

Committee on Governmental Oversight and Accountability

CS/CS/SB 80 — Public Records

by Judiciary Committee; Community Affairs Committee; and Senators Steube, Garcia, and Campbell

The bill requires a court to award attorney fees and costs to a plaintiff who sues an agency to enforce a public records request if the court determines that the agency unlawfully refused access to a public record and the plaintiff provided written request for the public records to the agency's records custodian at least five business days before filing the lawsuit. The plaintiff is not required to provide written notice if the agency does not post the records custodian's contact information in the agency's primary administrative building and on the agency's website.

A court must also determine if a plaintiff requested records or otherwise participated in an enforcement action for an improper purpose. An improper purpose is one in which a person requests records primarily to cause a violation of the public records law or for a frivolous purpose. If the court finds that a plaintiff requested records for an improper purpose, the court will require the plaintiff to pay the agency's attorney fees and costs.

The bill clarifies that it does not create a private right of action, and a court may only require an agency to pay attorney fees and costs directly related to the public records enforcement action.

Provisions in the bill apply only to public records requests made on or after the effective date of the act.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 38-0; House 115-0