



Testimony

HB 3015

Testimony Before the Texas House Committee on State Affairs

by James Quintero, Policy Director

Mr. Chairman and Members of the Committee:

My name is James Quintero, and I represent the Texas Public Policy Foundation. Thank you for the opportunity to address the committee today. I am testifying in support of [House Bill 3015](#).

As introduced, HB 3015 would provide additional enforcement mechanisms to encourage compliance with and a timely response to Public Information Act (PIA) requests, even if the desired information does not exist or if it may be legally withheld. Enshrining these extra protections in state law would promote transparency and ensure accountability.

The state's PIA is animated by a spirit of maximum transparency. That much is evidenced by the law's opening preamble, which states:

*Under the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that government is the servant and not the master of the people, it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. **The people insist on remaining informed so that they may retain control over the instruments they have created** [emphasis added].*

But while the law's intent is to ensure that Texans remain informed about public affairs, there have been instances in which government officials did not respond to PIA requests in a timely manner or have ignored such requests for information altogether. Such occurrences promote distrust in government and leave interested parties in a state of limbo, wondering whether their PIA requests even exist.

Enabling this issue is the fact that there is no practical way to hold government agencies accountable for failing to respond to PIA requests in a timely manner. The law effectively allows for a PIA request to be ignored with no real penalties.

A Void in Existing Law

According to the Texas Attorney General's office, an officer for a government agency [must generally take one of the following actions](#) within 10 business days:

- Release the information to the requestor;
- Give the requestor written notice of the date and time the requestor will get the information;
- Seek to withhold requested information by asking for a ruling from the Open Records Division; or
- Withhold information based on prior authorization.

However, in spite of these requirements, there is no enforcement mechanism in existing law to ensure observation of the PIA. Other than the possibility of bad publicity, government agencies have no real disincentive for ignoring the spirit or the letter of the law.

In order to ensure strict and consistent compliance with the PIA, the Legislature should amend current law to establish mandatory open government training for public information officers (PIO) in certain cases.

Should a governmental body fail to respond to a PIA request, requestors should be able to easily file a complaint with the Texas Attorney General's office. If the office determines that an entity improperly failed to comply with the law, then it should be allowed to mandate open government training for respective PIOs within a specified time period. In addition, the agency should be prohibited from assessing costs to the requestor for producing information in response to the original request.

By adding these enforcement mechanisms to Chapter 552 of the Government Code, the Legislature can ensure better compliance with open government laws and promote a level of transparency that is more consistent with the law's original intent.

Thank you for your time. ★

ABOUT THE AUTHOR



James Quintero is the policy director for the Government for the People campaign at the Texas Public Policy Foundation. Quintero focuses on state and local government spending, taxes, debt, public pension reform, annexation, and local regulations. His work has been featured in the *New York Times*, *Forbes*, the *Huffington Post*, Fox News, and Breitbart. He is currently a bi-weekly contributor to the *Austin American-Statesman*.

Quintero received an MPA with an emphasis in public finance from Texas State University and a BA in sociology from the University of Texas at Austin. He currently serves on Texas State University's MPA Program Advisory Council.

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