

1-1 By: Bettencourt S.B. No. 1579
 1-2 (In the Senate - Filed March 3, 2023; March 16, 2023, read
 1-3 first time and referred to Committee on Business & Commerce;
 1-4 April 26, 2023, reported favorably by the following vote: Yeas 8,
 1-5 Nays 3; April 26, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
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 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to an expedited response by a governmental body to a
 1-22 request for public information.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 552.2615(g), Government Code, is amended
 1-25 to read as follows:

1-26 (g) The time deadlines imposed by this section do not affect
 1-27 the application of a time deadline imposed on a governmental body
 1-28 under Subchapter G or K.

1-29 SECTION 2. Section 552.263(e), Government Code, is amended
 1-30 to read as follows:

1-31 (e) For purposes of Subchapters F, ~~and~~ G, and K, a request
 1-32 for a copy of public information is considered to have been received
 1-33 by a governmental body on the date the governmental body receives
 1-34 the deposit or bond for payment of anticipated costs or unpaid
 1-35 amounts if the governmental body's officer for public information
 1-36 or the officer's agent requires a deposit or bond in accordance with
 1-37 this section.

1-38 SECTION 3. Section 552.302, Government Code, is amended to
 1-39 read as follows:

1-40 Sec. 552.302. FAILURE TO MAKE TIMELY REQUEST FOR ATTORNEY
 1-41 GENERAL DECISION; PRESUMPTION THAT INFORMATION IS PUBLIC. If a
 1-42 governmental body does not request an attorney general decision as
 1-43 provided by Section 552.301 or in response to an appeal under
 1-44 Subchapter K and provide the requestor with the information
 1-45 required by Sections 552.301(d) and (e-1) or Section 552.405(b),
 1-46 the information requested in writing is presumed to be subject to
 1-47 required public disclosure and must be released unless there is a
 1-48 compelling reason to withhold the information.

1-49 SECTION 4. Section 552.321(a), Government Code, is amended
 1-50 to read as follows:

1-51 (a) A requestor or the attorney general may file suit for a
 1-52 writ of mandamus compelling a governmental body to make information
 1-53 available for public inspection if the governmental body refuses to
 1-54 request an attorney general's decision as provided by Subchapter G
 1-55 or Section 552.405 or refuses to supply public information or
 1-56 information that the attorney general has determined is public
 1-57 information that is not excepted from disclosure under Subchapter
 1-58 C.

1-59 SECTION 5. Section 552.352, Government Code, is amended by
 1-60 adding Subsection (d) to read as follows:

1-61 (d) It is an affirmative defense to prosecution under

2-1 Subsection (a) that the defendant released information under
2-2 Subchapter K and did not release confidential information
2-3 intentionally, as defined by Section 6.03, Penal Code.

2-4 SECTION 6. Section 552.353(b), Government Code, is amended
2-5 to read as follows:

2-6 (b) It is an affirmative defense to prosecution under
2-7 Subsection (a) that the officer for public information reasonably
2-8 believed that public access to the requested information was not
2-9 required and that:

2-10 (1) the officer acted in reasonable reliance on a
2-11 court order or a written interpretation of this chapter contained
2-12 in an opinion of a court of record or of the attorney general issued
2-13 under Subchapter G;

2-14 (2) the officer requested a decision from the attorney
2-15 general in accordance with Subchapter G or Section 552.405, and the
2-16 decision is pending; or

2-17 (3) not later than the 10th calendar day after the date
2-18 of receipt of a decision by the attorney general that the
2-19 information is public, the officer or the governmental body for
2-20 whom the defendant is the officer for public information filed a
2-21 petition for a declaratory judgment against the attorney general in
2-22 a Travis County district court seeking relief from compliance with
2-23 the decision of the attorney general, as provided by Section
2-24 552.324, and the cause is pending.

2-25 SECTION 7. Chapter 552, Government Code, is amended by
2-26 adding Subchapter K to read as follows:

2-27 SUBCHAPTER K. EXPEDITED RESPONSE PROCEDURE

2-28 Sec. 552.401. APPLICABILITY. (a) This subchapter does not
2-29 apply to a request for information that may involve a person's
2-30 privacy or property interest under Section 552.305.

2-31 (b) This subchapter applies to a governmental body only if:

2-32 (1) the governmental body's officer for public
2-33 information or the officer's designee holds an active training
2-34 certificate issued under Section 552.406; and

2-35 (2) the governmental body's authorization to respond
2-36 to a request for information under this subchapter is not revoked
2-37 under Section 552.407 on the date the request is received.

2-38 Sec. 552.402. REQUEST FOR ATTORNEY GENERAL DECISION NOT
2-39 REQUIRED. Subject to Section 552.404, a governmental body that
2-40 receives a written request for information and complies with the
2-41 requirements of this subchapter may withhold any information it
2-42 makes a good faith determination is excepted from required public
2-43 disclosure under this chapter without the necessity of requesting a
2-44 decision from the attorney general under Subchapter G.

