

By: Huffman

S.B. No. 494

A BILL TO BE ENTITLED

1 AN ACT
2 relating to certain procedures applicable to meetings under the
3 open meetings law and the disclosure of public information under
4 the public information law in the event of an emergency, urgent
5 public necessity, or catastrophic event.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 551.045, Government Code, is amended by
8 amending Subsections (a), (b), and (e) and adding Subsection (a-1)
9 to read as follows:

10 (a) In an emergency or when there is an urgent public
11 necessity, the notice of a meeting to deliberate or take action on
12 the emergency or urgent public necessity, or the supplemental
13 notice to add the deliberation or taking of action on the emergency
14 or urgent public necessity as an item to the agenda [~~of a subject~~
15 ~~added as an item to the agenda~~] for a meeting for which notice has
16 been posted in accordance with this subchapter, is sufficient if
17 the notice or supplemental notice [~~it~~] is posted for at least one
18 hour [~~two hours~~] before the meeting is convened.

19 (a-1) A governmental body may not deliberate or take action
20 on a matter at a meeting for which notice or supplemental notice is
21 posted under Subsection (a) other than:

22 (1) a matter directly related to responding to the
23 emergency or urgent public necessity identified in the notice or
24 supplemental notice of the meeting as provided by Subsection (c);

1 or

2 (2) an agenda item listed on a notice of the meeting
3 before the supplemental notice was posted.

4 (b) An emergency or an urgent public necessity exists only
5 if immediate action is required of a governmental body because of:

6 (1) an imminent threat to public health and safety,
7 including a threat described by Subdivision (2) if imminent; or

8 (2) a reasonably unforeseeable situation, including:

9 (A) fire, flood, earthquake, hurricane, tornado,
10 or wind, rain, or snow storm;

11 (B) power failure, transportation failure, or
12 interruption of communication facilities;

13 (C) epidemic; or

14 (D) riot, civil disturbance, enemy attack, or
15 other actual or threatened act of lawlessness or violence.

16 (e) For purposes of Subsection (b)(2), the sudden
17 relocation of a large number of residents from the area of a
18 declared disaster to a governmental body's jurisdiction is
19 considered a reasonably unforeseeable situation for a reasonable
20 period immediately following the relocation. [~~Notice of an
21 emergency meeting or supplemental notice of an emergency item added
22 to the agenda of a meeting to address a situation described by this
23 subsection must be given to members of the news media as provided by
24 Section 551.047 not later than one hour before the meeting.~~]

25 SECTION 2. Section 551.047(c), Government Code, is amended
26 to read as follows:

27 (c) The presiding officer or member shall give the notice by

1 telephone, facsimile transmission, or electronic mail at least one
2 hour before the meeting is convened.

3 SECTION 3. Section 551.142, Government Code, is amended by
4 adding Subsections (c) and (d) to read as follows:

5 (c) The attorney general may bring an action by mandamus or
6 injunction to stop, prevent, or reverse a violation or threatened
7 violation of Section 551.045(a-1) by members of a governmental
8 body.

9 (d) A suit filed by the attorney general under Subsection
10 (c) must be filed in a district court of Travis County.

11 SECTION 4. Subchapter E, Chapter 552, Government Code, is
12 amended by adding Section 552.233 to read as follows:

13 Sec. 552.233. TEMPORARY SUSPENSION OF REQUIREMENTS FOR
14 GOVERNMENTAL BODY IMPACTED BY CATASTROPHE. (a) In this section:

15 (1) "Catastrophe" means a condition or occurrence that
16 interferes with the ability of a governmental body to comply with
17 the requirements of this chapter, including:

18 (A) fire, flood, earthquake, hurricane, tornado,
19 or wind, rain, or snow storm;

20 (B) power failure, transportation failure, or
21 interruption of communication facilities;

22 (C) epidemic; or

23 (D) riot, civil disturbance, enemy attack, or
24 other actual or threatened act of lawlessness or violence.

