

SENATE AMENDMENTS

2nd Printing

By: Geren

H.B. No. 4181

A BILL TO BE ENTITLED

AN ACT

relating to the organization and efficient operation of the legislative branch of state government.

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

SECTION 1. Sections 301.001, 301.002, 301.003, 301.004, and 301.005, Government Code, are amended to read as follows:

Sec. 301.001. TIME AND PLACE OF MEETING. The legislature shall convene at the seat of government in regular session at 12 noon on the second Tuesday in January of each odd-numbered year.

Sec. 301.002. WHO MAY ORGANIZE. (a) The following individuals ~~[persons]~~ only may organize the senate ~~[and house of representatives]~~:

(1) senators who have not completed their terms of office; and

(2) individuals who have received certification of election to the ~~[house of representatives or]~~ senate.

(b) Only the individuals who have received certification of election to the house of representatives may organize the house of representatives.

Sec. 301.003. ~~[SECRETARY OF STATE AS]~~ PRESIDING OFFICERS ~~[OFFICER]~~. (a) The secretary of state shall attend and ~~[the convening of each regular legislative session and shall]~~ preside at the organization of the house of representatives.

(b) If there is no secretary of state or if the secretary of

state is absent or unable to attend, the attorney general shall attend and preside at the organization of the house of representatives.

(c) The lieutenant governor shall attend and preside at the organization of the senate. If the lieutenant governor is absent or unable to attend, the lieutenant governor may designate a member of the senate who is entitled to organize the senate under Section 301.002(a)(1) to preside ~~[The secretary of state shall appoint a clerk to take the minutes of the proceedings. If the chief clerk of the house of representatives for the previous session is present, the secretary of state shall appoint that person to act as clerk].~~

(d) If there is no lieutenant governor, the senator with the greatest number of years of cumulative service as a member of the senate who is entitled to organize the senate under Section 301.002(a)(1) shall preside.

Sec. 301.004. TEMPORARY OFFICERS; DUTIES ~~[OF CLERK]~~. (a) If the secretary of the senate for the previous session is present, that individual shall act as temporary secretary of the senate. If the chief clerk of the house of representatives for the previous session is present, the secretary of state shall appoint that individual to act as temporary chief clerk. The presiding officer of each house of the legislature shall appoint any temporary officers necessary to ensure the organization of the legislature.

(b) Under the direction of the presiding officer ~~[secretary of state]~~, the secretary of the senate or chief clerk shall call the districts of the appropriate house ~~[counties]~~ in numerical ~~[alphabetical]~~ order regardless of whether the secretary of state

1 has received the election returns for each district ~~[county]~~.

2 (c) ~~[(b)]~~ If an individual appears at the call and presents
3 proper evidence of the individual's ~~[his]~~ election, the individual
4 shall be admitted or qualified as if the individual's election
5 returns had been made to the secretary of state.

6 (d) ~~[(c)]~~ After the secretary of the senate has called the
7 districts and the senators-elect have appeared and presented their
8 credentials, the official oath shall be administered to each
9 senator-elect by an officer authorized by law to administer oaths.

10 (e) After the chief clerk has called the districts
11 ~~[counties]~~ and the members-elect of the house of representatives
12 have appeared and presented their credentials, the chief clerk
13 shall administer the official oath to each member-elect.

14 (f) The presiding officer of each house shall ensure that a
15 journal of the proceedings of that house is kept.

16 Sec. 301.005. LACK OF QUORUM. If a quorum is not present in
17 a house of the legislature on the day the legislature is to convene,
18 the presiding officer of that house ~~[secretary of state]~~ and the
19 secretary of the senate or chief clerk, as appropriate, shall
20 attend each day until a quorum appears and is qualified.

21 SECTION 2. Section 301.006, Government Code, is amended by
22 adding Subsection (c) to read as follows:

23 (c) After the senators-elect have taken the official oath,
24 the senate shall choose necessary officers, and the lieutenant
25 governor or an officer authorized by law to administer oaths shall
26 administer the official oath to those officers.

27 SECTION 3. The heading to Subchapter B, Chapter 301,

1 Government Code, is amended to read as follows:

2 SUBCHAPTER B. COMMITTEES AND COMMITTEE PROCEDURE [~~LEGISLATIVE~~
3 ~~REORGANIZATION ACT~~]

4 SECTION 4. Section 301.014, Government Code, is amended to
5 read as follows:

6 Sec. 301.014. POWERS AND DUTIES OF STANDING COMMITTEES.

7 (a) Each standing committee shall:

8 (1) conduct a continuing study of any matter within
9 its jurisdiction and of the instrumentalities of government
10 administering or executing the matter;

11 (2) examine the administration and execution of all
12 laws relating to matters within its jurisdiction;

13 (3) conduct investigations to collect adequate
14 information and materials necessary to perform its duties; and

15 (4) [~~formulate legislative programs, and~~

16 [~~(5) initiate, draft, and~~] recommend to the
17 appropriate house any legislation the committee believes is
18 necessary and desirable.

19 (b) [~~The chair of each standing committee shall introduce or~~
20 ~~cause to be introduced the legislative programs developed by the~~
21 ~~committee and shall mobilize committee efforts to secure the~~
22 ~~enactment into law of committee proposals.~~

23 [~~(c)~~] Each committee may inspect the records, documents, and
24 files of each state department, agency, or office as necessary to
25 perform the committee's duties.

26 (c) [~~(d)~~] A standing committee is not limited in its
27 legislative endeavors to considering bills, resolutions, or other

1 proposals submitted by individual legislators. Each committee
2 shall search for problems within its jurisdiction and develop,
3 formulate, [~~initiate~~], and recommend [~~secure~~] passage of any
4 legislative solution the committee believes is desirable.

5 SECTION 5. Section 301.015(b), Government Code, is amended
6 to read as follows:

7 (b) When the legislature is not in session, each standing
8 committee shall meet as necessary to transact the committee's
9 business. Each committee shall meet in Austin, except that if
10 authorized by rule or resolution of the house creating the
11 committee, the committee may meet in any location in this state that
12 the committee determines necessary. To the extent authorized by
13 rule or resolution, each committee may determine its meeting times.

14 SECTION 6. Sections 301.016 and 301.017, Government Code,
15 are amended to read as follows:

16 Sec. 301.016. SPECIAL COMMITTEES. (a) By rule or
17 resolution, each house acting individually or the two houses acting
18 jointly may create special committees.

19 (b) A special committee shall perform the duties and
20 functions and exercise the powers prescribed by the rule or
21 resolution creating the committee.

22 (c) Except as limited by the rule or resolution creating the
23 special committee, a special committee shall have and exercise the
24 powers granted under this subchapter to a standing committee. A
25 special committee also has any other powers delegated to it by the
26 rule or resolution creating the committee, subject to the
27 limitations of law.

1 Sec. 301.017. GENERAL INVESTIGATING COMMITTEES. (a) By
2 rule or resolution, each house may create a general investigating
3 committee.

4 (b) The senate general investigating committee must consist
5 of five senators appointed by the president of the senate. The
6 president of the senate shall designate one [a] committee member as
7 chairman and one committee member as vice chairman.

8 (c) The house general investigating committee must consist
9 of not fewer than five house members appointed by the speaker. The
10 speaker shall designate one [a] committee member as chairman and
11 one committee member as vice chairman.

12 (d) Each member serves a term beginning on the date of the
13 member's appointment and ending with the convening of the next
14 regular session following the date of appointment.

15 (e) If a vacancy occurs on a general investigating
16 committee, the appropriate appointing authority shall appoint a
17 person to fill the vacancy in the same manner as the original
18 appointment.

19 (f) ~~[Each general investigating committee shall select a~~
20 ~~vice-chairman and secretary from among its members.]~~

21 ~~[(g)]~~ Members of a general investigating committee are
22 entitled to reimbursement for actual and necessary expenses
23 incurred in attending committee meetings and engaging in committee
24 work.

