

1-1 By: Guillen, Schofield, Rinaldi H.B. No. 2305  
 1-2 (Senate Sponsor - Estes)  
 1-3 (In the Senate - Received from the House May 8, 2017;  
 1-4 May 15, 2017, read first time and referred to Committee on Business  
 1-5 & Commerce; May 22, 2017, reported adversely, with favorable  
 1-6 Committee Substitute by the following vote: Yeas 8, Nays 0;  
 1-7 May 22, 2017, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15	X			
1-16	X			
1-17	X			
1-18	X			

1-19 COMMITTEE SUBSTITUTE FOR H.B. No. 2305 By: Estes

1-20 A BILL TO BE ENTITLED  
 1-21 AN ACT

1-22 relating to the operations, reports, records, communications,  
 1-23 information technology, and notice procedures of state agencies.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. The heading to Subchapter G, Chapter 441,  
 1-26 Government Code, is amended to read as follows:

1-27 SUBCHAPTER G. STATE PUBLICATIONS AND REPORTS

1-28 SECTION 2. Section 441.101, Government Code, is amended by  
 1-29 adding Subdivision (5) to read as follows:

1-30 (5) "Texas Digital Archive" means the digital  
 1-31 repository maintained and operated by the commission for the  
 1-32 preservation of and access to permanently valuable copies of  
 1-33 archival state records, reports, and publications.

1-34 SECTION 3. Subchapter G, Chapter 441, Government Code, is  
 1-35 amended by adding Sections 441.107 and 441.108 to read as follows:

1-36 Sec. 441.107. REPORT OF REPORTS. (a) Notwithstanding  
 1-37 Section 441.101, in this section, "state agency" has the meaning  
 1-38 assigned by Section 441.180.

1-39 (b) Not later than January 1 of every other odd-numbered  
 1-40 year, the commission shall submit to the governor and the  
 1-41 Legislative Budget Board a written report regarding all statutorily  
 1-42 required reports prepared by and submitted to a state agency. The  
 1-43 commission may consult with other state agencies in preparing the  
 1-44 report. A state agency shall cooperate with the commission in  
 1-45 securing the information necessary for preparing the report and  
 1-46 shall submit that information to the commission. The commission  
 1-47 shall prescribe the time and manner in which a state agency  
 1-48 transmits the information necessary to prepare the report, and may  
 1-49 require the information to be submitted using the Texas Digital  
 1-50 Archive. The report must include for each statutorily required  
 1-51 report:

- 1-52 (1) the title of and the agency preparing the report;
- 1-53 (2) the statutory authority requiring the report;
- 1-54 (3) the recipient of the report;
- 1-55 (4) the deadline for submitting the report;
- 1-56 (5) a brief description of the report; and
- 1-57 (6) an assessment from each recipient of the report

1-58 whether the report is necessary.

1-59 (c) The report required by Subsection (b) must:

- 1-60 (1) be made available to the public; and

2-1 (2) provide indices by preparing agency, title of  
2-2 report, and report recipient.

2-3 Sec. 441.108. STATE AGENCY USE OF TEXAS DIGITAL ARCHIVE FOR  
2-4 CERTAIN REPORTS. (a) Notwithstanding Section 441.101, in this  
2-5 section, "state agency" has the meaning assigned by Section  
2-6 2054.003.

2-7 (b) To the extent a report prepared by a state agency is not  
2-8 confidential or excepted from the requirements of Section 552.021,  
2-9 the agency shall use the Texas Digital Archive to submit or post the  
2-10 report if the report is required by a statute, rule, or rider in the  
2-11 General Appropriations Act to be submitted to:

- 2-12 (1) the governor;
- 2-13 (2) a member, agency, or committee of the legislature;
- 2-14 (3) another state agency; or
- 2-15 (4) the public.

2-16 (c) The commission shall develop and make accessible to each  
2-17 state agency guidelines that assist the agency in determining:

- 2-18 (1) the reports prepared by the agency that are  
2-19 appropriate for submission through the Texas Digital Archive; and
- 2-20 (2) the retention requirements for those reports.

