

BILL ANALYSIS

Senate Research Center
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S.B. 1398
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State Affairs
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under the Public Information Act, Section 552.301(f), Government Code, a governmental body must release requested information and is prohibited from asking for a decision from the attorney general about whether information requested is within an exception if the governmental body has previously requested and received a determination from the attorney general concerning the precise information at issue in a pending request, and the attorney general or a court determined that the information is public information under this chapter that is not excepted. Unfortunately, after a suit challenging an attorney general open records letter ruling is filed by a governmental body, or a third party against the Office of the Attorney general (office), a requestor sometimes withdraws the request for information in the suit (e.g., they have lost interest). In this situation, it is a waste of resources to continue litigation. Section 552.301(f), Government Code, states that a governing body cannot, however, ask for another ruling from the office if it has received a ruling that requires disclosure and a court has not made a final decision. Thus, there is still a lawsuit between the office and the governing body or third party plaintiff, but there is no longer a requestor who wants the information. Similarly, a governing body or third party may continue the litigation, but the result is meaningless because the active request for information does not exist.

As proposed, S.B. 1398 allows a lawsuit to be non-suited if a requestor abandons the request or indicates, in writing, that he or she no longer desires the information and the attorney general agrees.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 552.301, Government Code, by adding Subsection (g), as follows:

(g) Authorizes a governmental body to ask for another decision from the attorney general concerning the precise information that was at issue in a prior decision made by the attorney general under this subchapter (Attorney General Decisions) under certain circumstances.

SECTION 2. Amends Subchapter H, Chapter 552, Government Code, by adding Section 552.327, as follows:

Sec. 552.327. DISMISSAL OF SUIT DUE TO REQUESTOR'S WITHDRAWAL OR ABANDONMENT OF REQUEST. Authorizes a court to dismiss a suit challenging a decision of the attorney general brought in accordance with this chapter (Public Information) under certain circumstances.

SECTION 3. Effective date: September 1, 2007.