25 (g) ~~[(h)]~~ All expenses of a general investigating
26 committee, including compensation of the committee's employees and
27 expenses incurred by members, shall be paid out of any

1 appropriation to the legislature under Section 301.029 [~~for~~
2 ~~mileage, per diem, and contingent expenses~~].

3 SECTION 7. Section 301.018(e), Government Code, is amended
4 to read as follows:

5 (e) If the general investigating committees decide not to
6 conduct joint hearings as provided by Section 301.019, the
7 committees shall establish a liaison to fully inform each other
8 [~~the chairman of the inactive committee~~] of the nature and progress
9 of committee inquiries [~~any inquiry by the other committee~~].

10 SECTION 8. Section 301.019(c), Government Code, is amended
11 to read as follows:

12 (c) A majority of the [~~Seven~~] members from each house's
13 committee constitutes [~~of a joint general investigating committee~~
14 ~~constitute~~] a quorum of a joint general investigating committee.

15 SECTION 9. Section 301.020(e), Government Code, is amended
16 to read as follows:

17 (e) Information held by a general investigating committee
18 [~~that if held by a law enforcement agency or prosecutor would be~~
19 ~~excepted from the requirements of Section 552.021 under Section~~
20 ~~552.108~~] is confidential and not subject to public disclosure
21 except as provided by the rules of the house establishing the
22 committee.

23 SECTION 10. Section 301.032, Government Code, is amended by
24 amending Subsections (b) and (c) and adding Subsection (d) to read
25 as follows:

26 (b) Subject to Subsection (c), a [A] committee created by
27 rule or resolution may accept gifts, grants, and donations for

purposes of funding the committee's activities unless the rule or resolution prohibits the acceptance.

(c) The acceptance of a gift, grant, or donation under Subsection (b) is not effective until the committee on administration for the appropriate house, or the committees on administration for both houses in the case of acceptance by a joint committee, approves the acceptance.

(d) All gifts, grants, and donations must be accepted in an open meeting by a majority of the voting members of the appropriate body and reported in the public record of the accepting body with the name of the donor and purpose of the gift, grant, or donation.

SECTION 11. Section 301.041, Government Code, is transferred to Subchapter B, Chapter 301, Government Code, redesignated as Section 301.033, Government Code, and amended to read as follows:

Sec. 301.033 [~~301.041~~]. TERMINATION OF MEMBERSHIP ON INTERIM COMMITTEE. (a) A duly appointed senator's or representative's membership on the Legislative Budget Board, Legislative Library Board, Legislative Audit Committee, Texas Legislative Council, or any other interim committee terminates if the member:

- (1) resigns the membership;
- (2) ceases membership in the legislature for any reason; or
- (3) fails to be nominated or elected to the legislature for the next term.

(b) A vacancy created under this section shall be

1 immediately filled by appointment for the unexpired term in the
2 same manner as the original appointment.

3 (c) If a member serves on the Legislative Budget Board,
4 Legislative Library Board, or Legislative Audit Committee because
5 of the member's position as chairman of a standing committee, this
6 section does not affect the member's position as chairman of that
7 standing committee.

8 (d) In filling a vacancy created under this section, the
9 lieutenant governor or the speaker may appoint a senator or
10 representative, as appropriate, other than a committee chairman
11 designated by law to serve as a member of the Legislative Budget
12 Board, Legislative Library Board, Legislative Audit Committee,
13 Texas Legislative Council, or any other interim committee. An
14 appointment made under this subsection does not constitute an
15 appointment to any position other than that of a member of a board,
16 council, or committee covered by this section.

17 SECTION 12. The heading to Subchapter C, Chapter 301,
18 Government Code, is amended to read as follows:

19 SUBCHAPTER C. LEGISLATIVE OFFICERS AND EMPLOYEES [~~MEMBERSHIP ON~~
20 ~~INTERIM COMMITTEES~~]

21 SECTION 13. Subchapter C, Chapter 301, Government Code, is
22 amended by adding Section 301.041 to read as follows:

23 Sec. 301.041. COMMUNICATIONS WITH PARLIAMENTARIANS. (a)
24 Communications, including conversations, correspondence, and
25 electronic communications, between a member, officer, or employee
26 of the legislative branch and a parliamentarian appointed by the
27 presiding officer of either house that relate to a request by the

1 member, officer, or employee for information, advice, or opinions
2 from a parliamentarian are confidential and subject to legislative
3 privilege. Information, advice, and opinions given privately by a
4 parliamentarian to a member, officer, or employee of the
5 legislative branch, acting in the member's, officer's, or
6 employee's official capacity, are confidential and subject to
7 legislative privilege. However, the member, officer, or employee of
8 the legislative branch may choose to disclose all or a part of the
9 communications, information, advice, or opinions to which this
10 section applies, and such disclosure does not violate the law of
11 this state.

12 (b) Records relating to requests made of a parliamentarian
13 appointed under Subsection (a) for assistance, information,
14 advice, or opinion are not public information and are not subject to
15 Chapter 552.

16 (c) In this section:

17 (1) "Member, officer, or employee of the legislative
18 branch" includes:

19 (A) a member, member-elect, or officer of either
20 house of the legislature or of a legislative committee;

21 (B) an employee of the legislature, including an
22 employee of a legislative agency, office, or committee; and

23 (C) the lieutenant governor.

24 (2) "Parliamentarian" includes an employee of a
25 parliamentarian.

26 SECTION 14. Section 301.007, Government Code, is
27 transferred to Subchapter D, Chapter 301, Government Code, and

1 redesignated as Section 301.052, Government Code, to read as
2 follows:

3 Sec. 301.052 [~~301.007~~]. DISTRIBUTION OF JOURNALS. (a) The
4 lieutenant governor and speaker shall each appoint an employee to
5 distribute the journal of the respective houses.

6 (b) The employee shall distribute a copy of the journal to:

7 (1) the governor;

8 (2) each member of the legislature; and

9 (3) heads of departments, if requested.

10 SECTION 15. Chapter 301, Government Code, is amended by
11 adding Subchapter F, and a subchapter heading is added to read as
12 follows:

13 SUBCHAPTER F. MISCELLANEOUS PROVISIONS

14 SECTION 16. Section 301.034, Government Code, is
15 transferred to Subchapter F, Chapter 301, Government Code, as added
16 by this Act, and redesignated as Section 301.071, Government Code,
17 to read as follows:

18 Sec. 301.071 [~~301.034~~]. SALE OF TEXAS FLAGS AND SIMILAR
19 ITEMS. Either house of the legislature may acquire and provide for
20 the sale of Texas flags and other items carrying symbols of the
21 State of Texas.

22 SECTION 17. Section 303.003(c), Government Code, is amended
23 to read as follows:

24 (c) Contributions from a contributor to the speaker's
25 reunion day ceremony may not exceed an aggregate of \$1,000 [~~\$500~~]
26 cash or an aggregate value of more than \$1,000 [~~\$500~~].

27 SECTION 18. Chapter 306, Government Code, is amended by

adding Sections 306.008 and 306.009 to read as follows:

Sec. 306.008. LEGISLATIVE PRIVILEGE. (a) To protect the public's interest in the proper performance of the deliberative and policymaking responsibilities of the legislature and to preserve the legislative branch's independence under the fundamental principle of separation of powers, as guaranteed by Article II and Section 21, Article III, Texas Constitution, a communication is confidential and subject to legislative privilege if the communication:

(1) is given privately;

(2) concerns a legislative activity or function; and

(3) is among or between any of the following:

(A) a member of the house or senate;

(B) the lieutenant governor;

(C) an officer of the house or senate;

(D) a member of the governing body of a legislative agency; or

(E) a legislative employee.

(b) A communication described by Subsection (a) is subject to attorney-client privilege if:

(1) one of the parties to the communication is a legislative attorney or a legislative employee working at the direction of a legislative attorney; and

(2) the communication is made in connection with the legislative attorney's provision of legal advice or other legal services.

(c) A member of the house or senate, the lieutenant

1 governor, or an officer of the house or senate may choose to
2 disclose all or part of a communication to which Subsection (a) or
3 (b) applies and to which the individual or a legislative employee
4 acting on behalf of the individual was a party.

