

BILL ANALYSIS

C.S.H.B. 1810
By: Capriglione
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Despite attorney general rulings indicating that governmental entities should produce documents in response to public information requests in the form in which they are kept, some governmental entities distribute records as unsearchable images or PDFs, making it difficult to search and sort information. Additionally, some governmental entities have refused to provide the field codes or data dictionaries needed to understand or interpret data in the format in which it is provided. C.S.H.B. 1810 seeks to update state public information law to provide for the maintenance and production of electronic public information in a searchable and sortable format, such as an Excel spreadsheet, if the information is maintained in that manner and that is how the requestors wish to receive the information.

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. 1810 amends the Government Code to establish provisions relating to the maintenance and production of electronic public information, as defined by the bill, under state public information law. The bill expands the definition of "public information" as it pertains to that law to include a data dictionary or other indicia of the type or category of information held in the applicable field of a database, other than metadata that directly implicates database security. The bill prohibits a governmental body's use of an electronic recordkeeping system from eroding the public's right of access to public information under that law. The bill specifies that the contents of electronic public information is significant and not merely used as a tool for the maintenance, manipulation, or protection of property.

C.S.H.B. 1810 requires a governmental body that receives a public information request applicable to electronic public information in which the requestor requests the information in a searchable or sortable format to provide an electronic copy of the requested information in the format requested using computer software the governmental body uses to access, support, program, manipulate, or otherwise manage the governmental body's information. The bill requires the governmental body to provide a copy of the information in the form of a paper printout if the requestor so prefers.

C.S.H.B. 1810 prohibits a governmental body from refusing to provide a copy of the information on the grounds that exporting the information or redacting excepted information will require

inputting certain commands or instructions into the governmental body's computer system if the commands or instructions can be executed with computer software used by the governmental body in the ordinary course of business to access, support, or otherwise manage the information.

C.S.H.B. 1810 authorizes a requestor to request that a copy of electronic public information be provided in the format in which the information is maintained by the governmental body or in a standard export format if the computer programs used by the governmental body support exporting the information in that format. The bill requires the governmental body to provide the copy in the requested format or in another format acceptable to the requestor and requires the governmental body to provide the copy on suitable electronic media. The bill sets out the required procedure for a governmental body to provide requested information that is maintained by the governmental body in a format that is searchable but not sortable or that is sortable, respectively.

C.S.H.B. 1810 requires a governmental body to use reasonable efforts to ensure that a contract entered into by the governmental body for the creation and maintenance of electronic public information does not impair the public's ability to inspect or copy the information or make the information more difficult for the public to inspect or copy than records maintained by the governmental body. The bill's provisions apply to public information for which a third party is the custodian for the applicable governmental body. The bill's provisions do not affect the applicability to electronic public information of a confidentiality provision or other exception from required disclosure. The bill applies statutory provisions relating to charges for providing copies of public information to an electronic copy or paper printout of electronic public information.

C.S.H.B. 1810 amends the Local Government Code to make conforming changes.

C.S.H.B. 1810 repeals Section 552.231, Government Code.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1810 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 changes the original's provisions to do the following:

- exclude metadata that directly implicates database security from the expanded definition of public information;
- replace the original's requirement that a governmental body provide an electronic copy of requested electronic public information in a specific format using computer software the governmental body has in its possession with a requirement that the electronic copy of such information instead be provided using computer software the governmental body uses to access, support, program, manipulate, or otherwise manage the governmental body's information;
- change a reference in the original to the governmental body's computer programs that support the exporting of requested information in a certain format by specifying instead that the computer programs are those used by the governmental body that support such exporting; and
- include provisions not in the original that, as follows:
 - repeal Section 552.231, Government Code, which establishes a redundant framework for certain information requests that is supplanted by the bill; and
 - amend the Local Government Code to make conforming changes.