

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 986  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

As Public Information Act ("PIA") requests increase, procedural requirements and incentives for governmental bodies to request Office of the Attorney General ("OAG") decisions on routine or non-complex issues place unnecessary administrative burdens on the PIA process. These burdens delay responses to requestors and significantly increase the time and costs governmental bodies and the OAG incur in the PIA process. In recent years requests have increased drastically (~34,000 in FY2020, ~19,000 in FY2011, and ~5000 in FY2000). Around half of the decision requests OAG receives involve only straight-forward issues that could be correctly addressed at the local level. The PIA also incentivizes unnecessary decision requests. Each decision request takes up significant and valuable resources that could be used to respond to other PIA matters.

S.B. 986 addresses these concerns by improving the process and reducing the number of decisions governmental bodies must request from the OAG while maintaining oversight and the protections members of the public have under the PIA.

S.B. 986 creates an optional PIA procedure that permits governmental bodies, which complete additional training and follow specified procedures, to withhold information under the PIA without an OAG decision. Requestors receive a clear notice describing the types of redacted information and can appeal any redaction through a streamlined appeal process. Current deadlines are maintained to ensure prompt responses. The bill also removes incentives to request unnecessary decisions and includes oversight and reporting requirements to ensure effective implementation. The process will improve requestor response time and quality, be more efficient, cost less, and provide critical process oversight.

As proposed, S.B. 986 amends current law relating to procedures under the public information law, including expedited responses and charges for bad faith requests.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 552.2615(g), Government Code, to provide that the time deadlines imposed by Section 552.2615 (Required Itemized Estimate of Charges) do not affect the application of a time deadline imposed on a governmental body under Subchapter K.

SECTION 2. Amends Section 552.263(e), Government Code, to provide that, for purposes of Subchapter F (Charges for Providing Copies of Public Information) and Subchapters G (Attorney General Decisions) and K, rather than for purposes of F and G, a request for a copy of public information is considered to have been received by a governmental body on a certain date if certain conditions are met.

SECTION 3. Amends Section 552.302, Government Code, as follows:

Sec. 552.302. FAILURE TO MAKE TIMELY REQUEST FOR ATTORNEY GENERAL DECISION; PRESUMPTION THAT INFORMATION IS PUBLIC.

Provides that, if a governmental body does not request an attorney general decision in response to an appeal under Subchapter K and provide the requestor with the information required by Section 552.405(b), the information requested in writing is presumed to be subject to required public disclosure and is required to be released unless there is a compelling reason to withhold the information. Makes nonsubstantive changes.

SECTION 4. Amends Subchapter G, Chapter 552, Government Code, by adding Section 552.311, as follows:

Sec. 552.311. CHARGES FOR BAD FAITH REQUEST. (a) Authorizes the attorney general to impose a \$1,000 charge to process a request for an attorney general decision made by a governmental body that the attorney general determines has been made in bad faith.

(b) Authorizes the attorney general to impose on a governmental body a \$500 charge for each business day that occurs after the date the attorney general issues a written determination that the governmental made a request for an attorney general decision in bad faith and before the date the governmental body provides to the requestor all information withheld in connection with the bad faith request.

SECTION 5. Amends Section 552.321(a), Government Code, as follows:

(a) Authorizes a requestor or the attorney general to file suit for a writ of mandamus compelling a governmental body to make information available for public inspection if the governmental body refuses to request an attorney general's decision as provided by Subchapter G or Section 552.405 or refuses to supply public information or information that the attorney general has determined is public information that is not excepted from disclosure under Subchapter C (Information Excepted from Required Disclosure).

SECTION 6. Amends Section 552.352, Government Code, by adding Subsection (d), as follows:

(b) Provides that it is an affirmative defense to prosecution under Subsection (a) (relating to creating an offense if a person distributes information considered confidential) that the defendant released information under Subchapter K and did not release confidential information intentionally, as defined by Section 6.03 (Definitions of Culpable Mental States), Penal Code.

SECTION 7. Amends Section 552.353(b), Government Code, to make a conforming change.

SECTION 8. Amends Chapter 552, Government Code, by adding Subchapter K, as follows:

#### SUBCHAPTER K. EXPEDITED RESPONSE PROCEDURE

Sec. 552.401. APPLICABILITY. (a) Provides that this subchapter does not apply to a request for information that may involve a person's privacy or property under Section 552.305 (Information Involving Privacy or Property Interests of Third Party).

(b) Provides that this subchapter applies to a governmental body only if:

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

(2) the governmental body's authorization to respond to a request for information under this subchapter is not revoked under Section 552.407 on the date the request is received.

Sec. 552.402. REQUEST FOR ATTORNEY GENERAL DECISION NOT REQUIRED. Authorizes a governmental body that receives a written request for information and complies with the requirements of this subchapter, subject to Section 552.404, to

withhold any information it makes a good faith determination is excepted from required public disclosure under Chapter 552 (Public Information) without the necessity of requesting a decision from the attorney general under Subchapter G.

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

- (1) a list of the exceptions under Subchapter C and, if applicable, the judicial decisions or constitutional or statutory laws the governmental body determines are applicable to the information being withheld;
- (2) all information the governmental body determines is not excepted from disclosure, including, if applicable, partially redacted information with the redacted portions clearly marked and labeled with the exceptions the governmental body relied on to redact the information;
- (3) a description of the volume and type of information withheld; and
- (4) a notice form promulgated by the attorney general that includes certain information.

