

AN ACT

relating to public information and open government.

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

SECTION 1. Subchapter C, Chapter 551, Government Code, is amended by adding Section 551.0415 to read as follows:

Sec. 551.0415. GOVERNING BODY OF MUNICIPALITY: REPORTS ABOUT ITEMS OF COMMUNITY INTEREST REGARDING WHICH NO ACTION WILL BE TAKEN. (a) Notwithstanding Sections 551.041 and 551.042, a quorum of the governing body of a municipality may receive from municipal staff and a member of the governing body may make a report about items of community interest during a meeting of the governing body without having given notice of the subject of the report as required by this subchapter if no action is taken and, except as provided by Section 551.042, possible action is not discussed regarding the information provided in the report.

(b) For purposes of Subsection (a), "items of community interest" includes:

(1) expressions of thanks, congratulations, or condolence;

(2) information regarding holiday schedules;

(3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary

1 recognition for purposes of this subdivision;

2 (4) a reminder about an upcoming event organized or
3 sponsored by the governing body;

4 (5) information regarding a social, ceremonial, or
5 community event organized or sponsored by an entity other than the
6 governing body that was attended or is scheduled to be attended by a
7 member of the governing body or an official or employee of the
8 municipality; and

9 (6) announcements involving an imminent threat to the
10 public health and safety of people in the municipality that has
11 arisen after the posting of the agenda.

12 SECTION 2. Section 552.008, Government Code, is amended by
13 adding Subsections (b-1) and (b-2) to read as follows:

14 (b-1) A member, committee, or agency of the legislature
15 required by a governmental body to sign a confidentiality agreement
16 under Subsection (b) may seek a decision as provided by Subsection
17 (b-2) about whether the information covered by the confidentiality
18 agreement is confidential under law. A confidentiality agreement
19 signed under Subsection (b) is void to the extent that the agreement
20 covers information that is finally determined under Subsection
21 (b-2) to not be confidential under law.

22 (b-2) The member, committee, or agency of the legislature
23 may seek a decision from the attorney general about the matter. The
24 attorney general by rule shall establish procedures and deadlines
25 for receiving information necessary to decide the matter and briefs
26 from the requestor, the governmental body, and any other interested
27 person. The attorney general shall promptly render a decision

1 requested under this subsection, determining whether the
 2 information covered by the confidentiality agreement is
 3 confidential under law, not later than the 45th business day after
 4 the date the attorney general received the request for a decision
 5 under this subsection. The attorney general shall issue a written
 6 decision on the matter and provide a copy of the decision to the
 7 requestor, the governmental body, and any interested person who
 8 submitted necessary information or a brief to the attorney general
 9 about the matter. The requestor or the governmental body may appeal
 10 a decision of the attorney general under this subsection to a Travis
 11 County district court. A person may appeal a decision of the
 12 attorney general under this subsection to a Travis County district
 13 court if the person claims a proprietary interest in the
 14 information affected by the decision or a privacy interest in the
 15 information that a confidentiality law or judicial decision is
 16 designed to protect.

17 SECTION 3. The heading to Section 552.009, Government Code,
 18 is amended to read as follows:

19 Sec. 552.009. OPEN RECORDS STEERING COMMITTEE: ADVICE TO
 20 ATTORNEY GENERAL [~~COMMISSION~~]; ELECTRONIC AVAILABILITY OF PUBLIC
 21 INFORMATION.

22 SECTION 4. Subchapter C, Chapter 552, Government Code, is
 23 amended by adding Section 552.150 to read as follows:

24 Sec. 552.150. EXCEPTION: INFORMATION THAT COULD COMPROMISE
 25 SAFETY OF OFFICER OR EMPLOYEE OF HOSPITAL DISTRICT.

26 (a) Information in the custody of a hospital district that relates
 27 to an employee or officer of the hospital district is excepted from

1 the requirements of Section 552.021 if:

2 (1) it is information that, if disclosed under the
3 specific circumstances pertaining to the individual, could
4 reasonably be expected to compromise the safety of the individual,
5 such as information that describes or depicts the likeness of the
6 individual, information stating the times that the individual
7 arrives at or departs from work, a description of the individual's
8 automobile, or the location where the individual works or parks;
9 and

10 (2) the employee or officer applies in writing to the
11 hospital district's officer for public information to have the
12 information withheld from public disclosure under this section and
13 includes in the application:

14 (A) a description of the information; and

15 (B) the specific circumstances pertaining to the
16 individual that demonstrate why disclosure of the information could
17 reasonably be expected to compromise the safety of the individual.

18 (b) On receiving a written request for information
19 described in an application submitted under Subsection (a)(2), the
20 officer for public information shall:

21 (1) request a decision from the attorney general in
22 accordance with Section 552.301 regarding withholding the
23 information; and

24 (2) include a copy of the application submitted under
25 Subsection (a)(2) with the request for the decision.

26 (c) This section expires September 1, 2013.

