

**SUBJECT:** Revising requirements for responding to public information requests

**COMMITTEE:** State Affairs — favorable, without amendment

**VOTE:** 12 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Metcalf, Raymond, Shaheen, Slawson, Smithee

0 nays

1 absent — Lucio

**WITNESSES:** For — Joshua Houston, Texas Impact; Laura Prather, Transparent and Accountable Government Coalition; (*Registered, but did not testify:* Kelley Shannon, Freedom of Information Foundation of Texas; Joseph Coleman, Hill Country News; Adrian Shelley, Public Citizen; Michael Schneider, Texas Association of Broadcasters; Donnis Baggett and Mike Hodges, Texas Press Association; James Quintero, Texas Public Policy Foundation; Don Dixon; Terri Hall)

Against — (*Registered, but did not testify:* Melissa Shannon, Bexar County Commissioners Court; Clifford Sparks, City of Dallas; Guadalupe Cuellar, City of El Paso; Monty Wynn, Texas Municipal League)

On — (*Registered, but did not testify:* Daniel Collins, El Paso County; Chase Howell, Texas Secretary of State)

**BACKGROUND:** Government Code ch. 552, the Texas Public Information Act, requires governmental bodies to disclose information to the public upon request unless that information is excepted from disclosure.

Government Code, sec. 552.221 requires that a public information officer of a governmental body promptly produce public information for inspection and/or duplication when requested. If a public information officer cannot produce information for inspection or duplication within 10 business days after the information is requested, the officer must certify that fact in writing to the requestor and set a date and hour within a

reasonable time when the information will be available for inspection or duplication.

Under sec. 552.301, if a governmental body wishes to withhold information from public disclosure under a statutory exception, it must ask for an attorney general decision about whether the information may be withheld within 10 business days after receiving the request and to notify the requestor that the body wishes to withhold the requested information and has asked for an attorney general decision.

DIGEST:

HB 3015 would require the public information officer of a governmental body that determined it had no information responsive to a public information request to notify the requestor in writing within 10 days after the request was received.

If the governmental body determined the requested information was subject to a previous determination that permitted or required the body to withhold the requested information, within 10 days of receiving the request, the public information officer would have to:

- notify the requestor in writing that the information was being withheld; and
- identify in the notice the specific previous determination the governmental body was relying on to withhold the requested information.

If a governmental body failed to respond to a requestor, the requestor could send a written complaint to the attorney general. The complaint would have to include the original request for information and any correspondence received from the governmental body in response.

If the attorney general determined the governmental body improperly failed to comply, the attorney general would have to notify the governmental body in writing and require the body to complete open records training within six months of receiving the notification. The governmental body also could not assess costs to the requestor for

producing information in response to the request.

If the governmental body sought to withhold information in response to the request, it would have to request an attorney general decision within five days of receiving the notification from the attorney general relating to noncompliance and release the requested information, unless there was a compelling reason to withhold the information.

The bill would take effect September 1, 2021, and would apply to a request for information received on or after that date.

**SUPPORTERS  
SAY:**

HB 3015 would promote government transparency and accountability by encouraging prompt compliance and timely responses by governmental bodies to requests for public information.

Current law requires governmental bodies to respond to requests for public information promptly, and such bodies have 10 business days to seek an attorney general decision to withhold records. However, there currently is no requirement that a governmental body notify a requestor if there are no records responsive to the request or if the body is relying on a previous attorney general decision to withhold requested information. Additionally, there currently is no mechanism to hold governmental bodies accountable if they fail to respond under current required processes. The bill would close this loophole and ensure that governmental bodies responded to all public information requests in a prompt and timely manner, helping to restore the spirit of the Texas Public Information Act.

Under current law, the public can file a complaint with the local district or county attorney. The bill simply would allow a requestor to file a complaint with the attorney general, who could investigate and determine whether a governmental body did not comply with response requirements.

**CRITICS  
SAY:**

HB 3015 would create potentially redundant requirements and unnecessary penalties under public information laws. Currently, a governmental body already has to let a requestor know if the body cannot

produce records within 10 business days. Existing enforcement mechanisms also are outlined in the Texas Public Information Act for the goal of ensuring the release of records.

Under the bill, a governmental body would not be offered a chance to participate in the process to determine whether it had complied with the bill's requirements. The bill also could result in governmental bodies being subject to overly stringent penalties for mistakes they made when acting in good faith or for technical errors.