

By: Lucio III

H.B. No. 2328

A BILL TO BE ENTITLED

AN ACT

relating to an expedited response by a governmental body to a request for public information.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 552.2615(g), Government Code, is amended to read as follows:

(g) The time deadlines imposed by this section do not affect the application of a time deadline imposed on a governmental body under Subchapter G or J.

SECTION 2. Section 552.263(e), Government Code, is amended to read as follows:

(e) For purposes of Subchapters F, ~~and~~ G, and J, a request for a copy of public information is considered to have been received by a governmental body on the date the governmental body receives the deposit or bond for payment of anticipated costs or unpaid amounts if the governmental body's officer for public information or the officer's agent requires a deposit or bond in accordance with this section.

SECTION 3. Section 552.302, Government Code, is amended to read as follows:

Sec. 552.302. FAILURE TO MAKE TIMELY REQUEST FOR ATTORNEY GENERAL DECISION; PRESUMPTION THAT INFORMATION IS PUBLIC. If a governmental body does not request an attorney general decision as provided by Section 552.301 or in response to an appeal under

1 Subchapter J and provide the requestor with the information
2 required by Sections 552.301(d) and (e-1) or Section 552.404(b),
3 the information requested in writing is presumed to be subject to
4 required public disclosure and must be released unless there is a
5 compelling reason to withhold the information.

6 SECTION 4. Section 552.352, Government Code, is amended by
7 adding Subsection (d) to read as follows:

8 (d) It is an affirmative defense to prosecution under
9 Subsection (a) that the defendant released information under
10 Subchapter J and did not release confidential information
11 intentionally, as defined by Section 6.03, Penal Code.

12 SECTION 5. Chapter 552, Government Code, is amended by
13 adding Subchapter J to read as follows:

14 SUBCHAPTER J. EXPEDITED RESPONSE PROCEDURE

15 Sec. 552.401. REQUEST FOR ATTORNEY GENERAL DECISION NOT
16 REQUIRED. Subject to Sections 552.403 and 552.405, a governmental
17 body that receives a written request for information and complies
18 with the requirements of this subchapter may withhold any
19 information it makes a good faith determination is excepted from
20 required public disclosure under this chapter without the necessity
21 of requesting a decision from the attorney general under Subchapter
22 G.

23 Sec. 552.402. RESPONSE REQUIREMENTS. (a) A governmental
24 body that withholds information under this subchapter must respond
25 to the requestor not later than the fifth business day after the
26 date the governmental body receives a written request for that
27 information by providing the requestor with:

1 (1) a list of the exceptions under Subchapter C and, if
2 applicable, the judicial decisions or constitutional or statutory
3 laws the governmental body determines are applicable to the
4 information being withheld;

5 (2) all information the governmental body determines
6 is not excepted from disclosure, including, if applicable,
7 partially redacted information with the redacted portions clearly
8 marked and labeled with the exceptions the governmental body relied
9 on to redact the information;

10 (3) a description of the volume and type of
11 information withheld; and

12 (4) a notice form promulgated by the attorney general
13 that includes, at a minimum:

14 (A) a unique identification number assigned by
15 the governmental body;

16 (B) a description of the appeal procedure;

17 (C) an appeal form the requestor must use to
18 appeal the withholding of information under this subchapter;

19 (D) a reference to the requestor's rights under
20 this chapter; and

21 (E) the name of the individual who has received
22 training under Section 552.406.

23 (b) The governmental body shall retain, at a minimum, an
24 electronic or paper copy of the notice it provides to the requestor
25 under Subsection (a)(4) for the length of time the governmental
26 body retains the request for information.

27 Sec. 552.403. APPEAL. (a) On receipt of a response by a

1 governmental body under this subchapter, the requestor may appeal
2 the withholding of information in the response not later than the
3 30th calendar day after the date the requestor receives the
4 response.

5 (b) The requestor must submit the appeal to the governmental
6 body that responded under this subchapter on the appeal form
7 provided to the requestor by the governmental body under Section
8 552.402(a)(4).

9 (c) The appeal is considered a new request and is subject to
10 the procedural requirements of Section 552.404.

11 (d) A governmental body may not seek to narrow or clarify an
12 appeal made under this subchapter under Section 552.222(b).

13 (e) A governmental body may not respond to a requestor under
14 Section 552.232 in response to an appeal made under this
15 subchapter.

16 (f) Notwithstanding Sections 552.024(c)(2), 552.1175(f),
17 552.130(c), 552.136(c), and 552.138(c), a governmental body must
18 request an attorney general decision to withhold information
19 described by those provisions in response to an appeal.

