

BILL ANALYSIS

C.S.H.B. 634
By: Baxter
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Chapters 551 and 552 of the Texas Government Code establish open government requirements for meetings of governmental bodies and for disclosure of public information.

Chapter 551 establishes the requirements for when meetings of governmental bodies must be open to the public, provides notice requirements that must be met before a public meeting can take place, and provides guidance on when certain governmental business may be conducted in closed session. Chapter 552 sets forth a general policy that all governmental records are open to public disclosure, subject only to certain limited exceptions. It also outlines the procedures for the processing of public requests for information, and for requesting review from the attorney general on a case-by-case basis to determine when governmental information may be lawfully withheld from disclosure.

These laws apply to nearly all governmental officials and entities in Texas. Despite this broad impact, there is no uniform requirement or mechanism for public officials to receive formal training in how to comply with these laws. This is significant because a failure to comply with either the Open Meetings Act or Public Information Act may result in civil, and in some cases, criminal penalties.

This legislation would add an educational requirement to the existing Open Meetings Act and Public Information Act for elected and appointed officials in Texas. It also includes provisions for the designation and training of public information coordinators.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Amends Subchapter A, Chapter 551, Government Code by adding Section 551.005 to include an Open Meetings Act training requirement for elected and appointed officials. Public officials who conduct business subject to Chapter 551 must complete a training course on the requirements of Chapter 551 within 30 days of taking office or assuming their responsibilities. Officials will also be required to attend subsequent training at least once every two years. All training shall be provided or approved by the attorney general, and public officials who complete training are required to maintain a record of their completion of the training.

Amends Subchapter A, Chapter 552, Government Code by adding Section 551.012 to include a Public Information Act training requirement for elected and appointed officials, and for designated public information coordinators. Public officials employed with governmental bodies subject to Chapter 552 must complete a training course on the requirements of Chapter 551 within 30 days of taking office or assuming their responsibilities. Officials will also be required to attend subsequent training at least once every two years. Officials may appoint a designated public information coordinator to complete this training provided such individuals are primarily responsible for administration of the governmental body's responsibilities under the Act. All training shall be provided or approved by the attorney general, and public officials who complete training are required to maintain a record of their completion of the training.

Provides for a phase-in period of the training requirements for public officials who were elected or appointed before January 1, 2006 by providing additional time until January 1, 2007 to complete training required by this act.

EFFECTIVE DATE

January 1, 2006

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 634 does the following:

Sets a definite minimum number of hours for the training by inserting language requiring at least one hour of training be completed.

Clarifies in the statute that there will be at least one "free" training option provided by the attorney general.

Clarifies that training requirements are not in addition to existing requirements, but will be harmonized with other educational requirements to avoid duplication of training.

Inserts language to allow statewide elected officials to voluntarily opt-in or opt-out of Open Meetings training.

Inserts "non-voider" language in Open Meetings training provisions, clarifying that the failure of one or more members of a governmental body to complete the training does not affect the validity of action taken by that governmental body.

Adds language to limit the use of training to satisfy *mens rea* requirement in a criminal prosecution.