27 SECTION 5. Subchapter C, Chapter 552, Government Code, is

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1 amended by adding Section 552.151 to read as follows:

2 Sec. 552.151. EXCEPTION: INFORMATION REGARDING SELECT
3 AGENTS. (a) The following information that pertains to a
4 biological agent or toxin identified or listed as a select agent
5 under federal law, including under the Public Health Security and
6 Bioterrorism Preparedness and Response Act of 2002 (Pub. L. No.
7 107-188) and regulations adopted under that Act, is excepted from
8 the requirements of Section 552.021:

9 (1) the specific location of a select agent within an
10 approved facility;

11 (2) personal identifying information of an individual
12 whose name appears in documentation relating to the chain of
13 custody of select agents, including a materials transfer agreement;
14 and

15 (3) the identity of an individual authorized to
16 possess, use, or access a select agent.

17 (b) This section does not except from disclosure the
18 identity of the select agents present at a facility.

19 (c) This section does not except from disclosure the
20 identity of an individual faculty member or employee whose name
21 appears or will appear on published research.

22 (d) This section does not except from disclosure otherwise
23 public information relating to contracts of a governmental body.

24 (e) If a resident of another state is present in Texas and is
25 authorized to possess, use, or access a select agent in conducting
26 research or other work at a Texas facility, information relating to
27 the identity of that individual is subject to disclosure under this

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1 chapter only to the extent the information would be subject to
2 disclosure under the laws of the state of which the person is a
3 resident.

4 SECTION 6. Subsection (a), Section 552.263, Government
5 Code, is amended to read as follows:

6 (a) An officer for public information or the officer's agent
7 may require a deposit or bond for payment of anticipated costs for
8 the preparation of a copy of public information if:

9 (1) the officer for public information or the
10 officer's agent has provided the requestor with the [~~required~~]
11 written itemized statement required under Section 552.2615
12 detailing the estimated charge for providing the copy; and

13 (2) [~~if~~] the charge for providing the copy of the
14 public information specifically requested by the requestor is
15 estimated by the governmental body to exceed:

16 (A) [~~1~~] \$100, if the governmental body has more
17 than 15 full-time employees; or

18 (B) [~~2~~] \$50, if the governmental body has fewer
19 than 16 full-time employees.

20 SECTION 7. Subsection (a), Section 552.274, Government
21 Code, as amended by Chapters 329 (S.B. 727) and 716 (S.B. 452), Acts
22 of the 79th Legislature, Regular Session, 2005, is reenacted to
23 read as follows:

24 (a) The attorney general shall:

25 (1) biennially update a report prepared by the
26 attorney general about the charges made by state agencies for
27 providing copies of public information; and

1 (2) provide a copy of the updated report on the
2 attorney general's open records page on the Internet not later than
3 March 1 of each even-numbered year.

4 SECTION 8. Subsection (e-1), Section 552.301, Government
5 Code, is amended to read as follows:

6 (e-1) A governmental body that submits written comments to
7 the attorney general under Subsection (e)(1)(A) shall send a copy
8 of those comments to the person who requested the information from
9 the governmental body not later than the 15th business day after the
10 date of receiving the written request. If the written comments

11 disclose or contain the substance of the information requested, the
12 copy of the comments provided to the person must be a redacted copy.

13 SECTION 9. Subsection (b), Section 552.323, Government
14 Code, is amended to read as follows:

15 (b) In an action brought under Section 552.324
16 [~~552.353(b)(3)~~], the court may assess costs of litigation and
17 reasonable attorney's fees incurred by a plaintiff or defendant who
18 substantially prevails. In exercising its discretion under this
19 subsection, the court shall consider whether the conduct of [~~the~~
20 ~~officer for public information of~~] the governmental body had a
21 reasonable basis in law and whether the litigation was brought in
22 good faith.

23 SECTION 10. Section 552.324, Government Code, is amended to
24 read as follows:

25 Sec. 552.324. SUIT BY GOVERNMENTAL BODY. (a) The only
26 suit a governmental body [~~or officer for public information~~] may
27 file seeking to withhold information from a requestor is a suit

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1 that:

2 (1) is filed in a Travis County district court against
3 the attorney general in accordance with Section [~~Sections~~] 552.325;
4 [~~and 552.353~~] and

5 (2) seeks declaratory relief from compliance with
6 [~~that challenges~~] a decision by the attorney general issued under
7 Subchapter G.

8 (b) The governmental body must bring the suit not later than
9 the 30th calendar day after the date the governmental body receives
10 the decision of the attorney general determining that the requested
11 information must be disclosed to the requestor [~~being challenged~~].
12 If the governmental body does not bring suit within that period, the
13 governmental body shall comply with the decision of the attorney
14 general. If a governmental body wishes to preserve an affirmative
15 defense for its officer for public information as provided in
16 Section 552.353(b)(3), suit must be filed within the deadline
17 provided in Section 552.353(b)(3) [~~This subsection does not affect~~
18 ~~the earlier deadline for purposes of Section 552.353(b)(3) for a~~
19 ~~suit brought by an officer for public information]~~].

