

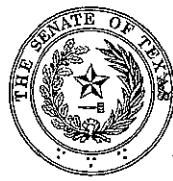
**SENATOR JEFF WENTWORTH**  
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The Honorable Greg Abbott  
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APR 10 2008

**OPEN RECORDS DIVISION**

**PRESIDENT PRO TEM  
OF THE TEXAS SENATE  
2004 - 2005**

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Jurisprudence, Chairman  
Administration  
Intergovernmental Relations  
Transportation and Homeland Security

# The Senate of The State of Texas

April 8, 2008

**COUNTIES IN  
SENATE DISTRICT 25**

Bexar (north)      Hays  
Comal                Kendall  
Guadalupe        Travis (south)

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APR 10 2008

**OPINION COMMITTEE**

**RQ-0698-GA**

**FILE # AL-45630-08**

**I.D. # 45630**

Re: Whether the media exception under the Texas Public Information Act, Government Code §552.275(j), applies to a requestor who holds an amateur radio license issued by the Federal Communications Commission ("FCC").

Dear General Abbott:

During the last few years, a family living in the Lake Travis Independent School District ("Lake Travis ISD" or "District") community has submitted an exceptionally large number of requests for information to the District under the Texas Public Information Act, TEX. GOV'T CODE §552.001 *et. seq.* ("TPIA"). Pursuant to TEX. GOV'T CODE §552.275, which was added to the TPIA by the Legislature during its 80<sup>th</sup> Legislative Session in 2007, the District has established, through written policy, a 36-hour limit on the amount of time that personnel of the District are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering the District's costs attributable to that personnel time. After a requestor has exhausted his or her 36 hours during a 12-month period, the requestor is required to pay certain costs up front before the governmental body is required to produce the documents, even if the requestor is seeking to inspect responsive documents. Section 552.275 does not deny a requestor's access to information. Rather, it permits a governmental entity to recover the cost of personnel time spent responding to requests.



The Honorable Greg Abbott  
April 8, 2008  
Page Two

Because the Legislature recognized that businesses or organizations benefitting the general public may make more TPIA requests than the average person, the Legislature added several exceptions to the "36-hour rule," including exceptions for elected officials (subsection (k)), publicly funded legal service organizations (subsection (l)), and the media (subsection (j)). It is the media exception that is at issue here.

The media exception is as follows:

- (j) This section does not apply if the requestor is a representative of:
  - (1) a radio or television station that holds a license issued by the Federal Communications Commission; or
  - (2) a newspaper that is qualified under Section 2051.044 to publish legal notices or is a free newspaper of general circulation and that is published at least once a week and available and of interest to the general public in connection with the dissemination of news.

The media exception in Section 552.275(j) was not included in the original bill, and was added as an amendment on the floor of the House of Representatives by Representative Lon Burnham on May 10, 2007. In introducing the amendment, Representative Burnham stated that the exception applies to "all news media outlets, and defines all of those as radio, television, newspapers, etc."<sup>1</sup>

I respectfully request an opinion whether the media exception under the Texas Public Information Act, Government Code §552.275(j), applies to a requestor who holds an amateur radio license issued by the FCC.

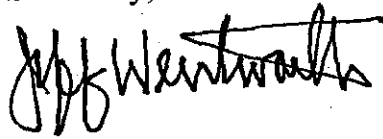
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<sup>1</sup> This statement can be found on the Texas Legislature's official website at <http://www.house.state.tx.us/media/chamber/80.htm>. The amendment was made during the afternoon session on May 10, 2007, and is located at the 8:31 time mark in the media browser.

The Honorable Greg Abbott  
April 8, 2008  
Page Three

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Wentworth", written in a cursive style.

Senator Jeff Wentworth  
Chairman  
Senate Jurisprudence Committee

JW/kh