

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 30, 2009
Date

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB 1068 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Wentworth
Sen. Wenworth

Pete R. Gallego
REP. GALLEGO

J. Carona
Sen. carona

REP. CHRISTIAN

R. Ellis
Sen. Ellis

Rep. E. Moody
REP. MOODY

J. Eltife
Sen. Eltife

Allen Fletcher
REP. FLETCHER

Williams
On the part of the Senate
Sen. williams

T. J. Miklos
On the part of the House
REP. MIKLOS

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 1068

A BILL TO BE ENTITLED

1 AN ACT

2 relating to allowing a governmental body to redact certain personal
3 information under the public information law without the necessity
4 of requesting a decision from the attorney general and allowing
5 information about a public officer or public employee to be
6 withheld if disclosure would pose a substantial risk of physical
7 harm.

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

9 SECTION 1. Section 552.024, Government Code, is amended by
10 amending Subsection (c) and adding Subsections (c-1) and (c-2) to
11 read as follows:

12 (c) If the employee or official or former employee or
13 official chooses not to allow public access to the information:

14 (1) [7] the information is protected under Subchapter
15 C; and

16 (2) the governmental body may redact the information
17 from any information the governmental body discloses under Section
18 552.021 without the necessity of requesting a decision from the
19 attorney general under Subchapter G.

20 (c-1) If, under Subsection (c)(2), a governmental body
21 redacts or withholds information without requesting a decision from
22 the attorney general about whether the information may be redacted
23 or withheld, the requestor is entitled to seek a decision from the
24 attorney general about the matter. The attorney general by rule

1 shall establish procedures and deadlines for receiving information
2 necessary to decide the matter and briefs from the requestor, the
3 governmental body, and any other interested person. The attorney
4 general shall promptly render a decision requested under this
5 subsection, determining whether the redacted or withheld
6 information was excepted from required disclosure to the requestor,
7 not later than the 45th business day after the date the attorney
8 general received the request for a decision under this subsection.
9 The attorney general shall issue a written decision on the matter
10 and provide a copy of the decision to the requestor, the
11 governmental body, and any interested person who submitted
12 necessary information or a brief to the attorney general about the
13 matter. The requestor or the governmental body may appeal a
14 decision of the attorney general under this subsection to a Travis
15 County district court.

16 (c-2) A governmental body that redacts or withholds
17 information under Subsection (c)(2) shall provide the following
18 information to the requestor on a form prescribed by the attorney
19 general:

20 (1) a description of the redacted or withheld
21 information;

22 (2) a citation to this section; and

23 (3) instructions regarding how the requestor may seek
24 a decision from the attorney general regarding whether the redacted
25 or withheld information is excepted from required disclosure.

26 SECTION 2. Section 552.1175, Government Code, is amended by
27 adding Subsections (f), (g), and (h) to read as follows:

1 (f) A governmental body may redact information that must be
2 withheld under Subsection (b) from any information the governmental
3 body discloses under Section 552.021 without the necessity of
4 requesting a decision from the attorney general under Subchapter G.

5 (g) If, under Subsection (f), a governmental body redacts or
6 withholds information without requesting a decision from the
7 attorney general about whether the information may be redacted or
8 withheld, the requestor is entitled to seek a decision from the
9 attorney general about the matter. The attorney general by rule
10 shall establish procedures and deadlines for receiving information
11 necessary to decide the matter and briefs from the requestor, the
12 governmental body, and any other interested person. The attorney
13 general shall promptly render a decision requested under this
14 subsection, determining whether the redacted or withheld
15 information was excepted from required disclosure to the requestor,
16 not later than the 45th business day after the date the attorney
17 general received the request for a decision under this subsection.
18 The attorney general shall issue a written decision on the matter
19 and provide a copy of the decision to the requestor, the
20 governmental body, and any interested person who submitted
21 necessary information or a brief to the attorney general about the
22 matter. The requestor or the governmental body may appeal a
23 decision of the attorney general under this subsection to a Travis
24 County district court.

25 (h) A governmental body that redacts or withholds
26 information under Subsection (f) shall provide the following
27 information to the requestor on a form prescribed by the attorney

1 general:

2 (1) a description of the redacted or withheld
3 information;

4 (2) a citation to this section; and

5 (3) instructions regarding how the requestor may seek
6 a decision from the attorney general regarding whether the redacted
7 or withheld information is excepted from required disclosure.

