

By: Smithee

H.B. No. 2248

Substitute the following for H.B. No. 2248:

By: Capriglione

C.S.H.B. No. 2248

A BILL TO BE ENTITLED

AN ACT

relating to the public information law.

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

SECTION 1. Section 552.221, Government Code, is amended by amending Subsection (a) and adding Subsections (f), (g), and (h) to read as follows:

(a) An officer for public information of a governmental body shall promptly produce public information for inspection, duplication, or both on application by any person to the officer. In this section [~~subsection~~], "promptly" means as soon as possible under the circumstances, that is, within a reasonable time, without delay.

(f) If the governmental body determines it has no information responsive to a request for information, the officer for public information shall promptly notify the requestor in writing, but not later than the 10th business day after the date the request is received.

(g) If a governmental body determines the requested information is subject to a previous determination that permits or requires the governmental body to withhold the requested information, the officer for public information shall provide a written notification to the requestor that does the following:

(1) notifies the requestor that the information is being withheld; and

1 (2) identifies in the notice the specific previous
2 determination the governmental body is relying on to withhold the
3 requested information.

4 (h) A governmental body shall provide a notification under
5 Subsection (g) promptly, but not later than:

6 (1) the 10th business day after the date the
7 information is requested; or

8 (2) the date and hour the officer for public
9 information certifies that the information will be available for
10 inspection or duplication if the officer made a certification under
11 Subsection (d) and subsequently determines that the information is
12 subject to a previous determination that permits or requires the
13 governmental body to withhold the requested information.

14 SECTION 2. Section 552.261, Government Code, is amended by
15 adding Subsection (f) to read as follows:

16 (f) A governmental body may not impose a charge under this
17 subchapter for providing a copy of public information if:

18 (1) the governmental body asked for clarification of
19 the request under Section 552.222 later than the 10th business day
20 after the date the information was requested;

21 (2) the governmental body asked for a decision under
22 Section 552.301 with respect to the requested information and did
23 not provide to the requestor the information required by Section
24 552.301(d) or (e-1); or

25 (3) the attorney general issued a written opinion
26 under Section 552.306(b) determining that the requested
27 information is subject to mandatory disclosure under this chapter.

SECTION 3. 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), (c), and (d), 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 [those] 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 governmental body;

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

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

(c) Notwithstanding Subsection (a), in an action brought under Section 552.325 by a person or entity other than a

1 governmental body or officer for public information, the court
2 shall assess costs of litigation and reasonable attorney fees
3 incurred by an intervening requestor if the intervening requestor
4 substantially prevails.

5 (d) This section does not prohibit the parties to a suit
6 brought under this subchapter from agreeing to assume the party's
7 own attorney fees and costs of litigation.

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

16 SECTION 4. The heading to Subchapter H, Chapter 552,
17 Government Code, is amended to read as follows:

18 SUBCHAPTER H. CIVIL ENFORCEMENT; COMPLAINT

19 SECTION 5. Subchapter H, Chapter 552, Government Code, is
20 amended by adding Section 552.328 to read as follows:

21 Sec. 552.328. FAILURE TO RESPOND TO REQUESTOR. (a) If a
22 governmental body fails to respond to a requestor as required by
23 Section 552.221, the requestor may send a written complaint to the
24 attorney general.

25 (b) The complaint must include:

26 (1) the original request for information; and

27 (2) any correspondence received from the governmental

1 body in response to the request.

2 (c) If the attorney general determines the governmental
3 body improperly failed to comply with Section 552.221 in connection
4 with a request for which a complaint is made under this section:

5 (1) the attorney general shall notify the governmental
6 body in writing and require the governmental body to complete open
7 records training not later than six months after receiving the
8 notification;

9 (2) the governmental body may not assess costs to the
10 requestor for producing information in response to the request; and

11 (3) if the governmental body seeks to withhold
12 information in response to the request, the governmental body must:

13 (A) request an attorney general decision under
14 Section 552.301 not later than the fifth business day after the date
15 the governmental body receives the notification under Subdivision
16 (1); and

17 (B) release the requested information unless
18 there is a compelling reason to withhold the information.

19 SECTION 6. The changes in law made by this Act apply only to
20 a request for information that is received by a governmental body or
21 an officer for public information on or after the effective date of
22 this Act. A request for information that was received before the
23 effective date of this Act is governed by the law in effect on the
24 date the request was received, and the former law is continued in
25 effect for that purpose.

26 SECTION 7. This Act takes effect September 1, 2025.