5 (d) This section does not affect the authority of a court to
6 analyze and apply legislative or attorney-client privileges under
7 the applicable rules of evidence governing a judicial proceeding.

8 (e) In this section:

9 (1) "Legislative agency" means a board, commission,
10 committee, council, department, office, or any other agency in the
11 legislative branch of state government. The term does not include
12 the Texas Ethics Commission.

13 (2) "Legislative attorney" means an attorney employed
14 or engaged by the house, the senate, a member of the house or
15 senate, the lieutenant governor, an officer of the house or senate,
16 a house or senate committee, a joint committee, or a legislative
17 agency.

18 (3) "Legislative employee" means an employee of,
19 assistant or a person performing services under a contract entered
20 into with either house of the legislature, a committee of either
21 house, or a legislative agency, or credentialed intern for any part
22 of the legislative branch of state government, including the house,
23 the senate, a member of the house or senate, the lieutenant
24 governor, an officer of the house or senate, a house or senate
25 committee, a joint committee, or a legislative agency.

26 Sec. 306.009. CUSTODIAN OF CERTAIN LEGISLATIVE RECORDS.

27 (a) A member of the legislature, the lieutenant governor, an

1 officer of the house or senate, or a legislative agency, office, or
2 committee that stores records with or transfers records to the
3 Legislative Reference Library or the Texas State Library and
4 Archives Commission:

5 (1) possesses, maintains, or controls the records for
6 purposes of litigation; and

7 (2) is the custodian of the records for purposes of
8 Chapter 552.

9 (b) Subsection (a) does not apply to a member of the
10 legislature or the lieutenant governor after the individual's
11 service as a member or lieutenant governor ends.

12 SECTION 19. Section 323.006(a), Government Code, is amended
13 to read as follows:

14 (a) The council shall:

15 (1) study and investigate the functions and problems
16 of state departments, agencies, and officers;

17 (2) conduct investigations and studies and make
18 reports that may be considered useful to the legislative branch of
19 state government;

20 (3) gather and disseminate information for the
21 legislature's use;

22 (4) meet and perform council functions during the
23 legislative interim;

24 (5) make periodic reports to all members of the
25 legislature and keep the legislature fully informed of all issues
26 that may come before the council, any action taken on an issue, and
27 the progress made on an issue;

1 (6) report council recommendations to the legislature
2 and, if appropriate, provide drafts of legislation with the report;

3 (7) assist the legislature in drafting proposed
4 legislation; ~~and~~

5 (8) provide legal advice and other legal services to
6 the legislature; and

7 (9) provide data-processing services to aid members
8 and legislative committees in accomplishing their legislative
9 duties.

10 SECTION 20. Sections 323.017 and 323.018, Government Code,
11 are amended to read as follows:

12 Sec. 323.017. CONFIDENTIAL AND PRIVILEGED COMMUNICATIONS.

13 (a) Communications, including conversations, correspondence, and
14 electronic communications, between a member of the legislature or
15 the lieutenant governor, an officer of the house or senate, a
16 legislative agency, office, or committee, or a member of the staff
17 of any of those officers or entities and an assistant or employee of
18 the council that relate to a request by the officer or entity
19 ~~[official]~~ for information, advice, or opinions from an assistant
20 or employee of the council are confidential and subject to
21 legislative privilege.

22 (b) A communication described by Subsection (a) is subject
23 to attorney-client privilege if:

24 (1) the assistant or employee of the council who is a
25 party to the communication is a council attorney or is working at
26 the direction of a council attorney;

27 (2) the communication is given privately; and

1 (3) the communication is made in connection with the
2 council attorney's provision of legal advice or other legal
3 services.

4 (c) Information, advice, and opinions given privately by an
5 assistant or employee of the council to a member of the
6 legislature[7] or the lieutenant governor, an officer of the house
7 or senate, a legislative agency, office, or committee, or a member
8 of the staff of any of those officers or entities, when acting in
9 the person's official capacity, are confidential and subject to
10 legislative privilege.

11 (d) The [However, the] member of the legislature, [or]
12 lieutenant governor, house or senate officer, or legislative
13 agency, office, or committee may choose to disclose all or a part of
14 the communications, information, advice, or opinions to which this
15 section applies[7] and to which the individual or entity was a party
16 [such a disclosure does not violate the law of this state].

17 (e) This section does not affect the authority of a court to
18 analyze and apply attorney-client privilege under the applicable
19 rules of evidence governing a judicial proceeding.

20 Sec. 323.018. RECORDS OF DRAFTING AND OTHER REQUESTS.
21 Records relating to requests of council staff for the drafting of
22 proposed legislation or for assistance, information, advice, or
23 opinion are:

24 (1) subject to legislative privilege; and
25 (2) not public information and not subject to Chapter
26 552.

27 SECTION 21. Chapter 323, Government Code, is amended by

adding Section 323.021 to read as follows:

Sec. 323.021. LEGISLATIVE OFFICE RECORDS. A member of the legislature, the lieutenant governor, an officer of the house or senate, or a legislative agency, office, or committee that uses a system made available by the council to transmit, store, or maintain records:

(1) possesses, maintains, or controls the records for purposes of litigation; and

(2) is the custodian of the records for purposes of Chapter 552.

SECTION 22. Chapter 324, Government Code, is amended by adding Sections 324.0085 and 324.0086 to read as follows:

Sec. 324.0085. LEGISLATIVE RECORDS. (a) The library is the depository for any record created or received by the office of a member of the legislature or the lieutenant governor during that official's term of office.

(b) The legislative entity that transferred records to the library retains ownership and legal custody of those records, including records placed in a depository outside the library. The legislative entity may retrieve the records for the legislature's use. The director and library employees shall assist the legislative entity with retrieval of the records and shall return the records to the library following the legislature's use.

(c) The director shall protect privileged or confidential legislative records held by the library from public disclosure at the direction of the legislative entity that transferred the records to the library.

1 (d) The director shall receive requests under Chapter 552
2 for legislative records held by the library and respond as directed
3 by the officer for public information of the legislative entity
4 that transferred the records to the library. The director shall
5 notify the appropriate officer for public information as soon as
6 practicable after receiving a request described by this subsection.

7 Sec. 324.0086. PLACEMENT IN OTHER DEPOSITORY. (a) A
8 member of the legislature may apply to the board to place records
9 that were created or received by the member's office during the
10 member's term in a depository other than the library.

11 (b) The board shall:

12 (1) create a list of preapproved depositories in which
13 members of the legislature may place records of their legislative
14 offices; and

15 (2) by rule adopt policies and procedures to approve
16 additional depositories.

17 (c) The director is responsible for the preservation of
18 records described by Subsection (a) placed in a depository other
19 than the library. Ownership and legal custody of the records remain
20 with the legislature as provided by Section 324.0085. The records
21 may not be intermingled with other holdings of the institution that
22 serves as a depository.

23 SECTION 23. Section 441.180, Government Code, is amended by
24 adding Subdivision (6-a) and amending Subdivisions (9) and (11) to
25 read as follows:

26 (6-a) "Legislative record" means any record created or
27 received by the office of a member of the legislature or the

1 lieutenant governor during the official's term of office.

2 (9) "State agency" means:

3 (A) any department, commission, board, office,
4 or other agency in the executive, legislative, or judicial branch
5 of state government created by the constitution or a statute of this
6 state and includes~~[, including]~~ an eleemosynary institution but
7 does not include the office of a member of the legislature or the
8 lieutenant governor;

9 (B) any university system and its components and
10 any institution of higher education as defined by Section 61.003,
11 Education Code, except a public junior college, not governed by a
12 university system board;

13 (C) the Texas Municipal Retirement System and the
14 Texas County and District Retirement System; and

15 (D) any public nonprofit corporation created by
16 the legislature whose responsibilities and authority are not
17 limited to a geographical area less than that of the state.