2-45 Sec. 552.403. RESPONSE REQUIREMENTS. (a) A governmental
2-46 body that withholds information under this subchapter must respond
2-47 to the requestor not later than the 10th business day after the date
2-48 the governmental body receives a written request for that
2-49 information by providing the requestor with:

2-50 (1) a list of the exceptions under Subchapter C and, if
2-51 applicable, the judicial decisions or constitutional or statutory
2-52 laws the governmental body determines are applicable to the
2-53 information being withheld;

2-54 (2) all information the governmental body determines
2-55 is not excepted from disclosure, including, if applicable,
2-56 partially redacted information with the redacted portions clearly
2-57 marked and labeled with the exceptions the governmental body relied
2-58 on to redact the information;

2-59 (3) a description of the volume and type of
2-60 information withheld; and

2-61 (4) a notice form promulgated by the attorney general
2-62 that includes, at a minimum:

2-63 (A) a unique identification number assigned by
2-64 the governmental body;

2-65 (B) a description of the appeal procedure;

2-66 (C) an appeal form the requestor must use to
2-67 appeal the withholding of information under this subchapter;

2-68 (D) a reference to the requestor's rights under
2-69 this chapter;

3-1 (E) the name of the individual who has received
3-2 training under Section 552.406; and
3-3 (F) a confirmation from the individual named in
3-4 Paragraph (E) that the individual reviewed and approved the
3-5 response.
3-6 (b) The governmental body shall retain, at a minimum, an
3-7 electronic or paper copy of the notice it provides to the requestor
3-8 under Subsection (a)(4) for the length of time the governmental
3-9 body retains the request for information.
3-10 Sec. 552.404. APPEAL. (a) On receipt of a response by a
3-11 governmental body under Section 552.403, the requestor may appeal
3-12 the withholding of information in the response not later than the
3-13 30th calendar day after the date the requestor receives the
3-14 response.
3-15 (b) The requestor must submit the appeal to the governmental
3-16 body that responded under Section 552.403 on the appeal form
3-17 provided to the requestor under Section 552.403(a)(4).
3-18 (c) The appeal is considered a new request and is subject to
3-19 the procedural requirements of Section 552.405.
3-20 (d) A governmental body may not seek to narrow or clarify an
3-21 appeal made under this section under Section 552.222(b).
3-22 (e) A governmental body may not respond to a requestor under
3-23 Section 552.232 in response to an appeal made under this section.
3-24 (f) Notwithstanding Sections 552.024(c)(2), 552.1175(f),
3-25 552.130(c), 552.136(c), and 552.138(c), a governmental body must
3-26 request an attorney general decision to withhold information
3-27 described by those provisions in response to an appeal.
3-28 Sec. 552.405. REQUEST FOR ATTORNEY GENERAL DECISION IN
3-29 RESPONSE TO APPEAL. (a) Except as provided by this subchapter:
3-30 (1) an appeal made under Section 552.404 is subject to
3-31 the provisions of this chapter; and
3-32 (2) an attorney general's decision requested under
3-33 this section is considered to be a decision under Subchapter G.
3-34 (b) A governmental body that receives an appeal under
3-35 Section 552.404 shall, within a reasonable time, but not later than
3-36 the fifth business day after the date the governmental body
3-37 receives the appeal, submit to the attorney general:
3-38 (1) a request for an attorney general's decision;
3-39 (2) a copy of the original written request for
3-40 information;
3-41 (3) a signed statement as to the date on which the
3-42 written response required by Section 552.403 was provided to the
3-43 requestor, or evidence sufficient to establish that date;
3-44 (4) a copy of the appeal form received by the
3-45 governmental body;
3-46 (5) a signed statement as to the date on which the
3-47 appeal was received by the governmental body, or evidence
3-48 sufficient to establish the date;
3-49 (6) the exceptions that apply and written comments
3-50 stating the reasons why the stated exceptions apply that would
3-51 allow the information to be withheld;
3-52 (7) if the governmental body provided partially
3-53 redacted information to the requestor in its initial response under
3-54 Section 552.403, an unredacted copy of the information the
3-55 governmental body provided to the requestor with the copy clearly
3-56 marked indicating the released portions and the withheld portions
3-57 labeled with the exceptions the governmental body relied on to
3-58 withhold the information; and
3-59 (8) a copy of the specific information the
3-60 governmental body seeks to withhold, or representative samples of
3-61 the information, labeled to indicate which exceptions apply to
3-62 which parts of the copy.
3-63 (c) A governmental body that receives an appeal under
3-64 Section 552.404 shall, within a reasonable time, but not later than
3-65 the fifth business day after the date the governmental body
3-66 receives the appeal, send a copy of the comments submitted under
3-67 Subsection (b)(6) to the requestor. If the written comments
3-68 disclose or contain the substance of the information requested, the
3-69 copy of the comments provided to the requestor must be a redacted

4-1 copy.

