

BILL ANALYSIS

C.S.H.B. 3752
By: Walle
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Senate Committee on State Affairs, in its interim report to the 86th Legislature, found that compliance with state open meetings law and public information law in the wake of Hurricane Harvey presented a hurdle to swift and effective communication, which is integral to an effective emergency response effort. It has been suggested that it would be easier for local officials to coordinate and respond to an emergency in a timely manner if they were granted greater flexibility with regard to compliance with the requirements of state open meetings law and public information law. C.S.H.B. 3752 seeks to provide that flexibility by providing for a temporary suspension of public information law requirements for a governmental body impacted by a catastrophe and by shortening the required public posting period for meetings called to deal with an emergency or urgent public necessity.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

C.S.H.B. 3752 amends the Government Code to decrease from two hours to one hour the time before the convening of a meeting of a governmental body to deliberate or take action on an emergency or urgent public necessity or a meeting for which an item was added to the agenda to deliberate or take action on an emergency or urgent public necessity that notice or supplemental notice for the meeting, as applicable, must be posted for that notice to be considered sufficient under state open meetings law. The bill clarifies the circumstances under which an emergency or an urgent public necessity exists and prohibits a governmental body from deliberating or taking action on a matter at a meeting for which notice or supplemental notice is posted other than a matter directly related to responding to the emergency or urgent public necessity identified in the notice or supplemental notice or an agenda item listed on a meeting notice before the supplemental notice was posted. The bill authorizes the attorney general to bring an action by mandamus or injunction to stop, prevent, or reverse a violation or threatened violation of that prohibition by members of a governmental body and requires the suit to be filed in a district court of Travis County.

C.S.H.B. 3752 clarifies that the special notice of an emergency meeting or the addition of an emergency item to an agenda of a governmental body given to the news media must be given at least one hour before the meeting is convened.

C.S.H.B. 3752 provides for the temporary suspension of state public information law requirements for a specified period for a governmental body that is currently impacted by a catastrophe that interferes with the body's ability to comply with those requirements. The bill requires a governmental body that elects to suspend the applicability of those requirements to submit notice to the attorney general's office on a form prescribed by the office that the body:

- is currently impacted by a catastrophe; and
- has elected to suspend those requirements.

The initial suspension period may not exceed seven consecutive days, which must occur during a period that begins not earlier than the second day before the date the governmental body submits the notice and ends not later than the seventh day after that date.

C.S.H.B. 3752 provides for an extension of an initial suspension period for an additional seven consecutive days if the governmental body determines it is still impacted by the catastrophe that was the basis of the initial suspension period and requires the body to submit notice of the extension to the attorney general's office on a form prescribed by the office.

C.S.H.B. 3752 requires the office to take the following actions:

- as soon as practicable after the bill's effective date, prescribe the form of the suspension notice, which must require the government body to provide specified information relating to the initial suspension and to an extension, if applicable; and
- continuously post on its website each submitted notice from the date the office receives the notice until the first anniversary of that date.

C.S.H.B. 3752 requires a governmental body that suspends the applicability of state public information law requirements to take the following action:

- provide public notice of the suspension in a place readily accessible to the public and in each other location the body is required to post a meeting notice under state open meetings law; and
- maintain the notice of the suspension during the suspension period.

The bill establishes that a request for public information received by a governmental body during a suspension period is considered to have been received by the body on the first business day after the date the suspension period ends and further establishes that the requirements of state public information law related to a request for public information received by a governmental body before the date an initial suspension period begins are tolled until the first business day after the date the suspension period ends.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3752 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include an affirmative defense to prosecution for the offense of conspiracy to circumvent state open meetings law.

The substitute does not include provisions requiring a resolution to be adopted finding that a governmental body is currently impacted by a catastrophe for that governmental body to be eligible for the temporary suspension of the requirements of state public information law.

The substitute changes the date by which the attorney general's office is required to prescribe the required notice form from not later than August 1, 2019, to as soon as practicable after the bill's effective date.