18 (11) "State record" means any written, photographic,
19 machine-readable, or other recorded information created or
20 received by or on behalf of a state agency or an elected state
21 official that documents activities in the conduct of state business
22 or use of public resources. The term includes any recorded
23 information created or received by a Texas government official in
24 the conduct of official business, including officials from periods
25 in which Texas was a province, colony, republic, or state. The term
26 does not include:

27 (A) library or museum material made or acquired

1 and maintained solely for reference or exhibition purposes;

2 (B) an extra copy of recorded information
3 maintained only for reference; ~~or~~

4 (C) a stock of publications or blank forms; or

5 (D) a legislative record.

6 SECTION 24. Section 602.002, Government Code, is amended to
7 read as follows:

8 Sec. 602.002. OATH MADE IN TEXAS. An oath made in this
9 state may be administered and a certificate of the fact given by:

10 (1) a judge, retired judge, or clerk of a municipal
11 court;

12 (2) a judge, retired judge, senior judge, clerk, or
13 commissioner of a court of record;

14 (3) a justice of the peace or a clerk of a justice
15 court;

16 (4) an associate judge, magistrate, master, referee,
17 or criminal law hearing officer;

18 (5) a notary public;

19 (6) a member of a board or commission created by a law
20 of this state, in a matter pertaining to a duty of the board or
21 commission;

22 (7) a person employed by the Texas Ethics Commission
23 who has a duty related to a report required by Title 15, Election
24 Code, in a matter pertaining to that duty;

25 (8) a county tax assessor-collector or an employee of
26 the county tax assessor-collector if the oath relates to a document
27 that is required or authorized to be filed in the office of the

1 county tax assessor-collector;

2 (9) the secretary of state or a former secretary of
3 state;

4 (10) an employee of a personal bond office, or an
5 employee of a county, who is employed to obtain information
6 required to be obtained under oath if the oath is required or
7 authorized by Article 17.04 or by Article 26.04(n) or (o), Code of
8 Criminal Procedure;

9 (11) the lieutenant governor or a former lieutenant
10 governor;

11 (12) the speaker of the house of representatives or a
12 former speaker of the house of representatives;

13 (13) the governor or a former governor;

14 (14) a legislator or retired legislator;

15 (14-a) the secretary of the senate or the chief clerk
16 of the house of representatives;

17 (15) the attorney general or a former attorney
18 general;

19 (16) the secretary or clerk of a municipality in a
20 matter pertaining to the official business of the municipality;

21 (17) a peace officer described by Article 2.12, Code
22 of Criminal Procedure, if:

23 (A) the oath is administered when the officer is
24 engaged in the performance of the officer's duties; and

25 (B) the administration of the oath relates to the
26 officer's duties; or

27 (18) a county treasurer.

1 SECTION 25. Records described by Section 301.041(b),
2 Government Code, as added by this Act, or Section 323.018,
3 Government Code, as amended by this Act, are not subject to request,
4 inspection, or duplication under Chapter 552, Government Code. A
5 governmental body may withhold the records without the necessity of
6 requesting a decision from the attorney general under Subchapter G,
7 Chapter 552, Government Code.

8 SECTION 26. This Act takes effect immediately if it
9 receives a vote of two-thirds of all the members elected to each
10 house, as provided by Section 39, Article III, Texas Constitution.
11 If this Act does not receive the vote necessary for immediate
12 effect, this Act takes effect September 1, 2019.

ADOPTED

MAY 21 2019

Larry Spaul
Secretary of the Senate

By: Hancock H.B. No. 4191
Substitute the following for H.B. No. 4191:
By: Hancock Kelly Harmon C.S. H.B. No. 4191

A BILL TO BE ENTITLED

AN ACT

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

SECTION 1. Sections 301.001, 301.002, 301.003, 301.004, and 301.005, Government Code, are amended to read as follows:

Sec. 301.001. TIME AND PLACE OF MEETING. The legislature shall convene at the seat of government in regular session at 12 noon on the second Tuesday in January of each odd-numbered year.

Sec. 301.002. WHO MAY ORGANIZE. (a) The following individuals [~~persons~~] only may organize the senate [~~and house of representatives~~]:

(1) senators who have not completed their terms of office; and

(2) individuals who have received certification of election to the [~~house of representatives or~~] senate.

(b) Only the individuals who have received certification of election to the house of representatives may organize the house of representatives.

Sec. 301.003. [~~SECRETARY OF STATE AS~~] PRESIDING OFFICERS [~~OFFICER~~]. (a) The secretary of state shall attend and [~~the convening of each regular legislative session and shall~~] preside at the organization of the house of representatives.

(b) If there is no secretary of state or if the secretary of

1 state is absent or unable to attend, the attorney general shall
2 attend and preside at the organization of the house of
3 representatives.

4 (c) The lieutenant governor shall attend and preside at the
5 organization of the senate. If the lieutenant governor is absent or
6 unable to attend, the lieutenant governor may designate a member of
7 the senate who is entitled to organize the senate under Section
8 301.002(a)(1) to preside ~~[The secretary of state shall appoint a~~
9 ~~clerk to take the minutes of the proceedings. If the chief clerk of~~
10 ~~the house of representatives for the previous session is present,~~
11 ~~the secretary of state shall appoint that person to act as clerk].~~

12 (d) If there is no lieutenant governor, the senator with the
13 greatest number of years of cumulative service as a member of the
14 senate who is entitled to organize the senate under Section
15 301.002(a)(1) shall preside.

16 Sec. 301.004. TEMPORARY OFFICERS; DUTIES ~~[OF CLERK]~~. (a)
17 If the secretary of the senate for the previous session is present,
18 that individual shall act as temporary secretary of the senate. If
19 the chief clerk of the house of representatives for the previous
20 session is present, the secretary of state shall appoint that
21 individual to act as temporary chief clerk. The presiding officer
22 of each house of the legislature shall appoint any temporary
23 officers necessary to ensure the organization of the legislature.

24 (b) Under the direction of the presiding officer ~~[secretary~~
25 ~~of state]~~, the secretary of the senate or chief clerk shall call the
26 districts of the appropriate house ~~[counties]~~ in numerical
27 ~~[alphabetical]~~ order regardless of whether the secretary of state

1 has received the election returns for each district ~~[county]~~.

2 (c) ~~[(b)]~~ If an individual appears at the call and presents
3 proper evidence of the individual's ~~[his]~~ election, the individual
4 shall be admitted or qualified as if the individual's election
5 returns had been made to the secretary of state.

6 (d) ~~[(c)]~~ After the secretary of the senate has called the
7 districts and the senators-elect have appeared and presented their
8 credentials, the official oath shall be administered to each
9 senator-elect by an officer authorized by law to administer oaths.

10 (e) After the chief clerk has called the districts
11 ~~[counties]~~ and the members-elect of the house of representatives
12 have appeared and presented their credentials, the chief clerk
13 shall administer the official oath to each member-elect.

14 (f) The presiding officer of each house shall ensure that a
15 journal of the proceedings of that house is kept.

16 Sec. 301.005. LACK OF QUORUM. If a quorum is not present in
17 a house of the legislature on the day the legislature is to convene,
18 the presiding officer of that house ~~[secretary of state]~~ and the
19 secretary of the senate or chief clerk, as appropriate, shall
20 attend each day until a quorum appears and is qualified.

21 SECTION 2. Section 301.006, Government Code, is amended by
22 adding Subsection (c) to read as follows:

23 (c) After the senators-elect have taken the official oath,
24 the senate shall choose necessary officers, and the lieutenant
25 governor or an officer authorized by law to administer oaths shall
26 administer the official oath to those officers.

27 SECTION 3. The heading to Subchapter B, Chapter 301,

1 Government Code, is amended to read as follows:

2 SUBCHAPTER B. COMMITTEES AND COMMITTEE PROCEDURE [~~LEGISLATIVE~~
3 ~~REORGANIZATION ACT~~]

4 SECTION 4. Section 301.014, Government Code, is amended to
5 read as follows:

6 Sec. 301.014. POWERS AND DUTIES OF STANDING COMMITTEES.

7 (a) Each standing committee shall:

8 (1) conduct a continuing study of any matter within
9 its jurisdiction and of the instrumentalities of government
10 administering or executing the matter;

11 (2) examine the administration and execution of all
12 laws relating to matters within its jurisdiction;

13 (3) conduct investigations to collect adequate
14 information and materials necessary to perform its duties; and

15 (4) [~~formulate legislative programs, and~~

16 [~~(5) initiate, draft, and~~] recommend to the
17 appropriate house any legislation the committee believes is
18 necessary and desirable.

