

SUBJECT: Addressing certain repeat requests under the public information act

COMMITTEE: Government Transparency and Operation — favorable, without amendment

VOTE: 7 ayes — Elkins, Capriglione, Gonzales, Lucio, Shaheen, Tinderholt, Uresti

0 nays

WITNESSES: For — Kelley Shannon, Freedom of Information Foundation of Texas; Zindia Thomas, Texas Municipal League; (*Registered, but did not testify*: Trey Lary, Allen Boone Humphries Robinson LLP; David Anderson, Arlington ISD; Lindsey Baker, City of Denton; Eric Magee, County Judges and Commissioners Association of Texas; Cheri Huddleston, Lufkin/Angelina County Economic Development Partnership; Kevin Cooper, RELX, Inc; Mark Mendez, Tarrant County; Michael Schneider, Texas Association of Broadcasters; Ruben Longoria, Texas Association of School Boards; Michelle Smith, Texas Association of School Business Officials; John Dahill, Texas Conference of Urban Counties; Mark Terry, Texas Elementary Principals and Supervisors Association; Donnis Baggett, Texas Press Association; Joseph Green, Travis County Commissioners Court)

Against — (*Registered, but did not testify*: Tom Tagliabue, City of Corpus Christi)

On — (*Registered, but did not testify*: Justin Gordon, Texas Attorney General)

BACKGROUND: The Public Information Act (Government Code, ch. 552) governs public access to records and other material maintained by governmental bodies.

Under sec. 552.261, a charge for providing a copy of public information must be an amount that reasonably includes costs of materials, labor, and overhead expenses, depending on the number of pages and the location of

the records.

Sec. 552.275 allows a governmental body to establish a reasonable limit on the time it spends complying with requests for public information from a single requestor without recovering labor costs. The cumulative time limit per requestor may not be less than 36 hours within a fiscal year. Once a requestor has reached the limit, a governmental body must submit a written cost estimate to the requestor and is not required to comply with additional requests unless the requestor within 10 days submits a statement committing to pay certain costs. If a requestor does not submit this statement, the pending request for information is considered withdrawn.

The limits do not apply to a requestor who performs certain duties for specific types of news media, is an elected official, or is a representative of a tax-exempt publicly funded legal services organization.

Sec. 552.3215 allows an individual to file with a district or county attorney a complaint against a governmental body, alleging a violation of the Public Information Act. Within 31 days, the prosecutor must determine and inform the complainant as to whether the alleged violation was committed and whether action will be brought against the governmental body.

DIGEST:

HB 3107 would make certain changes to provisions on the production of information under the Public Information Act, including establishing a timeline for request termination, revising procedures for subsequent requests by a person, and creating an additional option for requestors filing complaints.

Request termination. A public information request would be considered withdrawn if the requestor either did not inspect or duplicate the information in the offices of the governmental body within 60 days of the information being made available or failed to pay the postage and any other applicable charges within 60 days of being informed of them.

Procedures for subsequent requests. A governmental body could define a monthly limit, in addition to the current yearly limit, on the time that personnel would have to spend responding to a request for information without recovering labor costs. The monthly time limit could not be less than 15 hours per requestor. The bill would allow all county officials who had the same designated public information officer to collectively calculate the amount for the purposes of the monthly or yearly limit.

A governmental body would not have to comply with additional requests from a person who had exceeded the time limits, been notified of the estimated costs, and had not paid the amount due at the time a new request was submitted until the requestor paid or withdrew the previous request.

All public information requests received from an individual in the same calendar day could be treated as a single request to calculate the costs for reproducing the information. A governmental body could not combine multiple requests from separate individuals who submitted a request on behalf of an organization.

The bill would revise the list of requestors to whom these provisions did not apply to include an individual seeking information for dissemination by a communication service provider, including a journalist, scholar, or researcher employed by an institution of higher education.

Requestor complaint process. The bill would entitle a requestor to file a complaint with the attorney general if a prosecutor had not taken action within 90 days on a complaint alleging a governmental body violated a section of the Public Information Act.

The bill would take effect September 1, 2017, and would apply only to a request of information received on or after that date.

SUPPORTERS
SAY:

HB 3107 would provide governmental entities with tools to address subsequent requests for large amounts of public information that require many hours of personnel time. While the Public Information Act is essential to holding governmental bodies accountable by guaranteeing

access to public information, abuses by requestors intended to debilitate governmental processes and productivity do occur and can strain resources. Many of these requestors do not intend to access the information once the agency produces it. Current law does not provide effective means to address such situations. Instead, governmental bodies are required to comply with these requests in almost all situations. This bill would put measures in place to help alleviate this burden without eroding the spirit of the Public Information Act.

Although this bill would address only a small number of requestors, they are disproportionately impacting the process, costing governmental bodies money and time. HB 3107 would promote transparency by allowing these entities to focus their resources on addressing reasonable requests in a more cost effective way.

**OPPONENTS
SAY:**

The Public Information Act already provides procedures for handling subsequent or redundant requests. Not all repeat requestors or requestors seeking large amounts of information are doing so maliciously, and some may have legitimate reasons. It is important to protect the public's right to information, and the procedures proposed in HB 3107 could hinder access.