

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1571
By: Watson
Open Government
4/29/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Public Information Act was established in 1973 to give the public complete information about the affairs of government and control over the instruments they created (Section 552.001, Government Code).

The Public Information Act was codified at a time when all government functions were performed largely by identifiable governmental entities. In the 38 years since the passage of the Public Information Act, state leaders have privatized many critical public services in an effort to be efficient and cost-sensitive. Private or nonprofit organizations that provide a public function do not constitute a governmental body. The information they process is not owned or maintained by a governmental body; therefore, the information falls outside the purview of the Public Information Act. This violates the original intent of the statute and the statute should be amended to reflect current practices.

C.S.S.B. 1571 amends current law relating to information subject to 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 552.002, Government Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Redefines, in this chapter, "public information."

(d) Provides that, in this chapter, "public information" includes information stored in electronic format that contains public documents, public records, or a communication of official business, regardless of whether the information is stored on a server or in a computer facility owned or maintained by a governmental body.

SECTION 2. Amends Section 552.003, Government Code, by adding Subdivision (4-a) and amending Subdivision (5), to define "public function" and redefine "public funds."

SECTION 3. Amends Subchapter E, Chapter 552, Government Code, by adding Section 552.233, as follows:

Sec. 552.233. REQUESTS FOR PUBLIC INFORMATION RELATED TO A GOVERNMENT CONTRACT. (a) Requires that a request for public information relating to a contract entered into by a governmental body under Section 2252.907 be submitted to the governmental body that entered into the contract.

(b) Requires the vendor, institution, individual, corporation or other business entity that performs a public function under a contract entered into under Section 2252.907 to assemble the public information that is the subject of the request under Subsection (a) and provide the information to the contracting governmental

body. Requires the governmental body to make the information available to the requestor or request a decision in accordance with this chapter.

SECTION 4. Amends Subchapter Z, Chapter 2252, Government Code, by adding Section 2252.907, as follows:

Sec. 2252.907. CONTRACTS INVOLVING EXCHANGE OR CREATION OF PUBLIC INFORMATION. (a) Requires that a contract between a governmental body and a vendor, institution, individual, corporation or other business entity that performs a public function involving the exchange or creation of public information:

(1) be drafted in compliance with the disclosure requirements of Chapter 552 (Public Information); and

(2) if the information is to be exchanged or stored in an electronic format, contain a provision that the vendor or other contracting entity must make the information available to the governmental body in a specific electronic format that is agreed on in the contract, and accessible by the public.

(b) Provides that the requirements of Subsection (a) apply to contracts between the vendor or other contracting entity that performs a public function and a subcontractor engaged to further the performance of the public function.

(c) Prohibits this section from being waived by contract or otherwise.

(d) Defines, in this section, "governmental body."

SECTION 5. (a) Provides that the changes in law made by this Act by amending Sections 552.002 and 552.003, Government Code, and by adding Section 552.233, Government Code, apply only to a request for the disclosure of public information made on or after the effective date of this Act. Provides that a request for the disclosure of public information made before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Provides that Section 2252.907, Government Code, as added by this Act, applies only to a contract for which a governmental body first advertises or otherwise solicits bids, proposals, offers, or qualifications on or after the effective date of this Act. Provides that a contract for which a governmental body advertised or otherwise solicited bids, proposals, offers, or qualifications before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 6. Effective date: September 1, 2011.