19 (b) [~~The chair of each standing committee shall introduce or~~
20 ~~cause to be introduced the legislative programs developed by the~~
21 ~~committee and shall mobilize committee efforts to secure the~~
22 ~~enactment into law of committee proposals.~~

23 [~~(c)~~] Each committee may inspect the records, documents, and
24 files of each state department, agency, or office as necessary to
25 perform the committee's duties.

26 (c) [~~(d)~~] A standing committee is not limited in its
27 legislative endeavors to considering bills, resolutions, or other

1 proposals submitted by individual legislators. Each committee
2 shall search for problems within its jurisdiction and develop,
3 formulate, [~~initiate~~], and recommend [~~secure~~] passage of any
4 legislative solution the committee believes is desirable.

5 SECTION 5. Section 301.015(b), Government Code, is amended
6 to read as follows:

7 (b) When the legislature is not in session, each standing
8 committee shall meet as necessary to transact the committee's
9 business. Each committee shall meet in Austin, except that if
10 authorized by rule or resolution of the house creating the
11 committee, the committee may meet in any location in this state that
12 the committee determines necessary. To the extent authorized by
13 rule or resolution, each committee may determine its meeting times.

14 SECTION 6. Sections 301.016 and 301.017, Government Code,
15 are amended to read as follows:

16 Sec. 301.016. SPECIAL COMMITTEES. (a) By rule or
17 resolution, each house acting individually or the two houses acting
18 jointly may create special committees.

19 (b) A special committee shall perform the duties and
20 functions and exercise the powers prescribed by the rule or
21 resolution creating the committee.

22 (c) Except as limited by the rule or resolution creating the
23 special committee, a special committee shall have and exercise the
24 powers granted under this subchapter to a standing committee. A
25 special committee also has any other powers delegated to it by the
26 rule or resolution creating the committee, subject to the
27 limitations of law.

1 Sec. 301.017. GENERAL INVESTIGATING COMMITTEES. (a) By
2 rule or resolution, each house may create a general investigating
3 committee.

4 (b) The senate general investigating committee must consist
5 of five senators appointed by the president of the senate. The
6 president of the senate shall designate one [a] committee member as
7 chairman and one committee member as vice chairman.

8 (c) The house general investigating committee must consist
9 of not fewer than five house members appointed by the speaker. The
10 speaker shall designate one [a] committee member as chairman and
11 one committee member as vice chairman.

12 (d) Each member serves a term beginning on the date of the
13 member's appointment and ending with the convening of the next
14 regular session following the date of appointment.

15 (e) If a vacancy occurs on a general investigating
16 committee, the appropriate appointing authority shall appoint a
17 person to fill the vacancy in the same manner as the original
18 appointment.

19 (f) ~~[Each general investigating committee shall select a~~
20 ~~vice-chairman and secretary from among its members.~~

21 [~~(g)~~] Members of a general investigating committee are
22 entitled to reimbursement for actual and necessary expenses
23 incurred in attending committee meetings and engaging in committee
24 work.

25 (g) [~~(h)~~] All expenses of a general investigating
26 committee, including compensation of the committee's employees and
27 expenses incurred by members, shall be paid out of any

1 appropriation to the legislature under Section 301.029 [~~for~~
2 ~~mileage, per diem, and contingent expenses~~].

3 SECTION 7. Section 301.018(e), Government Code, is amended
4 to read as follows:

5 (e) If the general investigating committees decide not to
6 conduct joint hearings as provided by Section 301.019, the
7 committees shall establish a liaison to fully inform each other
8 [~~the chairman of the inactive committee~~] of the nature and progress
9 of committee inquiries [~~any inquiry by the other committee~~].

10 SECTION 8. Section 301.019(c), Government Code, is amended
11 to read as follows:

12 (c) A majority of the [~~Seven~~] members from each house's
13 committee constitutes [~~of a joint general investigating committee~~
14 ~~constitute~~] a quorum of a joint general investigating committee.

15 SECTION 9. Section 301.020(e), Government Code, is amended
16 to read as follows:

17 (e) Information held by a general investigating committee
18 [~~that if held by a law enforcement agency or prosecutor would be~~
19 ~~excepted from the requirements of Section 552.021 under Section~~
20 ~~552.108~~] is confidential and not subject to public disclosure
21 except as provided by the rules of the house establishing the
22 committee.

23 SECTION 10. Section 301.032, Government Code, is amended by
24 amending Subsections (b) and (c) and adding Subsection (d) to read
25 as follows:

26 (b) Subject to Subsection (c), a [A] committee created by
27 rule or resolution may accept gifts, grants, and donations for

1 purposes of funding the committee's activities unless the rule or
2 resolution prohibits the acceptance.

3 (c) The acceptance of a gift, grant, or donation under
4 Subsection (b) is not effective until the committee on
5 administration for the appropriate house, or the committees on
6 administration for both houses in the case of acceptance by a joint
7 committee, approves the acceptance.

8 (d) All gifts, grants, and donations must be accepted in an
9 open meeting by a majority of the voting members of the appropriate
10 body and reported in the public record of the accepting body with
11 the name of the donor and purpose of the gift, grant, or donation.

12 SECTION 11. Section 301.041, Government Code, is
13 transferred to Subchapter B, Chapter 301, Government Code,
14 redesignated as Section 301.033, Government Code, and amended to
15 read as follows:

16 Sec. 301.033 [~~301.041~~]. TERMINATION OF MEMBERSHIP ON
17 INTERIM COMMITTEE. (a) A duly appointed senator's or
18 representative's membership on the Legislative Budget Board,
19 Legislative Library Board, Legislative Audit Committee, Texas
20 Legislative Council, or any other interim committee terminates if
21 the member:

22 (1) resigns the membership;
23 (2) ceases membership in the legislature for any
24 reason; or
25 (3) fails to be nominated or elected to the
26 legislature for the next term.

27 (b) A vacancy created under this section shall be

1 immediately filled by appointment for the unexpired term in the
2 same manner as the original appointment.

3 (c) If a member serves on the Legislative Budget Board,
4 Legislative Library Board, or Legislative Audit Committee because
5 of the member's position as chairman of a standing committee, this
6 section does not affect the member's position as chairman of that
7 standing committee.

8 (d) In filling a vacancy created under this section, the
9 lieutenant governor or the speaker may appoint a senator or
10 representative, as appropriate, other than a committee chairman
11 designated by law to serve as a member of the Legislative Budget
12 Board, Legislative Library Board, Legislative Audit Committee,
13 Texas Legislative Council, or any other interim committee. An
14 appointment made under this subsection does not constitute an
15 appointment to any position other than that of a member of a board,
16 council, or committee covered by this section.

17 SECTION 12. The heading to Subchapter C, Chapter 301,
18 Government Code, is amended to read as follows:

19 SUBCHAPTER C. LEGISLATIVE OFFICERS AND EMPLOYEES [~~MEMBERSHIP ON~~
20 ~~INTERIM COMMITTEES~~]

21 SECTION 13. Subchapter C, Chapter 301, Government Code, is
22 amended by adding Sections 301.041, 301.042, and 301.043 to read as
23 follows:

24 Sec. 301.041. COMMUNICATIONS WITH PARLIAMENTARIANS. (a)
25 Communications, including conversations, correspondence, and
26 electronic communications, between a member, officer, or employee
27 of the legislative branch and a parliamentarian appointed by the

1 presiding officer of either house that relate to a request by the
2 member, officer, or employee for information, advice, or opinions
3 from a parliamentarian are confidential and subject to legislative
4 privilege. Information, advice, and opinions given privately by a
5 parliamentarian to a member, officer, or employee of the
6 legislative branch, acting in the member's, officer's, or
7 employee's official capacity, are confidential and subject to
8 legislative privilege. However, the member, officer, or employee of
9 the legislative branch may choose to disclose all or a part of the
10 communications, information, advice, or opinions to which this
11 section applies, and such disclosure does not violate the law of
12 this state.