8 SECTION 3. Section 552.138, Government Code, is amended by
9 adding Subsections (c), (d), and (e) to read as follows:

10 (c) A governmental body may redact information maintained
11 by a family violence shelter center or sexual assault program that
12 may be withheld under Subsection (b)(1) or (6) from any information
13 the governmental body discloses under Section 552.021 without the
14 necessity of requesting a decision from the attorney general under
15 Subchapter G.

16 (d) If, under Subsection (c), a governmental body redacts or
17 withholds information without requesting a decision from the
18 attorney general about whether the information may be redacted or
19 withheld, the requestor is entitled to seek a decision from the
20 attorney general about the matter. The attorney general by rule
21 shall establish procedures and deadlines for receiving information
22 necessary to decide the matter and briefs from the requestor, the
23 governmental body, and any other interested person. The attorney
24 general shall promptly render a decision requested under this
25 subsection, determining whether the redacted or withheld
26 information was excepted from required disclosure to the requestor,
27 not later than the 45th business day after the date the attorney

1 general received the request for a decision under this subsection.
2 The attorney general shall issue a written decision on the matter
3 and provide a copy of the decision to the requestor, the
4 governmental body, and any interested person who submitted
5 necessary information or a brief to the attorney general about the
6 matter. The requestor or the governmental body may appeal a
7 decision of the attorney general under this subsection to a Travis
8 County district court.

9 (e) A governmental body that redacts or withholds
10 information under Subsection (c) shall provide the following
11 information to the requestor on a form prescribed by the attorney
12 general:

13 (1) a description of the redacted or withheld
14 information;

15 (2) a citation to this section; and

16 (3) instructions regarding how the requestor may seek
17 a decision from the attorney general regarding whether the redacted
18 or withheld information is excepted from required disclosure.

19 SECTION 4. Subchapter C, Chapter 552, Government Code, is
20 amended by adding Section 552.151 to read as follows:

21 Sec. 552.151. EXCEPTION: PUBLIC EMPLOYEE OR OFFICER
22 PERSONAL SAFETY. Information in the custody of a governmental body
23 that relates to an employee or officer of the governmental body is
24 excepted from the requirements of Section 552.021 if, under the
25 specific circumstances pertaining to the employee or officer,
26 disclosure of the information would subject the employee or officer
27 to a substantial threat of physical harm.

1 SECTION 5. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2009.

Senate Bill 1068
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

SECTION 1. Subsection (c), Section 552.024, Government Code, is amended to read as follows:

(c) If the employee or official or former employee or official chooses not to allow public access to the information:

(1) ~~the~~ the information is protected under Subchapter C; and

(2) the governmental body may redact the information from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(c-1) and (c-2) No equivalent provisions.

HOUSE VERSION

SECTION 1. Same as Senate version.

(c) Same as Senate version.

(c-1) and (c-2) No equivalent provisions.

CONFERENCE

SECTION 1. Same as Senate version except as follows:

(c) Same as Senate version.

(c-1) If, under Subsection (c)(2), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general

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shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.

(c-2) A governmental body that redacts or withholds information under Subsection (c)(2) shall provide the following information to the requestor on a form prescribed by the attorney general:

(1) a description of the redacted or withheld information;

(2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

The conference committee may have exceeded the limitations imposed on its jurisdiction, but only the presiding officer can make the final determination on this issue.

SECTION 2. Section 552.1175, Government Code, is amended by adding Subsection (f) to read as follows:

(f) A governmental body may redact information that must be withheld under Subsection (b) from any

SECTION 2. Same as Senate version.

(f) Same as Senate version.

SECTION 2. Same as Senate version except adds Subsections (g) and (h) as follows:

(f) Same as Senate version.

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information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(g) and (h) No equivalent provisions.

HOUSE VERSION

(g) and (h) No equivalent provisions.

CONFERENCE

(g) If, under Subsection (f), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.
(h) A governmental body that redacts or withholds information under Subsection (f) shall provide the

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following information to the requestor on a form prescribed by the attorney general:

(1) a description of the redacted or withheld information;

(2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

The conference committee may have exceeded the limitations imposed on its jurisdiction, but only the presiding officer can make the final determination on this issue.

