

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 669
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Open Government
4/29/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.S.B. 669 amends current law relating to requests to inspect or be provided with copies of information under the public information law.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Attorney General in SECTION 6 (Section 552.276, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 552.003(2), Government Code, to redefine "manipulation."

SECTION 2. Amends Section 552.221(b), Government Code, as follows:

(b) Provides that an officer for public information complies with Subsection (a) by:

(1) providing the public information for inspection or duplication in the offices of the governmental body;

(2) sending copies of the public information by first class United States mail if the person requesting the information requests that copies be provided and pays the postage and any other applicable charges that the requestor has accrued under Subchapter F (Charges for Providing Copies of Public Information);

(3)(A) informing the person requesting the information, in writing, that the public information is available on an Internet website that is owned, controlled, or maintained by the governmental body, and accessible to members of the general public;

(B) providing the person, in writing, the exact Internet location or uniform resource locator address where the person can access the public information; and

(C) if the person informs the governmental body that the person does not have access to the Internet, providing the person the choice of access to a computer terminal at no charge so that the person can access the public information on the Internet website, or a copy of the public information in another medium that is acceptable to the requestor; or

(4)(A) posting the public information on an Internet website that is owned, controlled, or maintained by the governmental body, and accessible to members of the general public;

(B) informing the person requesting the information, in writing, that the public information is available on the Internet website;

(C) providing the person, in writing, the exact Internet location or uniform resource locator address where the person can access the public information; and

(D) if the person informs the governmental body that the person does not have access to the Internet, providing the person the choice of access to a computer terminal at no charge so that the person can access the public information on the Internet website, or a copy of the public information in another medium that is acceptable to the requestor.

SECTION 3. Amends Section 552.228(a), Government Code, as follows:

(a) Requires that it be a policy of a governmental body to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested. Provides that this policy of a governmental body is considered to be fulfilled if the governmental body complies with Section 552.221(b).

SECTION 4. Amends Section 552.261(a), Government Code, as follows:

(a) Requires the charge for providing a copy of public information to be an amount that reasonably includes all costs related to reproducing the public information, including costs of materials, labor, and overhead. Prohibits the charge for providing the copy of the public information, except as provided by Section 552.275(e) (relating to cumulative amount of personnel time spent complying with requests), if a request is for 50 or fewer pages of paper records, from including costs of materials, labor, or overhead, but requires that the charge be limited to the charge for each page of the paper record that is photocopied, unless the pages to be photocopied are located in:

(1) two or more separate buildings that are not physically connected with each other; or

(2) a remote storage facility.

SECTION 5. Amends Section 552.263, Government Code, by adding Subsection (e-1) to provide that if a requestor modifies the request in response to the requirement of a deposit or bond authorized by this section, the modified request is considered a separate request for the purposes of this chapter and is considered received on the date the governmental body receives the written modified request.

SECTION 6. Amends Subchapter F, Chapter 552, Government Code, by adding Section 552.276, as follows:

Sec. 552.276. MULTIPLE REQUESTS TO A GOVERNMENTAL BODY. (a) Authorizes a governmental body, notwithstanding Sections 552.261 (Charge for Providing Copies of Public Information), 552.262 (Rules of the Attorney General), 552.271 (Inspection of Public Information in Paper Record if Copy not Requested), and 552.272 (Inspection of Electronic Record if Copy not Requested), to require payment of the actual costs incurred in responding to a request for public information if, on the date the governmental body receives the request, the requestor has submitted to the governmental body seven or more written requests for information during the preceding 31 calendar days.

(b) Requires a governmental body, if the governmental body requires payment of actual costs in connection with a request for public information described by Subsection (a), to provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request. Requires the written estimate to be provided to the requestor on or before the 10th day after the date on which the public information was requested.

(c) Provides that, if a governmental body provides a requestor with the written statement under Subsection (b), the governmental body is not required to produce public information for inspection or duplication or to provide copies of public information in response to the requestor's request unless on or before the 10th day after the date the governmental body provided the written statement under that subsection, the requestor submits a statement in writing to the governmental body in which the requestor commits to pay the actual costs incurred in complying with the requestor's request.

(d) Provides that if the requestor fails or refuses to submit the written statement under Subsection (c), the requestor is considered to have withdrawn the requestor's pending request for public information.

(e) Authorizes an officer for public information or the officer's agent to require a deposit or bond for payment of unpaid amounts owing to the governmental body in relation to previous requests in which the requestor agreed to make a payment as provided by Subsection (c) before responding to a new request. Prohibits the officer for public information or the officer's agent from seeking payment of those unpaid amounts through any other means.

(f) Requires the governmental body to fully document the existence and amount of those unpaid amounts or the amount of any anticipated costs, as applicable, before requiring a deposit or bond under this section. Provides that the documentation is subject to required public disclosure under this chapter.

(g) Requires the attorney general by rule to define "actual costs" for the purposes of this section.

(h) Provides that this section does not prohibit a governmental body from providing a copy of public information without charge or at a reduced rate under Section 552.267 (Waiver or Reduction of Charge for Providing Copy of Public Information) or from waiving a charge for providing a copy of public information under that section.

(i) Provides that this section does not apply if the requestor is an individual who, for a substantial portion of the individual's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information for and is seeking the information for:

(1) a radio or television broadcast station that holds a broadcast license for an assigned frequency issued by the Federal Communications Commission;

(2) a newspaper that is qualified under Section 2051.044 (Type of Newspaper Required) to publish legal notices or is a free newspaper of general circulation and that is published at least once a week and available and of interest to the general public in connection with the dissemination of news;

(3) a newspaper of general circulation that is published on the Internet by a news medium engaged in the business of disseminating news or information to the general public; or

(4) a magazine that is published at least once a week or on the Internet by a news medium engaged in the business of disseminating news or information to the general public.

(j) Provides that this section does not apply if the requestor is an elected official of the United States, this state, or a political subdivision of this state.

(k) Provides that this section does not apply if the requestor is a representative of a publicly funded legal services organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under Section 501(c)(3) of that code.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 2011.