2-21 (d) The commission shall monitor the effectiveness of state  
2-22 agency use of the Texas Digital Archive for the purposes provided  
2-23 under this section.

2-24 (e) A state agency that posts a report using the Texas  
2-25 Digital Archive satisfies any requirement in state law that the  
2-26 agency post the report on the agency's Internet website if the  
2-27 agency posts a direct link to the Texas Digital Archive on the  
2-28 agency's Internet website.

2-29 SECTION 4. Section 2001.026, Government Code, is amended to  
2-30 read as follows:

2-31 Sec. 2001.026. NOTICE TO PERSONS REQUESTING ADVANCE NOTICE  
2-32 OF PROPOSED RULES. A state agency shall provide ~~mail~~ notice of a  
2-33 proposed rule to each person who has made a timely written request  
2-34 of the agency for advance notice of its rulemaking proceedings. The  
2-35 agency may provide the notice by electronic mail if the person  
2-36 requests electronic delivery of the notice and includes an e-mail  
2-37 address in the person's written request submitted to the agency.  
2-38 Failure to provide ~~mail~~ the notice does not invalidate an action  
2-39 taken or rule adopted.

2-40 SECTION 5. Chapter 2052, Government Code, is amended by  
2-41 adding Subchapter F to read as follows:

2-42 SUBCHAPTER F. TRANSMISSION AND RECEIPT OF AGENCY DOCUMENTS

2-43 Sec. 2052.401. DEFINITION. In this subchapter, "state  
2-44 agency" means a department, commission, board, office, council,  
2-45 authority, or other agency that is in the executive, legislative,  
2-46 or judicial branch of state government and that is created by the  
2-47 constitution or a statute of this state, including a university  
2-48 system or institution of higher education as defined by Section  
2-49 61.003, Education Code.

2-50 Sec. 2052.402. TRANSMISSION AND RECEIPT OF DOCUMENTS. (a)  
2-51 A state agency may transmit and receive state documents in a format  
2-52 prescribed by the agency and in any manner that the agency  
2-53 determines will increase agency efficiency without compromising  
2-54 the delivery of the agency's program to the public.

2-55 (b) A state agency that transmits and receives state  
2-56 documents using the Internet or another electronic medium shall by  
2-57 rule develop electronic communication procedures for the agency.

2-58 (c) Notwithstanding Subsection (a), a state agency may  
2-59 continue to use established procedures prescribed by state law or  
2-60 agency policy for the transmission and receipt of documents,  
2-61 including the delivery of certain publications that exist in  
2-62 physical format to a depository library as required by Section  
2-63 441.103.

2-64 (d) This section does not authorize the electronic  
2-65 transmission or receipt of documents that are prohibited from being  
2-66 electronically transmitted or received under federal law.

2-67 (e) To the extent of any conflict, this section prevails  
2-68 over any other state law relating to the transmission and receipt of  
2-69 state agency documents.

3-1 (f) A state agency shall include in the agency's legislative  
3-2 appropriations request submitted to the Legislative Budget Board  
3-3 for the state fiscal biennium beginning September 1, 2019, a report  
3-4 on any cost savings or achievements in efficiency recognized from  
3-5 implementing a change in the agency's procedures for the  
3-6 transmission and receipt of state documents during the state fiscal  
3-7 biennium ending August 31, 2019. This subsection expires September  
3-8 1, 2020.

3-9 SECTION 6. (a) Section 2054.1183, Government Code, is  
3-10 amended to read as follows:

3-11 Sec. 2054.1183. ANNUAL REPORT ON MAJOR INFORMATION  
3-12 RESOURCES PROJECTS. (a) Not later than December 1 of each year,  
3-13 the quality assurance team shall report on the status of major  
3-14 information resources projects to the:

- 3-15 (1) governor;
- 3-16 (2) lieutenant governor;
- 3-17 (3) speaker of the house of representatives;
- 3-18 (4) presiding officer of the committee in the house of  
3-19 representatives with primary responsibility for appropriations;  
3-20 and

3-21 (5) presiding officer of the committee in the senate  
3-22 with primary responsibility for appropriations.