4-2 Sec. 552.406. TRAINING. (a) The public information
 4-3 officer for a governmental body that responds to a request under
 4-4 this subchapter or the officer's designee must have completed in
 4-5 the four years preceding the response a course of training of not
 4-6 less than four hours or more than six hours regarding the
 4-7 responsibilities of the governmental body under this subchapter.

4-8 (b) The attorney general shall ensure that the training is
 4-9 made available. The attorney general shall maintain at least one
 4-10 updated course of training that is available in an online
 4-11 presentation format. The online training may be broken into
 4-12 separate sections. The online training must provide a means to
 4-13 verify that the trainee observed and comprehended the full online
 4-14 training session or, if applicable, each section of the training.

4-15 (c) At a minimum, the training must include instruction in:
 4-16 (1) the general background of the legal requirements
 4-17 for the governmental body's use of this subchapter and related law;
 4-18 (2) the applicability of this subchapter to
 4-19 governmental bodies;
 4-20 (3) the procedures and requirements for complying with
 4-21 an appeal under this subchapter;
 4-22 (4) the role of the attorney general under this
 4-23 subchapter; and
 4-24 (5) penalties and other consequences for failing to
 4-25 comply with this subchapter.

4-26 (d) The office of the attorney general shall provide a
 4-27 certificate to a person who completes the training required by this
 4-28 section and keep records of the training certificates issued. A
 4-29 governmental body shall maintain the training certificate of any
 4-30 individual who provides a confirmation under Section
 4-31 552.403(a)(4)(F) and make the certificate available for public
 4-32 inspection.

4-33 Sec. 552.407. REVOCATION. (a) If the attorney general
 4-34 determines that a governmental body failed to comply with the
 4-35 requirements of this chapter, the office of the attorney general,
 4-36 in its sole discretion, may revoke the governmental body's
 4-37 authorization to respond under this subchapter or the training
 4-38 certificate issued to an individual responsible for the
 4-39 governmental body's failure.

4-40 (b) The attorney general shall create a notice of revocation
 4-41 form. The attorney general shall inform a governmental body that
 4-42 the attorney general has revoked the governmental body's
 4-43 eligibility under Subsection (a) or an individual that the attorney
 4-44 general has revoked the individual's training certificate by
 4-45 sending the notice of revocation form by certified mail or by
 4-46 another written method of notice that requires the return of a
 4-47 receipt.

4-48 (c) The notice of revocation provided to a governmental body
 4-49 must inform the governmental body of the length of time the
 4-50 revocation is in effect. The length of time the governmental body's
 4-51 revocation is in effect may not exceed six months from the date the
 4-52 governmental body receives the notice of revocation form.

4-53 (d) The notice of revocation form provided to an individual
 4-54 must inform the individual that the attorney general has revoked
 4-55 the individual's training certificate under Subsection (a). The
 4-56 individual must repeat the course of training under Section 552.406
 4-57 to obtain a new training certificate.

4-58 (e) If an individual is employed by a governmental body when
 4-59 the governmental body's authorization to respond under this
 4-60 subchapter is revoked under Subsection (a), and the individual
 4-61 obtains employment at a different governmental body with
 4-62 authorization to respond under this subchapter, the individual may
 4-63 not provide a confirmation under Section 552.403(a)(4)(F) until the
 4-64 revocation period for the initial governmental body has expired.

4-65 (f) The office of the attorney general shall publish on its
 4-66 Internet website:

4-67 (1) a list that provides the first and last names of
 4-68 individuals who hold an active training certificate issued under
 4-69 Section 552.406, the date each individual's training was completed,

5-1 and the date each individual's training certificate expires; and
5-2 (2) a list of the governmental bodies that are not
5-3 authorized to respond to a request under this subchapter because
5-4 their authorization has been revoked under Subsection (a).

5-5 Sec. 552.408. REPORT ON IMPLEMENTATION OF SUBCHAPTER. (a)
5-6 For the state fiscal biennium beginning September 1, 2023, the
5-7 attorney general shall collect data detailing the number of:

5-8 (1) requests for decisions in response to appeals the
5-9 attorney general receives under Section 552.405;

5-10 (2) individuals who complete training under Section
5-11 552.406;

5-12 (3) governmental bodies that have their authorization
5-13 to respond under this subchapter revoked under Section 552.407; and

5-14 (4) individuals who have their training certificates
5-15 revoked under Section 552.407.

5-16 (b) Not later than February 1, 2025, the attorney general
5-17 shall make the data collected under Subsection (a) available on the
5-18 attorney general's Internet website for open records.

5-19 (c) This section expires September 1, 2025.

5-20 SECTION 8. The changes in law made by this Act apply only to
5-21 a request for information that is received by a governmental body on
5-22 or after the effective date of this Act. A request for information
5-23 that was received before the effective date of this Act is governed
5-24 by the law that was in effect on the date the request was received,
5-25 and the former law is continued in effect for that purpose.

5-26 SECTION 9. This Act takes effect September 1, 2023.

5-27 * * * * *