

SUBJECT: Producing copies of electronic information under public information laws

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 12 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Metcalf, Raymond, Shaheen, Slawson, Smithee

0 nays

1 absent — Lucio

WITNESSES: For — Joe Ellis, Freedom of Information Foundation of Texas; Eva Ruth Moravec, Texas Justice Initiative; (*Registered, but did not testify*: Kelley Shannon, Freedom of Information Foundation of Texas; Joseph Coleman, Hill Country News; Adrian Shelley, Public Citizen; Hope Osborn, Texas 2036; Michael Schneider, Texas Association of Broadcasters; Joshua Houston, Texas Impact; Donnis Baggett and Mike Hodges, Texas Press Association; Shelby Sterling, Texas Public Policy Foundation; Ron Hinkle, Texas Tax Group, LLC; Laura Prather, Transparent and Accountable Government Coalition; Don Dixon; Tom Glass; Terri Hall; Gary Zimmerman)

Against — None

On — (*Registered, but did not testify*: Chase Howell, Texas Secretary of State)

BACKGROUND: Some have suggested that clearer statutory guidance for the maintenance and production of electronic public information under the Public Information Act would help both governmental bodies and requestors.

DIGEST: CSHB 1810 would specify that a governmental body's use of an electronic recordkeeping system could not erode the public's right of access to public information. The contents of electronic public information would be significant and not used merely as a tool for the maintenance, manipulation, or protection of property.

"Electronic public information" would mean public information that was produced and maintained in an electronic spreadsheet or database that was searchable or sortable.

The bill would expand the definition of public information to apply to and 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 implicated database security.

If a request for information applied to electronic public information and was requested to be in a searchable or sortable format, a governmental body would have to provide an electronic copy in the requested searchable or sortable format using computer software the body used to access, support, program, manipulate, or otherwise manage the information. The governmental body would have to provide a paper copy if the requestor preferred.

A governmental body could not refuse to provide a copy of electronic public information on the grounds that exporting it or redacting excepted information would require inputting range, search, filter, report parameters, or similar commands into the computer system if the commands could be executed with software used by the governmental body in the ordinary course of managing the information.

A requestor could request that a copy of electronic public information be provided in the format in which it was maintained or in a standard export format, if supported by the governmental body's computer programs. The governmental body would be required to provide the copy on suitable electronic media.

If requested electronic public information was maintained in a format that was:

- searchable but not sortable, the electronic copy would have to be in a searchable format; or

- sortable, the electronic copy would have to be in a sortable format.

A governmental body would have to ensure that a contract for the creation and maintenance of electronic public information did not impair the public's ability to inspect or copy it or make the information more difficult to inspect or copy than records maintained by the governmental body.

The bill would apply to public information for which a third party was the custodian for the governmental body.

CSHB 1810 would not affect the applicability to electronic public information of a confidentiality provision or other exception from required disclosure. Current law governing the charges for providing copies of public information would apply to an electronic copy or paper printout of electronic public information.

The bill would repeal current provisions governing the process for responding to requests for information that required programming or manipulation of data.

The bill would take effect September 1, 2021, and would apply only to a request for public information received on or after that date.