3-23 (b) The annual report must include:

3-24 (1) the current status of each major information  
3-25 resources project; and

3-26 (2) information regarding the performance indicators  
3-27 developed under Section 2054.159 for each major information  
3-28 resources project at each stage of the project's life cycle.

3-29 (b) Subchapter G, Chapter 2054, Government Code, is amended  
3-30 by adding Section 2054.159 to read as follows:

3-31 Sec. 2054.159. MAJOR INFORMATION RESOURCES PROJECT  
3-32 MONITORING. (a) For the entire life cycle of each major

3-33 information resources project, the quality assurance team shall  
3-34 monitor and report on performance indicators for each project,  
3-35 including schedule, cost, scope, and quality.

3-36 (b) The department by rule shall develop the performance  
3-37 indicators the quality assurance team is required to monitor under  
3-38 Subsection (a). In adopting rules under this subsection, the  
3-39 department shall consider applicable information technology  
3-40 industry standards.

3-41 (c) If the quality assurance team determines that a major  
3-42 information resources project is not likely to achieve the  
3-43 performance objectives for the project, the quality assurance team  
3-44 shall place the project on a list for more intense monitoring by the  
3-45 quality assurance team.

3-46 (d) The quality assurance team shall closely monitor  
3-47 monthly reports for each major information resources project  
3-48 identified under Subsection (c) and, based on criteria developed by  
3-49 the department, determine whether to recommend to the executive  
3-50 director the need to initiate corrective action for the project.

3-51 (e) The department shall create and maintain on the  
3-52 department's Internet website a user-friendly data visualization  
3-53 tool that provides an analysis and visual representation of the  
3-54 performance indicators developed under Subsection (b) for each  
3-55 major information resources project.

3-56 (c) Not later than December 1, 2017, the Department of  
3-57 Information Resources shall adopt rules to implement Section  
3-58 2054.159, Government Code, as added by this section.

3-59 (d) This section takes effect January 1, 2018.

3-60 SECTION 7. Subchapter C, Chapter 2171, Government Code, is  
3-61 amended by adding Section 2171.106 to read as follows:

3-62 Sec. 2171.106. MANAGEMENT OF VEHICLE FLEET BY STATE AGENCY.

3-63 (a) Each state agency shall:

3-64 (1) as the state agency considers necessary, evaluate  
3-65 the effectiveness and efficiency of the agency's vehicle fleet  
3-66 management, including the agency's vehicle acquisition methods and  
3-67 interagency agreements to operate vehicle maintenance and repair  
3-68 facilities that are owned or operated by this state; and

3-69 (2) establish and maintain a schedule for replacing

4-1 the agency's vehicles.

4-2 (b) Based on the state agency's findings from the evaluation  
 4-3 conducted under Subsection (a)(1), the agency shall implement any  
 4-4 measures that will increase the agency's effectiveness and  
 4-5 efficiency in managing the agency's vehicle fleet.

4-6 (c) A state agency shall conduct the first evaluation  
 4-7 required by Subsection (a)(1) and implement the findings from that  
 4-8 evaluation as required by Subsection (b) not later than August 31,  
 4-9 2019. This subsection expires December 31, 2019.

4-10 SECTION 8. Subchapter A, Chapter 2176, Government Code, is  
 4-11 amended by adding Section 2176.007 to read as follows:

4-12 Sec. 2176.007. COMPTROLLER STUDY ON MAIL OPERATIONS. (a)  
 4-13 The comptroller shall conduct a study on the mail operations of each  
 4-14 state agency in the executive branch of state government that  
 4-15 receives an appropriation. The study must identify provisions of  
 4-16 law relating to the mailing requirements for the agency that impede  
 4-17 the efficient transmission and receipt of documents by the agency.

4-18 (b) In conducting the study, the comptroller shall  
 4-19 collaborate with other state agencies to consider the needs or  
 4-20 concerns specific to those agencies.

4-21 (c) Not later than November 1, 2018, the comptroller shall  
 4-22 post the findings of the study conducted under this section on the  
 4-23 comptroller's Internet website.

