

SUBJECT: Open records requests by persons owing money for previous requests

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 8 ayes — Swinford, Miller, Gattis, B. Cook, J. Keffer, Martinez Fischer, Villarreal, Wong
0 nays
1 absent — Farrar

SENATE VOTE: On final passage, May 10 — 31-0, on Local and Uncontested Calendar

WITNESSES: No public hearing

BACKGROUND: Government Code, ch. 552, also known as the Public Information Act, provides for public access to records maintained by state and local governments. Under sec. 552.263, a governmental entity may require a deposit or bond for payment of the anticipated costs to fill the public information request if those costs are estimated to exceed \$50 for an entity with 15 full-time employees or fewer. The threshold rises to \$100 for an entity with more than 15 employees. The governmental body must provide the requestor with an itemized statement for the estimated charges. If a person owes more than \$100 for previous public information requests, the governmental entity may require a deposit or bond for payment of unpaid amounts prior to filling the new request. These unpaid amounts must be fully documented before requiring a deposit or bond.

Government Code, ch. 552, subch. E relates to the timeliness of responses to requests for public information. Subch. G relates to a request by a governmental entity for an opinion by the attorney general as to whether information requested under the Public Information Act may be withheld.

DIGEST: SB 623 would specify that a request for public information by a requestor who already owed the governmental body more than \$100 would be considered withdrawn if the requestor did not pay the required deposit or

post a bond before the tenth day after the date the deposit or bond was required.

The bill also would specify that, for the purposes of submitting a request to the attorney general for an opinion as to whether information could be withheld, a request would be considered received on the date the governmental body received the deposit or bond.

The bill would take effect September 1, 2005, and would apply only to a request for public information made on or after that date.

**SUPPORTERS
SAY:**

Although current law protects a governmental entity from filling an expensive open records request when the requestor already owes the entity more than \$100 for previous requests, an entity still must submit a request to the attorney general within a limited number of days if it believes that information may be confidential. These requests can be expensive and, if the requestor never pays the amount due, unnecessary. However, if the entity does not submit a request to the attorney general and the requestor later pays the required deposit or posts a bond, the entity is trapped between releasing potentially confidential information and incurring a penalty or requesting a decision outside the statutory limit and incurring a penalty.

SB 623 would resolve this conflict and reduce costs to governmental entities. It would specify, in a case where a person owed an entity more than \$100 and made a public information request, that the requestor would have to pay the entity before the clock for submitting a request to the attorney general began to run.

**OPPONENTS
SAY:**

No apparent opposition.