

SECTION 11. The changes in law made by this Act to Sections **552.103**, 552.271, 552.272, and 552.275, Government Code, apply only to a request for information that is received by a governmental body or an officer for public information on or after the effective date of this Act. A request for information that was received before the effective date of this Act is governed by the law in effect on the date the request was received, and the former law is continued in effect for that purpose. [FA2(1)]

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SECTION 12. Section 552.3031, Government Code, as added by this Act, and Section 552.306, Government Code, as amended by this Act, apply to a request for an attorney general decision made under Subchapter G, Chapter 552, of that code on or after the effective date of this Act. A request for an attorney general decision made before the effective date of this Act is governed by the law in effect on the date the request was made, and the former law is continued in effect for that purpose.

SECTION 13. As soon as practicable, but not later than January 1, 2024, the office of the attorney general shall make the database required by Section 552.310, Government Code, as added by this Act, available on the office's Internet website.

SECTION 14. This Act takes effect September 1, 2023.

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SECTION 12. Same as House version.

SECTION 13. Same as House version.

SECTION 14. Same as House version.

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