4-24 (d) This section expires September 1, 2019.

4-25 SECTION 9. Section 243.015, Health and Safety Code, is  
 4-26 amended by amending Subsection (e) and adding Subsections (e-1) and  
 4-27 (e-2) to read as follows:

4-28 (e) If the department initially determines that a violation  
 4-29 occurred, the department shall give written notice of the report  
 4-30 ~~[by certified mail]~~ to the person. Notwithstanding any other law,  
 4-31 the notice may be provided by any certified delivery method,  
 4-32 including certified mail or certified electronic mail.

4-33 (e-1) If the notice under Subsection (e) is sent by  
 4-34 certified electronic mail:

4-35 (1) it must be sent to the person's last known e-mail  
 4-36 address as provided by the person to the department; and

4-37 (2) the department shall maintain proof that the  
 4-38 notice was sent.

4-39 (e-2) For purposes of Subsection (e), a person's provision  
 4-40 of an e-mail address to the department is considered consent to  
 4-41 electronically deliver notices and correspondence to the person.

4-42 SECTION 10. Sections 21.010(a), (d), and (e), Labor Code,  
 4-43 are amended to read as follows:

4-44 (a) Each state agency shall provide to employees of the  
 4-45 agency a ~~[an employment discrimination]~~ training program on the  
 4-46 prevention of employment discrimination [that complies with this  
 4-47 section].

4-48 (d) The commission shall develop materials for use by state  
 4-49 agencies in providing the ~~[employment discrimination]~~ training  
 4-50 program [as] required by this section.

4-51 (e) Each state agency shall require an employee of the  
 4-52 agency who completes the [attends a] training program required by  
 4-53 this section to verify [sign a statement verifying] the employee's  
 4-54 completion of [attendance at] the training program in the manner  
 4-55 prescribed by the agency. The agency shall:

4-56 (1) file a document that verifies the employee's  
 4-57 completion of the training program [the statement] in the  
 4-58 employee's personnel file; or

4-59 (2) retain an electronic record that verifies the  
 4-60 employee's completion of the training program in accordance with  
 4-61 the record retention requirements applicable to the agency.

4-62 SECTION 11. Section 11.082(a), Natural Resources Code, is  
 4-63 amended to read as follows:

4-64 (a) A state agency or political subdivision may not formally  
 4-65 take any action that may affect state land dedicated to the  
 4-66 permanent school fund without first giving notice of the action to  
 4-67 the board. Notice of the proposed action shall be delivered ~~[by~~  
 4-68 ~~certified mail, return receipt requested, addressed to the deputy~~  
 4-69 ~~commissioner of the asset management division of the General Land~~

5-1 ~~Office]~~ on or before the state agency's or political subdivision's  
5-2 formal initiation of the action by:

5-3 (1) certified mail, return receipt requested,  
5-4 addressed to the deputy commissioner of the asset management  
5-5 division of the General Land Office; or

5-6 (2) certified electronic mail to an e-mail address  
5-7 specified by the deputy commissioner for the purpose of receiving  
5-8 the notice.

5-9 SECTION 12. Section 301.160, Occupations Code, is amended  
5-10 by adding Subsection (k) to read as follows:

5-11 (k) Notwithstanding Subsection (j), the board may deliver  
5-12 the report under that subsection by certified electronic mail if  
5-13 the recipient provides an e-mail address to the board for the  
5-14 purpose of receiving the report.

5-15 SECTION 13. Section 228.0545, Transportation Code, is  
5-16 amended by adding Subsection (e) to read as follows:

5-17 (e) The department may provide that the notice under  
5-18 Subsection (c), instead of being sent by first class mail, be sent  
5-19 as an electronic record to a registered owner that agrees to the  
5-20 terms of the electronic record transmission of the information.