SECTION 3. Section 552.138, Government Code, is amended by adding Subsection (c) to read as follows:

(c) A governmental body may redact information maintained by a family violence shelter center or sexual assault program that may be withheld under Subsection (b)(1) or (6) from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(d) and (e) No equivalent provisions.

SECTION 3. Same as Senate version.

(c) Same as Senate version.

(d) and (e) No equivalent provisions.

SECTION 3. Same as Senate version except also adds Subsections (d) and (e) as follows:

(c) Same as Senate version.

(d) If, under Subsection (c), a governmental body redacts or withholds information without requesting a

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decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.

(e) A governmental body that redacts or withholds information under Subsection (c) shall provide the following information to the requestor on a form prescribed by the attorney general:

- (1) a description of the redacted or withheld information;
- (2) a citation to this section; and
- (3) instructions regarding how the requestor may seek a

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No equivalent provision.

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

Sec. 552.150. DUTIES OF GOVERNMENTAL BODIES WITHHOLDING OR REDACTING INFORMATION WITHOUT REQUESTING A DECISION FROM THE ATTORNEY GENERAL.

(a) A governmental body that redacts or withholds information in accordance with any exception recognized by this Chapter and does not request a decision from the attorney general shall provide the following to the requestor:

(1) A description of the information being withheld or redacted.

(2) Citation to the appropriate statutory authority which makes the information exempt.

(3) Instructions to the requestor informing the requestor about the requestor's right to appeal, including instructions on obtaining a review and opinion from the attorney general.

decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

The conference committee may have exceeded the limitations imposed on its jurisdiction, but only the presiding officer can make the final determination on this issue.

Same as Senate version.

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(b) Requestors shall have the right to request a review and opinion from the attorney general before being required to sue for a writ of mandamus pursuant to Section 552.321 or seek a declaratory judgment pursuant to 552.3215.

(c) Information and instructions required by this section to be provided to requestors shall be made on a form prescribed by the attorney general.

No equivalent provision.

No equivalent provision.

SECTION 4. Subchapter C, Chapter 552, Government Code, is amended by adding Section 552.151 to read as follows:

Sec. 552.151. EXCEPTION: PUBLIC EMPLOYEE OR OFFICER PERSONAL SAFETY. Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

The conference committee may have exceeded the limitations imposed on its jurisdiction, but only the presiding officer can make the final determination on this issue.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected

Same as Senate version.

SECTION 5. Same as Senate version.

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to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

HOUSE VERSION

CONFERENCE

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 30, 2009

TO: Honorable David Dewhurst, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **SB1068** by Wentworth (Relating to allowing a governmental body to redact certain personal information under the public information law without the necessity of requesting a decision from the attorney general and allowing information about a public officer or public employee to be withheld if disclosure would pose a substantial risk of physical harm.), **Conference Committee Report**

No significant fiscal implication to the State is anticipated.

The bill would amend Sections 552.024, 552.1175, and 552.138 of the Government Code to allow a governmental body to redact certain personal information under the public information law without requesting a decision from the Office of the Attorney General (OAG). The amended sections of the bill also would require governmental bodies that withhold or redact information without an OAG opinion to provide certain information to the requestor about the withholding or redacting of the information. The requestor would have the right to request a review and opinion from the OAG before being required to sue for a writ of mandamus or seek a declaratory judgment. The OAG would be required to develop informational handouts and instruction forms, and to promptly render (not later than 45 business days of a request) and deliver a written decision requested under the amended Sections. The requestor or the governmental body may appeal the decision of the OAG under these amended Sections to a Travis County district court.

The bill would add Section 552.151 to the Government Code to allow a governmental body to exemption information about a employee or officer of the governmental body to be excepted from the requirements of Section 552.021, Availability of Public Information, if, under the specific circumstances pertaining to the employee or officer, the disclosure of the information would subject the employee or officer to a substantial threat to physical harm.

Local Government Impact

It is assumed a government entity would experience a minor savings in administrative costs related to not having to seek an opinion from the OAG before redacting portions of requested information related to state employees, peace officers, family violence shelter personnel, or employees or officers of governmental bodies. However, there could be costs associated with responding to questions about withheld or redacted information or appealing an OAG decision to a Travis County district court.

Source Agencies:

LBB Staff: JOB, KJG, SD, PJK, DB