20 SECTION 11. Subsection (b), Section 552.325, Government
21 Code, is amended to read as follows:

22 (b) The governmental body, officer for public information,
23 or other person or entity that files the suit shall demonstrate to
24 the court that the governmental body, officer for public
25 information, or other person or entity made a timely good faith
26 effort to inform the requestor, by certified mail or by another
27 written method of notice that requires the return of a receipt, of:

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1 (1) the existence of the suit, including the subject
2 matter and cause number of the suit and the court in which the suit
3 is filed;

4 (2) the requestor's right to intervene in the suit or
5 to choose to not participate in the suit;

6 (3) the fact that the suit is against the attorney
7 general in Travis County district court; and

8 (4) the address and phone number of the office of the
9 attorney general.

10 SECTION 12. Subsections (b) and (c), Section 552.353,
11 Government Code, are amended to read as follows:

12 (b) It is an affirmative defense to prosecution under
13 Subsection (a) that the officer for public information reasonably
14 believed that public access to the requested information was not
15 required and that [~~the officer~~]:

16 (1) the officer acted in reasonable reliance on a
17 court order or a written interpretation of this chapter contained
18 in an opinion of a court of record or of the attorney general issued
19 under Subchapter G;

20 (2) the officer requested a decision from the attorney
21 general in accordance with Subchapter G, and the decision is
22 pending; or

23 (3) not later than the 10th calendar day after the date
24 of receipt of a decision by the attorney general that the
25 information is public, the officer or the governmental body for
26 whom the defendant is the officer for public information filed a
27 petition for a declaratory judgment [~~or a writ of mandamus, or both,~~]

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1 against the attorney general in a Travis County district court
2 seeking relief from compliance with the decision of the attorney
3 general, as provided by Section 552.324, and the cause [a petition]
4 is pending.

5 (c) It is an affirmative defense to prosecution under
6 Subsection (a) that a person or entity has, not later than the 10th
7 calendar day after the date of receipt by a governmental body of a
8 decision by the attorney general that the information is public,
9 filed a cause of action seeking relief from compliance with the
10 decision of the attorney general, as provided by Section 552.325,
11 and the cause is pending.

12 SECTION 13. Section 261.201, Family Code, is amended by
13 adding Subsections (k) and (l) to read as follows:

14 (k) Notwithstanding Subsection (a), an investigating
15 agency, other than the department or the Texas Youth Commission, on
16 request, shall provide to the parent, managing conservator, or
17 other legal representative of a child who is the subject of reported
18 abuse or neglect, or to the child if the child is at least 18 years
19 of age, information concerning the reported abuse or neglect that
20 would otherwise be confidential under this section. The
21 investigating agency shall withhold information under this
22 subsection if the parent, managing conservator, or other legal
23 representative of the child requesting the information is alleged
24 to have committed the abuse or neglect.

25 (l) Before a child or a parent, managing conservator, or
26 other legal representative of a child may inspect or copy a record
27 or file concerning the child under Subsection (k), the custodian of

1 the record or file must redact:

2 (1) any personally identifiable information about a
3 victim or witness under 18 years of age unless that victim or
4 witness is:

5 (A) the child who is the subject of the report; or

6 (B) another child of the parent, managing
7 conservator, or other legal representative requesting the
8 information;

9 (2) any information that is excepted from required
10 disclosure under Chapter 552, Government Code, or other law; and

11 (3) the identity of the person who made the report.

12 SECTION 14. The changes in law made by Section 552.150,
13 Government Code, as added by this Act, apply in relation to a
14 request for information made under Chapter 552, Government Code,
15 before, on, or after the effective date of this Act.

16 SECTION 15. Section 552.151, Government Code, as added by
17 this Act, applies in relation to:

18 (1) a request for public information under Chapter
19 552, Government Code, made before, on, or after the effective date
20 of this Act; and

21 (2) information that on the effective date of this Act
22 has not yet been disclosed that:

23 (A) was the subject of a request for information
24 made before the effective date of this Act; and

25 (B) the attorney general determined before the
26 effective date of this Act to be subject to disclosure under Chapter
27 552, Government Code.

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1 SECTION 16. (a) Except as provided by Subsection (b) of
2 this section, this Act takes effect September 1, 2009.

3 (b) Subsections (b-1) and (b-2), Section 552.008,
4 Government Code, as added by this Act, take effect September 1,
5 2010.

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David Dewhurst

President of the Senate

Jim Strawn

Speaker of the House

I hereby certify that S.B. No. 1182 passed the Senate on April 23, 2009, by the following vote: Yeas 30, Nays 0; May 23, 2009, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 28, 2009, House granted request of the Senate; May 31, 2009, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Lately Spivey

Secretary of the Senate

I hereby certify that S.B. No. 1182 passed the House, with amendments, on May 20, 2009, by the following vote: Yeas 134, Nays 0, one present not voting; May 28, 2009, House granted request of the Senate for appointment of Conference Committee; May 30, 2009, House adopted Conference Committee Report by the following vote: Yeas 139, Nays 1, two present not voting.

Robert Haney

Chief Clerk of the House

Approved:

19 Jun '09

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2 PM O'CLOCK

JUN 19 2009

Coly Hunter III