5-21 SECTION 14. (a) Section 552.139, Government Code, is  
5-22 amended by amending Subsection (b) and adding Subsections (b-1) and  
5-23 (d) to read as follows:

5-24 (b) The following information is confidential:

5-25 (1) a computer network vulnerability report;

5-26 (2) any other assessment of the extent to which data  
5-27 processing operations, a computer, a computer program, network,  
5-28 system, or system interface, or software of a governmental body or  
5-29 of a contractor of a governmental body is vulnerable to  
5-30 unauthorized access or harm, including an assessment of the extent  
5-31 to which the governmental body's or contractor's electronically  
5-32 stored information containing sensitive or critical information is  
5-33 vulnerable to alteration, damage, erasure, or inappropriate use;  
5-34 ~~and~~

5-35 (3) a photocopy or other copy of an identification  
5-36 badge issued to an official or employee of a governmental body; and

5-37 (4) information directly arising from a governmental  
5-38 body's routine efforts to prevent, detect, investigate, or mitigate  
5-39 a computer security incident, including information contained in or  
5-40 derived from an information security log.

5-41 (b-1) Subsection (b)(4) does not affect the notification  
5-42 requirements related to a breach of system security as defined by  
5-43 Section 521.053, Business & Commerce Code.

5-44 (d) A state agency shall redact from a contract posted on  
5-45 the agency's Internet website under Section 2261.253 information  
5-46 that is made confidential by, or excepted from required public  
5-47 disclosure under, this section. The redaction of information under  
5-48 this subsection does not exempt the information from the  
5-49 requirements of Section 552.021 or 552.221.

5-50 (b) Subchapter C, Chapter 2054, Government Code, is amended  
5-51 by adding Section 2054.068 to read as follows:

5-52 Sec. 2054.068. INFORMATION TECHNOLOGY INFRASTRUCTURE  
5-53 REPORT. (a) In this section, "information technology" includes  
5-54 information resources and information resources technologies.

5-55 (b) The department shall collect from each state agency  
5-56 information on the status and condition of the agency's information  
5-57 technology infrastructure, including information regarding:

5-58 (1) the agency's information security program;

5-59 (2) an inventory of the agency's servers, mainframes,  
5-60 cloud services, and other information technology equipment;

5-61 (3) identification of vendors that operate and manage  
5-62 the agency's information technology infrastructure; and

5-63 (4) any additional related information requested by  
5-64 the department.

5-65 (c) A state agency shall provide the information required by  
5-66 Subsection (b) to the department according to a schedule determined  
5-67 by the department.

5-68 (d) Not later than November 15 of each even-numbered year,  
5-69 the department shall submit to the governor, chair of the house

6-1 appropriations committee, chair of the senate finance committee,  
 6-2 speaker of the house of representatives, lieutenant governor, and  
 6-3 staff of the Legislative Budget Board a consolidated report of the  
 6-4 information submitted by state agencies under Subsection (b).

6-5 (e) The consolidated report required by Subsection (d)  
 6-6 must:

6-7 (1) include an analysis and assessment of each state  
 6-8 agency's security and operational risks; and

6-9 (2) for a state agency found to be at higher security  
 6-10 and operational risks, include a detailed analysis of, and an  
 6-11 estimate of the costs to implement, the:

6-12 (A) requirements for the agency to address the  
 6-13 risks and related vulnerabilities; and

6-14 (B) agency's efforts to address the risks through  
 6-15 the:

6-16 (i) modernization of information  
 6-17 technology systems;

6-18 (ii) use of cloud services; and

6-19 (iii) use of a statewide technology center  
 6-20 established by the department.

6-21 (f) With the exception of information that is confidential  
 6-22 under Chapter 552, including Section 552.139, or other state or  
 6-23 federal law, the consolidated report submitted under Subsection (d)  
 6-24 is public information and must be released or made available to the  
 6-25 public on request. A governmental body as defined by Section  
 6-26 552.003 may withhold information confidential under Chapter 552,  
 6-27 including Section 552.139, or other state or federal law that is  
 6-28 contained in a consolidated report released under this subsection  
 6-29 without the necessity of requesting a decision from the attorney  
 6-30 general under Subchapter G, Chapter 552.

