

BILL ANALYSIS

S.B. 1463
By: Hughes
Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been noted that statutory requirements for nonprofit corporations to make records, books, and reports of financial activity available to the public reflect a recognized need for those organizations to maintain transparency and public accountability. Concerns have been raised, however, that the current requirements may be ambiguous and open to misuse because they do not clearly specify which records must be disclosed. S.B. 1463 seeks to address these concerns by clarifying the application of the requirements and authorizing certain fee deposit requirements and limitations on personnel time expended for copying requests made by a single requestor.

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

S.B. 1463 amends the Business Organizations Code to define what is and is not included in the meaning of "records, books, and annual reports" of a nonprofit corporation's financial activity for purposes of statutory provisions relating to the availability of such records, books, and reports for public inspection.

S.B. 1463 authorizes a nonprofit corporation that anticipates that the fee to be charged for preparing a copy of a record or report required to be made available to the public will exceed \$100 to provide notice to the person requesting the copy requiring the person to pay a deposit of all or a portion of the anticipated fee. The bill authorizes the corporation to treat all requests for copies received by the corporation during seven consecutive calendar days from a single person, mailing address, or email address as a single request for purposes of calculating the anticipated fee. The bill requires a corporation, on the date the corporation provides a copy or copies of a record or report for which the corporation accepted such a deposit, to refund to the requestor the difference between the accepted deposit and the actual costs incurred by the corporation in providing the copy or copies. The bill establishes that a requestor who fails to pay a required deposit not later than the 15th business day after the date the requestor receives notice of the deposit from the corporation is considered to have withdrawn the request for the copy or copies. A person whose request is considered withdrawn for that reason is not precluded from submitting a new request to the corporation for the same records or reports.

S.B. 1463 authorizes a nonprofit corporation to establish a reasonable monthly limit of a minimum of 15 hours per calendar month that the corporation's personnel may spend responding

to two or more requests for copies submitted to the corporation by a single requestor during a calendar month. The bill requires a corporation that establishes such a limit, each time the corporation complies with a request for a copy or copies, to provide to the requestor a certain written statement regarding the time expended by corporation personnel on the request in relation to the monthly limit and sets out further requirements for the statement. The bill expressly does not require a corporation that provides such a written statement to a requestor to respond to additional requests for copies from a requestor who has exceeded the monthly time limit until the following calendar month. The bill expressly does not require a corporation that determines that all or part of a person's request for copies is duplicative of a request for which the corporation has previously provided copies to that person to provide the duplicative copies to the requestor and requires the corporation to certify the relevant facts to the requestor.

EFFECTIVE DATE

September 1, 2019.