

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. Section 551.143, Government Code, is amended by
12 adding Subsection (c) to read as follows:

13 (c) It is an affirmative defense to prosecution under
14 Subsection (a) that the member or group of members met in numbers
15 less than a quorum to deliberate or take action on a matter directly
16 related to responding to an emergency or urgent public necessity
17 under Section 551.045.

18 SECTION 5. Subchapter E, Chapter 552, Government Code, is
19 amended by adding Section 552.233 to read as follows:

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

22 (1) "Catastrophe" means a condition or occurrence that
23 interferes with the ability of a governmental body to comply with
24 the requirements of this chapter, including;

25 (A) fire, flood, earthquake, hurricane, tornado,
26 or wind, rain, or snow storm;

27 (B) power failure, transportation failure, or

1 interruption of communication facilities;

2 (C) epidemic; or

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

5 (2) "Suspension period" means the period of time
6 during which a governmental body may suspend the applicability of
7 the requirements of this chapter to the governmental body under
8 this section.

9 (b) The requirements of this chapter do not apply to a
10 governmental body during the suspension period determined by the
11 governmental body under Subsections (d) and (e) if the governmental
12 body:

13 (1) adopts a resolution finding that the governmental
14 body is currently impacted by a catastrophe; and

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

16 (c) A governmental body that elects to suspend the
17 applicability of the requirements of this chapter to the
18 governmental body must submit notice to the office of the attorney
19 general that the governmental body is currently impacted by a
20 catastrophe and has elected to suspend the applicability of those
21 requirements during the initial suspension period determined under
22 Subsection (d). The notice must be on the form prescribed by the
23 office of the attorney general under Subsection (j).

24 (d) A governmental body may suspend the applicability of the
25 requirements of this chapter to the governmental body for an
26 initial suspension period. The initial suspension period may not
27 exceed seven consecutive days and must occur during the period

1 that:

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

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

7 (e) A governmental body may extend an initial suspension
8 period if the governing body determines that the governing body is
9 still impacted by the catastrophe on which the initial suspension
10 period was based. The initial suspension period may be extended one
11 time for not more than seven consecutive days that begin on the day
12 following the day the initial suspension period ends. The
13 governing body must submit notice of the extension to the office of
14 the attorney general on the form prescribed by the office under
15 Subsection (j).

16 (f) A governmental body that suspends the applicability of
17 the requirements of this chapter to the governmental body under
18 this section must provide notice to the public of the suspension in
19 a place readily accessible to the public and in each other location
20 the governmental body is required to post a notice under Subchapter
21 C, Chapter 551. The governmental body must maintain the notice of
22 the suspension during the suspension period.

23 (g) Notwithstanding another provision of this chapter, a
24 request for public information received by a governmental body
25 during a suspension period determined by the governmental body is
26 considered to have been received by the governmental body on the
27 first business day after the date the suspension period ends.

1 (h) The requirements of this chapter related to a request
2 for public information received by a governmental body before the
3 date an initial suspension period determined by the governmental
4 body begins are tolled until the first business day after the date
5 the suspension period ends.

6 (i) The office of the attorney general shall continuously
7 post on the Internet website of the office each notice submitted to
8 the office under this section from the date the office receives the
9 notice until the first anniversary of that date.

10 (j) The office of the attorney general shall prescribe the
11 form of the notice that a governmental body must submit to the
12 office under Subsections (c) and (e). The notice must require the
13 governmental body to:

14 (1) provide a copy of the resolution described by
15 Subsection (b)(1);

16 (2) identify and describe the catastrophe that is the
17 subject of that resolution;

18 (3) state the date the initial suspension period
19 determined by the governmental body under Subsection (d) begins and
20 the date that period ends;

21 (4) if the governmental body has determined to extend
22 the initial suspension period under Subsection (e):

23 (A) state that the governmental body continues to
24 be impacted by the catastrophe identified in Subdivision (2); and

25 (B) state the date the extension to the initial
26 suspension period begins and the date the period ends; and

27 (5) provide any other information the office of the

1 attorney general determines necessary.

2 SECTION 6. Not later than August 1, 2019, the office of the
3 attorney general shall prescribe the form of the notice required by
4 Section 552.233(j), Government Code, as added by this Act.

5 SECTION 7. Sections 551.045 and 551.047, Government Code,
6 as amended by this Act, apply only to a meeting held on or after the
7 effective date of this Act. A meeting held before the effective
8 date of this Act is governed by the law in effect immediately before
9 the effective date of this Act, and the former law is continued in
10 effect for that purpose.

11 SECTION 8. This Act takes effect September 1, 2019.