6-31 (g) This section does not apply to an institution of higher  
 6-32 education or university system, as defined by Section 61.003,  
 6-33 Education Code.

6-34 (c) Section 2054.0965(a), Government Code, is amended to  
 6-35 read as follows:

6-36 (a) Not later than March 31 [~~December 1~~] of each  
 6-37 even-numbered [~~odd-numbered~~] year, a state agency shall complete a  
 6-38 review of the operational aspects of the agency's information  
 6-39 resources deployment following instructions developed by the  
 6-40 department.

6-41 (d) Section 2157.007, Government Code, is amended by  
 6-42 amending Subsection (b) and adding Subsection (e) to read as  
 6-43 follows:

6-44 (b) A state agency shall [~~may~~] consider cloud computing  
 6-45 service options, including any security benefits and cost savings  
 6-46 associated with purchasing those service options from a cloud  
 6-47 computing service provider and from a statewide technology center  
 6-48 established by the department, when making purchases for a major  
 6-49 information resources project under Section 2054.118.

6-50 (e) Not later than November 15 of each even-numbered year,  
 6-51 the department, using existing resources, shall submit a report to  
 6-52 the governor, lieutenant governor, and speaker of the house of  
 6-53 representatives on the use of cloud computing service options by  
 6-54 state agencies. The report must include use cases that provided  
 6-55 cost savings and other benefits, including security enhancements.  
 6-56 A state agency shall cooperate with the department in the creation  
 6-57 of the report by providing timely and accurate information and any  
 6-58 assistance required by the department.

6-59 (e) Sections 552.139(b)(4) and (b-1), Government Code, as  
 6-60 added by this section, apply only to a request for public  
 6-61 information received on or after the effective date of this Act. A  
 6-62 request received before the effective date of this Act is governed  
 6-63 by the law in effect when the request was received, and the former  
 6-64 law is continued in effect for that purpose.

6-65 SECTION 15. (a) The Department of Information Resources  
 6-66 shall conduct an interim study on state reliance on the use of paper  
 6-67 documents, including current requirements that certain state  
 6-68 documents be mailed, for the purpose of reducing the state's volume  
 6-69 of paper transactions and increasing governmental efficiency.

7-1 (b) The study must include:

7-2 (1) recommendations on opportunities to increase  
7-3 operational efficiency in state government through a reduction in  
7-4 the use of paper documents; and

7-5 (2) strategies to replace the use of paper documents  
7-6 with electronic documents and to automate state transactions to  
7-7 better meet the needs of residents of this state.

7-8 (c) The Department of Information Resources shall submit a  
7-9 report on the findings of the study to the governor, lieutenant  
7-10 governor, speaker of the house of representatives, and Legislative  
7-11 Budget Board.

7-12 (d) This section expires September 1, 2019.

7-13 SECTION 16. This Act may not be construed as exempting a  
7-14 state agency from complying with any applicable law that requires  
7-15 the state agency to physically post notice to the public in a paper  
7-16 format, including Chapter 551, Government Code.

7-17 SECTION 17. A state agency is not required to comply with  
7-18 Section 441.108, Government Code, as added by this Act, until the  
7-19 Texas State Library and Archives Commission notifies the agency  
7-20 that the Texas Digital Archive, as defined by Section 441.101,  
7-21 Government Code, as amended by this Act, is configured to allow  
7-22 compliance by the agency with that section.

7-23 SECTION 18. The changes in law made by this Act relating to  
7-24 the method of delivery or submission of a notice or report apply  
7-25 only to a notice or report that is required to be delivered or  
7-26 submitted on or after the effective date of this Act. A notice or  
7-27 report required to be delivered or submitted before the effective  
7-28 date of this Act is governed by the law in effect on the date the  
7-29 notice or report was required to be delivered or submitted, and the  
7-30 former law is continued in effect for that purpose.

7-31 SECTION 19. The first report required under Section  
7-32 441.107, Government Code, as added by this Act, is due not later  
7-33 than January 1, 2021.

7-34 SECTION 20. Except as otherwise provided by this Act, this  
7-35 Act takes effect September 1, 2017.

7-36

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