

BILL ANALYSIS

C.S.H.B. 4132
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been asserted that the public should have the right to obtain public information in the format requested, assuming the information is available in that format. It has been suggested that there needs to be clearer statutory guidance for the maintenance and production of electronic public information and that such clarity would aid governmental entities and requestors alike. C.S.H.B. 4132 seeks to provide that guidance.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4132 amends the Government Code to prohibit a governmental body's use of an electronic recordkeeping system from eroding the public's right of access to public information under state public information law.

C.S.H.B. 4132 requires a governmental body that receives a public information request applicable to electronic public information to provide an electronic copy of the requested information using computer software the governmental body has in its possession. The bill requires the governmental body, if the requestor prefers, to provide a copy of the information in the form of a paper printout.

C.S.H.B. 4132 prohibits a governmental body from refusing to provide a copy of the information on the grounds that exporting the information or redacting excepted information will require inputting certain commands or instructions into the governmental body's computer system if the commands or instructions can be executed with computer software used by the governmental body in the ordinary course of business to access, support, or otherwise manage the information.

C.S.H.B. 4132 authorizes a requestor to request that a copy of electronic public information be provided in the format in which the information is maintained by the governmental body or in a standard export format if the governmental body's computer programs support exporting the information in that format. The bill requires the governmental body to provide the copy in the requested format or in another format acceptable to the requestor and requires the governmental body to provide the copy on suitable electronic media. The bill sets out the required procedure for a governmental body to provide requested information that is maintained by the governmental body in a format that is neither searchable nor sortable, that is searchable but not sortable, or that is sortable, respectively.

C.S.H.B. 4132 requires a governmental body to use reasonable efforts to ensure that a contract entered into by the governmental body for the creation and maintenance of electronic public information does not impair the public's ability to inspect or copy the information or make the information more difficult for the public to inspect or copy than records maintained by the governmental body. The bill's provisions apply to public information for which a third party is the custodian for the applicable governmental body. The bill's provisions do not affect the applicability to electronic public information of a confidentiality provision or other exception from required disclosure. The bill applies statutory provisions relating to charges for providing copies of public information to an electronic copy or paper printout of electronic public information.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4132 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include a prohibition against a governmental body entering into a contract for the creation or maintenance of electronic public information that impairs the public's ability to inspect or copy the information.

The substitute includes a requirement that a governmental body use reasonable efforts to ensure that a contract entered into by the governmental body for the creation and maintenance of electronic public information does not impair the public's ability to inspect or copy the information or make the information more difficult for the public to inspect or copy.

The substitute includes provisions relating to the applicability of confidentiality provisions or other exceptions to electronic public information and to the applicability of statutory provisions relating to charges for providing copies of public information.

The substitute does not include provisions repealing certain provisions of the Government Code.