

BILL ANALYSIS

C.S.H.B. 3457
By: Smithee
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been noted that, to recover costs and attorney fees from a governmental body in certain lawsuits brought under state public information law, the requestor must substantially prevail on the issue in court. It has been suggested that this requirement fails to account for cases in which a governmental entity may unilaterally decide to release information it had previously withheld prior to a court reaching the merits of the case. C.S.H.B. 3457 seeks to address this issue by establishing the circumstances under which a plaintiff substantially prevails in such a lawsuit.

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

C.S.H.B. 3457 amends the Government Code to establish that, for the purposes of assessing the costs of litigation and reasonable attorney fees in certain lawsuits brought under state public information law, a plaintiff substantially prevails if the plaintiff obtains relief through:

- a judicial order;
- an enforceable written agreement or consent decree; or
- a voluntary or unilateral change in position by the governmental body.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3457 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not subject a requestor who intervenes in a suit brought by a governmental body and seeks a writ of mandamus to the established standard for recovery of fees.