

BILL ANALYSIS

Senate Research Center
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S.B. 602
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Open Government
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 552.263 (Bond for Payment of Costs or Cash Prepayment for Preparation of Copy of Public Information), Government Code, allows an officer for public information to require a deposit or bond for payment of anticipated costs for the preparation of a copy of public information. The charge for a governmental body that has more than 15 full-time employees is \$100. If a requestor fails to make a deposit or post a bond before the 10th business day, the request is considered withdrawn. On occasion, there is some negotiation on the scope of the request. Subsequently, when the requestor modifies the request, there is a question regarding the effective date related to the 10-day rule.

In addition, Section 552.301 (Request for Attorney General Decision), Government Code, allows a governmental body to request a decision from the attorney general about whether a request falls within one of the exceptions under Subchapter C. The governmental body must ask for the attorney general's decision and state the exceptions that apply within a reasonable time but not later than the 10th business day after receiving the written request. There are other deadlines for responses to the requestor but there is no guidance on when to start the clock. Without some reference beyond the postmark, it is possible to infer a violation of the response deadlines.

Finally, in Section 552.130 (Exception: Motor Vehicle Records), Government Code, a motor vehicle operator or driver's license or permit, motor vehicle title or registration are exempted from public information requests. Similarly, under Section 552.136 (Confidentiality of Credit Card, Debit Card, Charge Card, and Access Device Numbers), Government Code, credit card, debit card, charge card, or access device numbers are confidential. This information may appear in various forms in government documents. It would be cumbersome to request permission to redact this information from other information that governmental bodies must release to the public.

S.B. 602 amends the \$100 cost letter rule to make it clear that the 10-day deadline starts again if a requestor modifies or narrows the request in response to a cost letter. In addition, the bill adds a presumption that a public information request is deemed received three business days after the postmarked date of the mailing in the absence of other evidence of date of receipt. Finally, the bill clarifies that no attorney general opinion request is necessary to redact driver's license numbers and credit card numbers from otherwise public information prior to release.

As proposed, S.B. 602 amends current law relating to allowing a governmental body to redact certain personal information under the public information law without the necessity of requesting a decision from the attorney general and the calculation of certain deadlines under the public information law.

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 552.130, Government Code, by adding Subsection (c), as follows:

(c) Authorizes a governmental body, subject to Chapter 730 (Motor Vehicle Records Disclosure Act), Transportation Code, to redact information described by Subsection (a) (relating to information excepted from the requirements of Section 552.021 if the information relates to certain records) from any information the governmental body discloses under Section 552.021 (Availability of Public Information) without the necessity of requesting a decision from the attorney general under Subchapter G (Attorney General Decisions).

SECTION 2. Amends Section 552.136, Government Code, by adding Subsection (c), as follows:

(c) Authorizes a governmental body to redact information that must be withheld under Subsection (b) (providing that a credit card, debit card, change card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential) from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

SECTION 3. Amends Section 552.263, Government Code, by adding Subsection (e-1), as follows:

(e-1) Provides 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 4. Amends Section 552.301, Government Code, by adding Subsection (a-1), as follows:

(a-1) Provides that for the purposes of this subchapter, if a governmental body receives a written request by the United States mail and cannot adequately establish the actual date on which the governmental body received the request, the written request is considered to have been received by the governmental body on the third business day after the date of the postmark on a properly addressed request.

SECTION 5. Provides that the changes in law made by this Act to Sections 552.263 and 552.301, Government Code, apply only to a request for information that is received by a governmental body or an officer for public information on or after the effective date of this Act. Provides that a request for information that was received before the effective date of this Act is governed by the law in effect on the date the request was received, and the former law is continued in effect for that purpose.

SECTION 6. Effective date: September 1, 2011.