

## **Legislature Amends Public Information Act**

The Texas Legislature recently passed House Bill 951, amending the Texas Public Information Act. The Governor is expected to sign this legislation, which would then become effective Sept. 1, 1997.

The most obvious change to the Public Information Act by HB 951 relates to certain records maintained by law enforcement agencies. It provides for the release of certain information maintained by those agencies, information which previously had been withheld from disclosure by the Texas courts. While this was the major change noted by the news media, several other changes contained in the bill should be of interest to all governmental agencies.

Specifically, HB 951 also included changes relating to deadlines for the release of public information and for seeking an opinion from the Texas Attorney General on an open-records request. Under prior law, public information was required to be produced for inspection or duplication within 10 calendar days after the date of the request for such information.

If the governmental agency was unable to comply with this deadline, the officer for public information was required to certify that fact in writing to the requester and set a date and hour within a reasonable time when such information would be made available. Pursuant to HB 951, this 10-calendar-day deadline has been revised to 10 business days. Likewise, under prior law, a governmental body that sought an opinion from the Texas Attorney General's Office regarding a request for information was required to file a written request for an opinion not later than 10 calendar days from the date the governmental body received the request for information. HB 951 also changed that deadline to 10 business days.

In doing so, however, the legislature specified that the term "written request," when referring to a request made to a governmental body for public information, includes a request made in writing that is sent by electronic mail or facsimile. Changes contained in HB 951 relate to the charges a governmental body may make for providing public information.

Under both the prior law and the amended version, the Texas General Services Commission is required to adopt rules for use by governmental bodies in determining charges for providing copies of public information.

However, under prior law, local governmental agencies could not charge a rate different from that set by the General Services Commission unless the local governmental entity first filed with the commission a request for a variance.

As amended by HB 951, the Public Information Act now allows local governments to charge up to 25 percent more than the rate established by the General Services Commission without having to file for a variance.

Such an amount might still be insufficient to recoup a governmental entity's expenses for providing copies. This would be especially true for entities whose records are maintained by an outside law firm that charges for copies at a rate higher than that approved by the General Services Commission.

The Public Information Act continues to provide that all governmental entities are entitled to recover their actual costs of providing copies.

Where such costs exceed the rates established by the General Services Commission by more than 25 percent, such entities should still consider filing a request for variance with the General Services Commission. A variance allows for the charging of the actual costs incurred.

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