13 (b) Records relating to requests made of a parliamentarian
14 appointed under Subsection (a) for assistance, information,
15 advice, or opinion are not public information and are not subject to
16 Chapter 552.

17 (c) In this section:

18 (1) "Member, officer, or employee of the legislative
19 branch" includes:

20 (A) a member, member-elect, or officer of either
21 house of the legislature or of a legislative committee;

22 (B) an employee of the legislature, including an
23 employee of a legislative agency, office, or committee; and

24 (C) the lieutenant governor.

25 (2) "Parliamentarian" includes an employee of a
26 parliamentarian.

27 Sec. 301.042. COMMUNICATIONS WITH ENGROSSING AND ENROLLING

1 DEPARTMENT. (a) In this section, "department" means an engrossing
2 and enrolling department maintained by either house of the
3 legislature.

4 (b) Communications, including conversations,
5 correspondence, and electronic communications, between a member of
6 the legislature or the lieutenant governor, an officer of the house
7 or senate, a legislative agency, office, or committee, or a member
8 of the staff of any of those officers or entities and an assistant
9 or employee of a department that relate to a request by the officer
10 or entity for information, advice, or opinions from an assistant or
11 employee of the department are confidential and subject to
12 legislative privilege.

13 (c) A communication described by Subsection (b) is subject
14 to attorney-client privilege if:

15 (1) the assistant or employee of the department who is
16 a party to the communication is a department attorney or is working
17 at the direction of a department attorney;

18 (2) the communication is given privately; and

19 (3) the communication is made in connection with the
20 department attorney's provision of legal advice or other legal
21 services.

22 (d) Information, advice, and opinions given privately by an
23 assistant or employee of a department to a member of the legislature
24 or the lieutenant governor, an officer of the house or senate, a
25 legislative agency, office, or committee, or a member of the staff
26 of any of those officers or entities, when acting in the person's
27 official capacity, are confidential and subject to legislative

1 privilege.

2 (e) The member of the legislature, lieutenant governor,
3 house or senate officer, or legislative agency, office, or
4 committee may choose to disclose all or a part of the
5 communications, information, advice, or opinions to which this
6 section applies and to which the individual or entity was a party.

7 (f) This section does not affect the authority of a court to
8 analyze and apply attorney-client privilege under the applicable
9 rules of evidence governing a judicial proceeding.

10 Sec. 301.043. ENGROSSING AND ENROLLING DEPARTMENT RECORDS
11 OF DRAFTING AND OTHER REQUESTS. (a) In this section, "department"
12 has the meaning assigned by Section 301.042(a).

13 (b) Records relating to requests of department staff for the
14 drafting of proposed legislation or for assistance, information,
15 advice, or opinion are:

16 (1) subject to legislative privilege; and

17 (2) not public information and not subject to Chapter
18 552.

19 SECTION 14. Section 301.007, Government Code, is
20 transferred to Subchapter D, Chapter 301, Government Code, and
21 redesignated as Section 301.052, Government Code, to read as
22 follows:

23 Sec. 301.052 [~~301.007~~]. DISTRIBUTION OF JOURNALS. (a) The
24 lieutenant governor and speaker shall each appoint an employee to
25 distribute the journal of the respective houses.

26 (b) The employee shall distribute a copy of the journal to:

27 (1) the governor;

1 (2) each member of the legislature; and

2 (3) heads of departments, if requested.

3 SECTION 15. Chapter 301, Government Code, is amended by
4 adding Subchapter F, and a subchapter heading is added to read as
5 follows:

6 SUBCHAPTER F. MISCELLANEOUS PROVISIONS

7 SECTION 16. Section 301.034, Government Code, is
8 transferred to Subchapter F, Chapter 301, Government Code, as added
9 by this Act, and redesignated as Section 301.071, Government Code,
10 to read as follows:

11 Sec. 301.071 [~~301.034~~]. SALE OF TEXAS FLAGS AND SIMILAR
12 ITEMS. Either house of the legislature may acquire and provide for
13 the sale of Texas flags and other items carrying symbols of the
14 State of Texas.

15 SECTION 17. Section 303.003(c), Government Code, is amended
16 to read as follows:

17 (c) Contributions from a contributor to the speaker's
18 reunion day ceremony may not exceed an aggregate of \$1,000 [~~\$500~~]
19 cash or an aggregate value of more than \$1,000 [~~\$500~~].

20 SECTION 18. Chapter 306, Government Code, is amended by
21 adding Sections 306.008 and 306.009 to read as follows:

22 Sec. 306.008. LEGISLATIVE PRIVILEGE. (a) To protect the
23 public's interest in the proper performance of the deliberative and
24 policymaking responsibilities of the legislature and to preserve
25 the legislative branch's independence under the fundamental
26 principle of separation of powers, as guaranteed by Article II and
27 Section 21, Article III, Texas Constitution, a communication is

1 confidential and subject to legislative privilege if the
2 communication:

3 (1) is given privately;
4 (2) concerns a legislative activity or function; and
5 (3) is among or between any of the following:
6 (A) a member of the house or senate;
7 (B) the lieutenant governor;
8 (C) an officer of the house or senate;
9 (D) a member of the governing body of a
10 legislative agency; or
11 (E) a legislative employee.

12 (b) A communication described by Subsection (a) is subject
13 to attorney-client privilege if:

14 (1) one of the parties to the communication is a
15 legislative attorney or a legislative employee working at the
16 direction of a legislative attorney; and
17 (2) the communication is made in connection with the
18 legislative attorney's provision of legal advice or other legal
19 services.

20 (c) A member of the house or senate, the lieutenant
21 governor, or an officer of the house or senate may choose to
22 disclose all or part of a communication to which Subsection (a) or
23 (b) applies and to which the individual or a legislative employee
24 acting on behalf of the individual was a party.

25 (d) This section does not affect the authority of a court to
26 analyze and apply legislative or attorney-client privileges under
27 the applicable rules of evidence governing a judicial proceeding.

1 (e) In this section:

2 (1) "Legislative agency" means a board, commission,
3 committee, council, department, office, or any other agency in the
4 legislative branch of state government. The term does not include
5 the Texas Ethics Commission.

6 (2) "Legislative attorney" means an attorney employed
7 or engaged by the house, the senate, a member of the house or
8 senate, the lieutenant governor, an officer of the house or senate,
9 a house or senate committee, a joint committee, or a legislative
10 agency.

11 (3) "Legislative employee" means an employee of,
12 assistant or a person performing services under a contract entered
13 into with either house of the legislature, a committee of either
14 house, or a legislative agency, or credentialed intern for any part
15 of the legislative branch of state government, including the house,
16 the senate, a member of the house or senate, the lieutenant
17 governor, an officer of the house or senate, a house or senate
18 committee, a joint committee, or a legislative agency.

19 Sec. 306.009. CUSTODIAN OF CERTAIN LEGISLATIVE RECORDS.

20 (a) A member of the legislature, the lieutenant governor, an
21 officer of the house or senate, or a legislative agency, office, or
22 committee that stores records with or transfers records to the
23 Legislative Reference Library or the Texas State Library and
24 Archives Commission:

25 (1) possesses, maintains, or controls the records for
26 purposes of litigation; and

27 (2) is the custodian of the records for purposes of

1 Chapter 552.

2 (b) Subsection (a) does not apply to a member of the
3 legislature or the lieutenant governor after the individual's
4 service as a member or lieutenant governor ends.

5 SECTION 19. Sections 314.003(a) and (b), Government Code,
6 are amended to read as follows:

7 (a) If a fiscal note is required on a bill or resolution, it
8 must be attached to the bill or resolution as provided by the rules
9 of the appropriate house of the legislature [~~before a committee~~
10 ~~hearing on the bill or resolution may be conducted~~].