25 (2) "Suspension period" means the period of time
26 during which a governmental body may suspend the applicability of
27 the requirements of this chapter to the governmental body under

1 this section.

2 (b) The requirements of this chapter do not apply to a
3 governmental body during the suspension period determined by the
4 governmental body under Subsections (d) and (e) if the governmental
5 body:

6 (1) is currently impacted by a catastrophe; and

7 (2) complies with the requirements of this section.

8 (c) A governmental body that elects to suspend the
9 applicability of the requirements of this chapter to the
10 governmental body must submit notice to the office of the attorney
11 general that the governmental body is currently impacted by a
12 catastrophe and has elected to suspend the applicability of those
13 requirements during the initial suspension period determined under
14 Subsection (d). The notice must be on the form prescribed by the
15 office of the attorney general under Subsection (j).

16 (d) A governmental body may suspend the applicability of the
17 requirements of this chapter to the governmental body for an
18 initial suspension period. The initial suspension period may not
19 exceed seven consecutive days and must occur during the period
20 that:

21 (1) begins not earlier than the second day before the
22 date the governmental body submits notice to the office of the
23 attorney general under Subsection (c); and

24 (2) ends not later than the seventh day after the date
25 the governmental body submits that notice.

26 (e) A governmental body may extend an initial suspension
27 period if the governing body determines that the governing body is

1 still impacted by the catastrophe on which the initial suspension
2 period was based. The initial suspension period may be extended one
3 time for not more than seven consecutive days that begin on the day
4 following the day the initial suspension period ends. The
5 governing body must submit notice of the extension to the office of
6 the attorney general on the form prescribed by the office under
7 Subsection (j).

8 (f) A governmental body that suspends the applicability of
9 the requirements of this chapter to the governmental body under
10 this section must provide notice to the public of the suspension in
11 a place readily accessible to the public and in each other location
12 the governmental body is required to post a notice under Subchapter
13 C, Chapter 551. The governmental body must maintain the notice of
14 the suspension during the suspension period.

15 (g) Notwithstanding another provision of this chapter, a
16 request for public information received by a governmental body
17 during a suspension period determined by the governmental body is
18 considered to have been received by the governmental body on the
19 first business day after the date the suspension period ends.

20 (h) The requirements of this chapter related to a request
21 for public information received by a governmental body before the
22 date an initial suspension period determined by the governmental
23 body begins are tolled until the first business day after the date
24 the suspension period ends.

25 (i) The office of the attorney general shall continuously
26 post on the Internet website of the office each notice submitted to
27 the office under this section from the date the office receives the

1 notice until the first anniversary of that date.

2 (j) The office of the attorney general shall prescribe the
3 form of the notice that a governmental body must submit to the
4 office under Subsections (c) and (e). The notice must require the
5 governmental body to:

6 (1) identify and describe the catastrophe that the
7 governmental body is currently impacted by;

8 (2) state the date the initial suspension period
9 determined by the governmental body under Subsection (d) begins and
10 the date that period ends;

11 (3) if the governmental body has determined to extend
12 the initial suspension period under Subsection (e):

13 (A) state that the governmental body continues to
14 be impacted by the catastrophe identified in Subdivision (1); and

15 (B) state the date the extension to the initial
16 suspension period begins and the date the period ends; and

17 (4) provide any other information the office of the
18 attorney general determines necessary.

19 SECTION 5. As soon as practicable after this Act becomes law
20 as provided by Section 2001.006, Government Code, the office of the
21 attorney general shall prescribe the form of the notice required by
22 Section 552.233(j), Government Code, as added by this Act.

23 SECTION 6. Sections 551.045 and 551.047, Government Code,
24 as amended by this Act, apply only to a meeting held on or after the
25 effective date of this Act. A meeting held before the effective
26 date of this Act is governed by the law in effect immediately before
27 the effective date of this Act, and the former law is continued in

1 effect for that purpose.

2 SECTION 7. This Act takes effect September 1, 2019.