20 Sec. 552.404. REQUEST FOR ATTORNEY GENERAL DECISION IN
21 RESPONSE TO APPEAL. (a) Except as otherwise provided by this
22 subchapter:

23 (1) the appeal is subject to the provisions of this
24 chapter; and

25 (2) an attorney general's decision that was requested
26 under this section is considered to be a decision under Subchapter
27 G.

1 (b) A governmental body that receives an appeal under
2 Section 552.403 shall, within a reasonable time, but not later than
3 the 10th business day after the date the governmental body receives
4 the appeal, submit to the attorney general:

5 (1) a request for the attorney general's decision;

6 (2) a copy of the original written request for
7 information;

8 (3) a copy of the appeal form received by the
9 governmental body;

10 (4) a signed statement as to the date on which the
11 appeal was received by the governmental body or evidence sufficient
12 to establish the date;

13 (5) the exceptions that apply and written comments
14 stating the reasons why the stated exceptions apply that would
15 allow the information to be withheld;

16 (6) if the governmental body provided partially
17 redacted information to the requestor in its initial response under
18 this subchapter, an unredacted copy of the information the
19 governmental body provided to the requestor with the copy clearly
20 marked indicating the released portions and the withheld portions
21 labeled with the exceptions the governmental body relied on to
22 withhold the information; and

23 (7) a copy of the specific information the
24 governmental body seeks to withhold, or representative samples of
25 the information, labeled to indicate which exceptions apply to
26 which parts of the copy.

27 (c) A governmental body that receives an appeal under

1 Section 552.403 shall, within a reasonable time, but not later than
2 the 10th business day after the date the governmental body receives
3 the appeal, send a copy of the comments submitted under Subsection
4 (b)(5) to the requestor. If the written comments disclose or
5 contain the substance of the information requested, the copy of the
6 comments provided to the requestor must be a redacted copy.

7 Sec. 552.405. ELIGIBILITY. Before a governmental body may
8 respond to a request under this subchapter, the governmental body
9 must comply with the requirements of Section 552.406 and may not
10 have had its authorization to rely on this subchapter revoked under
11 Section 552.407.

12 Sec. 552.406. TRAINING. (a) The public information
13 officer for a governmental body that responds to a request under
14 this subchapter or the officer's designee must have completed in
15 the four years preceding the response a course of training of not
16 less than four hours or more than six hours regarding the
17 responsibilities of the governmental body under this subchapter.

18 (b) The attorney general shall ensure that the training is
19 made available. The attorney general shall ensure that at least one
20 course of training is available at no cost on recorded video or a
21 functionally similar and widely available medium. At a minimum,
22 the training must include instruction in:

23 (1) the general background of the legal requirements
24 for the governmental body's use of this subchapter and related law;

25 (2) the applicability of this subchapter to
26 governmental bodies;

27 (3) the procedures and requirements for complying with

1 an appeal under this subchapter;

2 (4) the role of the attorney general under this
3 subchapter; and

4 (5) penalties and other consequences for failing to
5 comply with this subchapter.

6 (c) The office of the attorney general shall provide a
7 certificate of course completion to a person who completes the
8 training required by this section. A governmental body shall
9 maintain the certificate and make it available for public
10 inspection.

11 Sec. 552.407. REVOCATION. (a) The office of the attorney
12 general, in its sole discretion, may revoke a governmental body's
13 authorization to respond under this subchapter if the attorney
14 general determines the governmental body failed to comply with the
15 requirements of this chapter.

16 (b) The attorney general shall create a notice of revocation
17 form. The attorney general shall inform the governmental body that
18 the attorney general has revoked the governmental body's
19 eligibility under Subsection (a) by sending the notice of
20 revocation form by certified mail or by another written method of
21 notice that requires the return of a receipt.

22 (c) The notice of revocation form must inform the
23 governmental body of the length of time the revocation is in effect.
24 The length of time the revocation is in effect may not exceed six
25 months from the date the governmental body receives the notice of
26 revocation form.

27 (d) The office of the attorney general shall publish on its

1 Internet website a list of the governmental bodies that are not
2 authorized to respond to a request under this subchapter because
3 their authorization has been revoked under Subsection (a).

4 SECTION 6. The changes in law made by this Act apply only to
5 a request for information that is received by a governmental body on
6 or after the effective date of this Act. A request for information
7 that was received before the effective date of this Act is governed
8 by the law that was in effect on the date the request was received,
9 and the former law is continued in effect for that purpose.

10 SECTION 7. This Act takes effect September 1, 2017.