11 (b) The fiscal note must be printed as part of [~~on the first~~
12 ~~page of~~] the committee report of the bill or resolution and as part
13 [~~on the first page~~] of all subsequent printings, as provided by the
14 rules of the appropriate house of the legislature.

15 SECTION 20. Section 323.006(a), Government Code, is amended
16 to read as follows:

17 (a) The council shall:

18 (1) study and investigate the functions and problems
19 of state departments, agencies, and officers;

20 (2) conduct investigations and studies and make
21 reports that may be considered useful to the legislative branch of
22 state government;

23 (3) gather and disseminate information for the
24 legislature's use;

25 (4) meet and perform council functions during the
26 legislative interim;

27 (5) make periodic reports to all members of the

1 legislature and keep the legislature fully informed of all issues
2 that may come before the council, any action taken on an issue, and
3 the progress made on an issue;

4 (6) report council recommendations to the legislature
5 and, if appropriate, provide drafts of legislation with the report;

6 (7) assist the legislature in drafting proposed
7 legislation; ~~and~~

8 (8) provide legal advice and other legal services to
9 the legislature; and

10 (9) provide data-processing services to aid members
11 and legislative committees in accomplishing their legislative
12 duties.

13 SECTION 21. Sections 323.017 and 323.018, Government Code,
14 are amended to read as follows:

15 Sec. 323.017. CONFIDENTIAL AND PRIVILEGED COMMUNICATIONS.

16 (a) Communications, including conversations, correspondence, and
17 electronic communications, between a member of the legislature or
18 the lieutenant governor, an officer of the house or senate, a
19 legislative agency, office, or committee, or a member of the staff
20 of any of those officers or entities and an assistant or employee of
21 the council that relate to a request by the officer or entity
22 ~~[official]~~ for information, advice, or opinions from an assistant
23 or employee of the council are confidential and subject to
24 legislative privilege.

25 (b) A communication described by Subsection (a) is subject
26 to attorney-client privilege if:

27 (1) the assistant or employee of the council who is a

1 party to the communication is a council attorney or is working at
2 the direction of a council attorney;

3 (2) the communication is given privately; and

4 (3) the communication is made in connection with the
5 council attorney's provision of legal advice or other legal
6 services.

7 (c) Information, advice, and opinions given privately by an
8 assistant or employee of the council to a member of the
9 legislature[7] or the lieutenant governor, an officer of the house
10 or senate, a legislative agency, office, or committee, or a member
11 of the staff of any of those officers or entities, when acting in
12 the person's official capacity, are confidential and subject to
13 legislative privilege.

14 (d) The [However, the] member of the legislature, [or]
15 lieutenant governor, house or senate officer, or legislative
16 agency, office, or committee may choose to disclose all or a part of
17 the communications, information, advice, or opinions to which this
18 section applies[7] and to which the individual or entity was a party
19 [such a disclosure does not violate the law of this state].

20 (e) This section does not affect the authority of a court to
21 analyze and apply attorney-client privilege under the applicable
22 rules of evidence governing a judicial proceeding.

23 Sec. 323.018. RECORDS OF DRAFTING AND OTHER REQUESTS.
24 Records relating to requests of council staff for the drafting of
25 proposed legislation or for assistance, information, advice, or
26 opinion are:

27 (1) subject to legislative privilege; and

1 (2) not public information and not subject to Chapter
2 552.

3 SECTION 22. Chapter 323, Government Code, is amended by
4 adding Section 323.021 to read as follows:

5 Sec. 323.021. LEGISLATIVE OFFICE RECORDS. A member of the
6 legislature, the lieutenant governor, an officer of the house or
7 senate, or a legislative agency, office, or committee that uses a
8 system made available by the council to transmit, store, or
9 maintain records:

10 (1) possesses, maintains, or controls the records for
11 purposes of litigation; and

12 (2) is the custodian of the records for purposes of
13 Chapter 552.

14 SECTION 23. Section 324.001, Government Code, is amended by
15 adding Subdivisions (4), (5), and (6) to read as follows:

16 (4) "Legislative entity" means a member of the
17 legislature, the lieutenant governor, an officer of the house or
18 senate, or a legislative committee, department, or office, but does
19 not include a legislative agency created by Subtitle C, Title 3.

20 (5) "Legislative record" means a record, including a
21 state record or archival state record, created by a legislative
22 entity. The term includes records described by Section 324.008(b).

23 (6) "State record" and "archival state record" have
24 the meanings assigned by Section 441.180.

25 SECTION 24. Sections 324.007(b) and (c), Government Code,
26 are amended to read as follows:

27 (b) The library shall contain, as may best be made available

1 for legislative use, the following items:

2 (1) checklists and catalogues of current legislation
3 in this and other states;

4 (2) catalogues of bills and resolutions presented in
5 either house of the legislature;

6 (3) checklists of public documents in each state;

7 (4) checklists of all reports issued by each
8 department, agency, board, or commission of this state; ~~and~~

9 (5) digests of public laws of this and other states;

10 (6) legislative records; and

11 (7) other items designated by the board or the
12 director.

13 (c) The director and library employees shall provide any
14 assistance requested by a member of the legislature in researching,
15 analyzing, evaluating, and preparing bills and resolutions.

16 SECTION 25. The heading to Section 324.008, Government
17 Code, is amended to read as follows:

18 Sec. 324.008. DEPOSIT AND MANAGEMENT ~~[DISPOSITION]~~ OF
19 DOCUMENTS.

20 SECTION 26. Sections 324.008(a) and (c), Government Code,
21 are amended to read as follows:

22 (a) The library is a depository library as defined by
23 Section 441.101 ~~[Section 1, Chapter 438, Acts of the 58th~~
24 ~~Legislature, 1963 (Article 5442a, Vernon's Texas Civil Statutes),]~~
25 and shall receive state documents and publications from other
26 states distributed by the Texas State Library.

27 (c) At the close of each legislative session, each daily

1 legislative journal, bill, or resolution possessed by the senate or
2 house sergeant at arms shall be delivered to the library to be
3 managed as a legislative record under Section 324.0085 [~~disposed of~~
4 ~~at the discretion of the director~~].

5 SECTION 27. Chapter 324, Government Code, is amended by
6 adding Sections 324.0085 and 324.0086 to read as follows:

7 Sec. 324.0085. LEGISLATIVE RECORDS. (a) In this section:

8 (1) "Commission," "records management officer," and
9 "state records administrator" have the meanings assigned by Section
10 441.180.

11 (2) "Director and librarian of the commission" means
12 the chief executive and administrative officer of the Texas State
13 Library and Archives Commission.

14 (b) The library is the depository for legislative records.

15 (c) Except as otherwise provided by this chapter, a
16 legislative record must be managed by the director in the same
17 manner that a state record is managed under Subchapter L, Chapter
18 441. For a legislative record, with regard to the requirements of
19 Subchapter L, Chapter 441:

20 (1) the board shall perform the functions and duties
21 of the commission; and

22 (2) the director shall perform the functions and
23 duties of:

24 (A) the director and librarian of the commission;

25 (B) the state records administrator; and

26 (C) the records management officer.

27 (d) Legislative records shall be transferred to the library

1 or a depository outside the library under Section 324.0086, in
2 accordance with any applicable records retention schedule approved
3 by the director under this section.

4 (e) A legislative entity may retrieve, for temporary use,
5 records transferred by the legislative entity to the library or a
6 depository outside the library. The director and library employees
7 shall assist the legislative entity with retrieval of the records,
8 and the legislative entity shall return the records to the library
9 following the legislative entity's use.

10 (f) Under the direction of the legislative entity that
11 created the records transferred to the library, or of the public
12 information officer of the appropriate house of the legislature in
13 the case of a former legislative entity, the director shall protect
14 privileged or confidential legislative records held by the library
15 or a depository outside the library from public disclosure.