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

Sec. 552.404. APPEAL. (a) Authorizes the requestor, on receipt of a response by a governmental body under Section 552.403, to appeal the withholding of information in the response not later than the 30th calendar day after the date the requestor receives the response.

(b) Requires the requestor to submit the appeal to the governmental body that responded under Section 552.403 on the appeal form provided to the requestor under Section 552.403(a)(4).

(c) Provides that the appeal is considered a new request and is subject to the procedural requirements of Section 552.405.

(d) Prohibits a governmental body from seeking to narrow or clarify an appeal made under this section under Section 552.222(b) (relating to authorizing a governmental body, if the information requested is unclear, to ask the requestor to clarify the request).

(e) Prohibits a governmental body from responding to a requestor under Section 552.232 (Responding to Repetitious or Redundant Requests) in response to an appeal made under this section.

(f) Requires a governmental body, notwithstanding certain provisions, to request an attorney general decision to withhold information described by those provisions in response to an appeal.

Sec. 552.405. REQUEST FOR ATTORNEY GENERAL DECISION IN RESPONSE TO APPEAL. (a) Provides that, except as provided by this subchapter:

- (1) an appeal made under Section 552.404 is subject to the provisions of this chapter; and
- (2) an attorney general's decision requested under this section is considered to be a decision under Subchapter G.

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

- (1) a request for an attorney general's decision;
- (2) a copy of the original written request for information;
- (3) a signed statement as to the date on which the written response required by Section 552.403 was provided to the requestor, or evidence sufficient to establish that date;
- (4) a copy of the appeal form received by the governmental body;
- (5) a signed statement as to the date on which the appeal was received by the governmental body, or evidence sufficient to establish the date;
- (6) the exceptions that apply and written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld;
- (7) if the governmental body provided partially redacted information to the requestor in its initial response under Section 552.403, an unredacted copy of the information the governmental body provided to the requestor with the copy clearly marked indicating the released portions and the withheld portions labeled with the exceptions the governmental body relied on to withhold the information; and
- (8) a copy of the specific information the governmental body seeks to withhold, or representative samples of the information, labeled to indicate which exceptions apply to which parts of the copy.

(c) Requires a governmental body that receives an appeal under Section 552.404, within a reasonable time, but not later than the fifth business day after the governmental body receives the appeal, to send a copy of the comments submitted under Subsection (b)(6) to the requestor. Requires that the copy of the comments provided to the requestor, if the written comments disclose or contain the substance of the information requested, be a redacted copy.

Sec. 552.406. TRAINING. (a) Requires the public information officer for a governmental body that responds to a request under this subchapter or the officer's designee to have completed in the four years preceding the response a course of training of not less than 16 hours regarding the responsibilities of the governmental body under this subchapter.

(b) Requires the attorney general to ensure that the training is made available. Requires the attorney general to maintain at least one updated course of training that is available in an online presentation format. Authorizes the online training to be broken into separate sections. Requires that the online training provide a means to verify that the trainee observed and comprehended the full training session or, if applicable, each section of the training.

(c) Requires that the training, at a minimum, include:

- (1) the general background of the legal requirements for the governmental body's use of this subchapter and related law;
- (2) the applicability of this subchapter to governmental bodies;

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

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

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

(d) Requires the Office of the Attorney General (OAG) to provide a certificate to a person who completes the training required by this section and keep records of the training certificates issued. Requires a governmental body to maintain the training certificate of any individual who provides a confirmation under Section 552.403(a)(4)(F) (relating to requiring that a notice form include a confirmation from an individual named) and make the certificate available for public inspection.

Sec. 552.407. REVOCATION. (a) Authorizes OAG, if the attorney general determines that a governmental body failed to comply with the requirements of this chapter, in its sole discretion, to revoke the governmental body's authorization to respond under this subchapter or the training certificate issued to an individual responsible for the governmental body's failure.

(b) Requires the attorney general to create a notice of revocation form. Requires the attorney general to inform a governmental body that the attorney general has revoked the governmental body's eligibility under Subsection (a) or an individual that the attorney general has revoked the individual's training certificate by sending the notice of revocation form by certified mail or by another written method of notice that requires the return of a receipt.

(c) Requires that the notice of revocation provided to a governmental body inform the governmental body of the length of time the revocation is in effect. Prohibits the length of time the governmental body's revocation is in effect from exceeding six months from the date the governmental body receives the notice of the revocation form.

(d) Requires that the notice of revocation provided to an individual inform the individual that the attorney general has revoked the individual's training certificate under Subsection (a). Requires the individual to repeat the course of training under Section 552.406 to obtain a new training certificate.

(e) Requires OAG to publish on its Internet website:

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

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

Sec. 552.408. REPORT ON IMPLEMENTATION OF SUBCHAPTER. (a) Requires the attorney general, for the state fiscal year beginning on September 1, 2025, to collect data detailing the number of:

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

(2) individuals who complete training under Section 552.406;

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

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

(b) Requires the attorney general, not later than February 1, 2027, to make the data collected under Subsection (a) available on the attorney general's Internet website for open records.

(c) Provides that this section expires September 1, 2027.

SECTION 9. Makes application of this Act prospective.

SECTION 10. Effective date: September 1, 2025.