16 (g) Under the direction of the public information officer of
17 the legislative entity that transferred a legislative record to the
18 library or an authorized depository outside the library, or of the
19 public information officer of the appropriate house of the
20 legislature in the case of a former legislative entity, the
21 director shall respond to requests received under Chapter 552 for
22 the legislative record. The director shall notify the public
23 information officer responsible for the legislative record as soon
24 as practicable after receiving a request described by this
25 subsection.

26 (h) The director may:

27 (1) transfer legislative records to the Texas State

1 Library and Archives Commission for management under Subchapter L,
2 Chapter 441; and

3 (2) request the Texas State Library and Archives
4 Commission to return to the library, without charge to the library,
5 legislative records held by the commission.

6 (i) To the extent of any conflict, this section prevails
7 over Chapter 441 or any other state law relating to the management
8 of legislative records.

9 Sec. 324.0086. PLACEMENT IN OTHER DEPOSITORY. (a) A
10 member of the legislature may apply to the board to place records
11 that were created or received by the member's office during the
12 member's term in a depository other than the library.

13 (b) The board shall:

14 (1) create a list of preapproved depositories in which
15 members of the legislature may place records of their legislative
16 offices; and

17 (2) by rule adopt policies and procedures to approve
18 additional depositories.

19 (c) The director is responsible for the preservation of
20 records described by Subsection (a) placed in a depository other
21 than the library. Ownership and legal custody of the records remain
22 with the legislature as provided by Section 324.0085. The records
23 may not be intermingled with other holdings of the institution that
24 serves as a depository.

25 SECTION 28. Subchapter L, Chapter 441, Government Code, is
26 amended by adding Section 441.1821 to read as follows:

27 Sec. 441.1821. LEGISLATIVE RECORDS MANAGEMENT. (a) As

1 used in this section, "legislative record" has the meaning assigned
2 by Section 324.001.

3 (b) Upon receipt of a request from the Legislative Reference
4 Library for the return of a legislative record in the custody of the
5 commission, the commission shall immediately return the
6 legislative record to the library, at no cost to the library.

7 (c) Notwithstanding any other law, the Legislative
8 Reference Library shall manage legislative records under Chapter
9 324. To the extent of any conflict, Chapter 324 prevails over this
10 chapter or any other state law relating to the management of state
11 records that are legislative records.

12 SECTION 29. Section 602.002, Government Code, is amended to
13 read as follows:

14 Sec. 602.002. OATH MADE IN TEXAS. An oath made in this
15 state may be administered and a certificate of the fact given by:

16 (1) a judge, retired judge, or clerk of a municipal
17 court;

18 (2) a judge, retired judge, senior judge, clerk, or
19 commissioner of a court of record;

20 (3) a justice of the peace or a clerk of a justice
21 court;

22 (4) an associate judge, magistrate, master, referee,
23 or criminal law hearing officer;

24 (5) a notary public;

25 (6) a member of a board or commission created by a law
26 of this state, in a matter pertaining to a duty of the board or
27 commission;

1 (7) a person employed by the Texas Ethics Commission
2 who has a duty related to a report required by Title 15, Election
3 Code, in a matter pertaining to that duty;

4 (8) a county tax assessor-collector or an employee of
5 the county tax assessor-collector if the oath relates to a document
6 that is required or authorized to be filed in the office of the
7 county tax assessor-collector;

8 (9) the secretary of state or a former secretary of
9 state;

10 (10) an employee of a personal bond office, or an
11 employee of a county, who is employed to obtain information
12 required to be obtained under oath if the oath is required or
13 authorized by Article 17.04 or by Article 26.04(n) or (o), Code of
14 Criminal Procedure;

15 (11) the lieutenant governor or a former lieutenant
16 governor;

17 (12) the speaker of the house of representatives or a
18 former speaker of the house of representatives;

19 (13) the governor or a former governor;

20 (14) a legislator or retired legislator;

21 (14-a) the secretary of the senate or the chief clerk
22 of the house of representatives;

23 (15) the attorney general or a former attorney
24 general;

25 (16) the secretary or clerk of a municipality in a
26 matter pertaining to the official business of the municipality;

27 (17) a peace officer described by Article 2.12, Code

1 of Criminal Procedure, if:

2 (A) the oath is administered when the officer is
3 engaged in the performance of the officer's duties; and

4 (B) the administration of the oath relates to the
5 officer's duties; or

6 (18) a county treasurer.

7 SECTION 30. Records described by Section 301.041(b) or
8 301.043, Government Code, as added by this Act, or Section 323.018,
9 Government Code, as amended by this Act, are not subject to request,
10 inspection, or duplication under Chapter 552, Government Code. A
11 governmental body may withhold the records without the necessity of
12 requesting a decision from the attorney general under Subchapter G,
13 Chapter 552, Government Code.

14 SECTION 31. This Act takes effect immediately if it
15 receives a vote of two-thirds of all the members elected to each
16 house, as provided by Section 39, Article III, Texas Constitution.
17 If this Act does not receive the vote necessary for immediate
18 effect, this Act takes effect September 1, 2019.

ADOPTED

MAY 21 2019

Leta Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY:

Kelly Harmon

Amend C.S.H.B. 4181 (senate committee report) by adding the following appropriately numbered SECTION to the bill and renumbering the SECTIONS of the bill as appropriate:

SECTION _____. Subchapter F, Chapter 301, Government Code, as added by this Act, is amended by adding Section 301.072 to read as follows:

Sec. 301.072. STATE BUILDINGS OCCUPIED BY LEGISLATIVE OFFICES AND AGENCIES. (a) This section applies to a state building that is:

(1) occupied by a legislative office or agency;

(2) located in the Capitol complex, as defined by Section 443.0071; and

(3) not described by Section 2165.007(b)(6).

(b) The presiding officers of each house of the legislature, in consultation with the legislative offices or agencies occupying a state building, shall jointly decide the following with respect to a state building to which this section applies, the building's facilities, and the grounds used by occupants of the building:

(1) the use of space by and allocation of space to a legislative office or agency;

(2) security and building access for a legislative office or agency;

(3) the manner in which a legislative office or agency contracts for a construction or remodeling project involving space allocated to the office or agency; and

(4) the timing and logistics of a maintenance or construction activity involving the building, facilities, or grounds that affects a legislative office or agency.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 21, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB4181 by Geren (Relating to the organization and efficient operation of the legislative branch of state government.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: WP, CLo, SD, MMF

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 19, 2019

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB4181 by Geren (Relating to the organization and efficient operation of the legislative branch of state government.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: WP, CLo, SD, MMF

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 15, 2019

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB4181 by Geren (Relating to the organization and efficient operation of the legislative branch of state government.), **As Engrossed**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: WP, CLo, SD, MMF

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 26, 2019

TO: Honorable Charlie Geren, Chair, House Committee on House Administration

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB4181 by Geren (relating to the organization and efficient operation of the legislative branch of state government.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 103 Legislative Council

LBB Staff: WP, KK, SD, MMF

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 2, 2019

TO: Honorable Charlie Geren, Chair, House Committee on House Administration

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB4181 by Geren (Relating to the organization and efficient operation of the legislative branch of state government.), **As Introduced**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: WP, KK, MMF

LEGISLATIVE BUDGET BOARD

Austin, Texas

OPEN GOVERNMENT IMPACT STATEMENT

86TH LEGISLATIVE REGULAR SESSION

May 19, 2019

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB4181 by Geren (Relating to the organization and efficient operation of the legislative branch of state government.), **Committee Report 2nd House, Substituted**

As a result of this bill there will be a restriction upon:

- (1) the open records law; and
- (2) the access to government information.

Source Agencies:

LBB Staff: WP, SD

LEGISLATIVE BUDGET BOARD

Austin, Texas

OPEN GOVERNMENT IMPACT STATEMENT

86TH LEGISLATIVE REGULAR SESSION

May 16, 2019

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB4181 by Geren (Relating to the organization and efficient operation of the legislative branch of state government.), **As Engrossed**

As a result of this bill there will be a restriction upon:

- (1) the open records law; and
- (2) the access to government information.

Source Agencies:

LBB Staff: WP, SD