

House Bill 4181
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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~~

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SECTION 1. Same as House version.

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

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

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

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

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

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

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

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

SECTION 3. The heading to Subchapter B, Chapter 301, Government Code, is amended to read as follows:

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

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

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SECTION 2. Same as House version.

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SECTION 4. Same as House version.

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Sec. 301.014. POWERS AND DUTIES OF STANDING COMMITTEES. (a) Each standing committee shall:

- (1) conduct a continuing study of any matter within its jurisdiction and of the instrumentalities of government administering or executing the matter;
- (2) examine the administration and execution of all laws relating to matters within its jurisdiction;
- (3) conduct investigations to collect adequate information and materials necessary to perform its duties; and
- (4) ~~formulate legislative programs; and~~
~~[(5) initiate, draft, and]~~ recommend to the appropriate house any legislation the committee believes is necessary and desirable.
- (b) ~~The chair of each standing committee shall introduce or cause to be introduced the legislative programs developed by the committee and shall mobilize committee efforts to secure the enactment into law of committee proposals.~~
- ~~(c)~~ Each committee may inspect the records, documents, and files of each state department, agency, or office as necessary to perform the committee's duties.
- ~~(c)~~ ~~(d)~~ A standing committee is not limited in its legislative endeavors to considering bills, resolutions, or other proposals submitted by individual legislators. Each committee shall search for problems within its jurisdiction and develop, formulate, ~~initiate,~~ and recommend ~~secure~~ passage of any legislative solution the committee believes is desirable.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(g) [(h)]~~ All expenses of a general investigating committee, including compensation of the committee's employees and expenses incurred by members, shall be paid out of any appropriation to the legislature under Section 301.029 ~~[for mileage, per diem, and contingent expenses].~~

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

(e) If the general investigating committees decide not to conduct joint hearings as provided by Section 301.019, the committees shall establish a liaison to fully inform each other ~~[the chairman of the inactive committee]~~ of the nature and

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progress of committee inquiries [~~any inquiry by the other committee~~].

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

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

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

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

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

(b) Subject to Subsection (c), a [~~A~~] committee created by 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

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SECTION 10. Same as House version.

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

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

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

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

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

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

Sec. 301.041. COMMUNICATIONS WITH PARLIAMENTARIANS. (a) Communications, including conversations, correspondence, and electronic communications, between a member, officer, or employee of the legislative branch and a parliamentarian appointed by the presiding officer of either house that relate to a request by the member, officer, or employee for information, advice, or opinions from a parliamentarian are confidential and subject to legislative privilege. Information, advice, and opinions given privately by a parliamentarian to a member, officer, or

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SECTION 12. Same as House version.

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

Sec. 301.041. COMMUNICATIONS WITH PARLIAMENTARIANS. (a) Communications, including conversations, correspondence, and electronic communications, between a member, officer, or employee of the legislative branch and a parliamentarian appointed by the presiding officer of either house that relate to a request by the member, officer, or employee for information, advice, or opinions from a parliamentarian are confidential and subject to legislative privilege. Information, advice, and opinions given privately by a parliamentarian to a member, officer, or

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employee of the legislative branch, acting in the member's, officer's, or employee's official capacity, are confidential and subject to legislative privilege. However, the member, officer, or employee of the legislative branch may choose to disclose all or a part of the communications, information, advice, or opinions to which this section applies, and such disclosure does not violate the law of this state.

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

(c) In this section:

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

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

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

(C) the lieutenant governor.

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

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employee of the legislative branch, acting in the member's, officer's, or employee's official capacity, are confidential and subject to legislative privilege. However, the member, officer, or employee of the legislative branch may choose to disclose all or a part of the communications, information, advice, or opinions to which this section applies, and such disclosure does not violate the law of this state.

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

(c) In this section:

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

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

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

(C) the lieutenant governor.

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

Sec. 301.042. COMMUNICATIONS WITH ENGROSSING AND ENROLLING DEPARTMENT. (a) In this section, "department" means an engrossing and enrolling department maintained by either house of the legislature.

(b) Communications, including conversations, correspondence, and electronic communications, between a member of the legislature or the lieutenant governor, an officer of the house or senate, a legislative agency, office, or committee, or a member of the staff of any of those officers or entities and an assistant or employee of a department that

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relate to a request by the officer or entity for information, advice, or opinions from an assistant or employee of the department are confidential and subject to legislative privilege.

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

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

(2) the communication is given privately; and

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

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

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

(f) This section does not affect the authority of a court to analyze and apply attorney-client privilege under the applicable rules of evidence governing a judicial proceeding.
Sec. 301.043. ENGROSSING AND ENROLLING
DEPARTMENT RECORDS OF DRAFTING AND

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OTHER REQUESTS. (a) In this section, "department" has the meaning assigned by Section 301.042(a).
(b) Records relating to requests of department staff for the drafting of proposed legislation or for assistance, information, advice, or opinion are:
(1) subject to legislative privilege; and
(2) not public information and not subject to Chapter 552.

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

Sec. 301.052 [~~301.007~~]. DISTRIBUTION OF JOURNALS.

(a) The lieutenant governor and speaker shall each appoint an employee to distribute the journal of the respective houses.

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

- (1) the governor;
- (2) each member of the legislature; and
- (3) heads of departments, if requested.

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

SUBCHAPTER F. MISCELLANEOUS PROVISIONS

SECTION 16. Section 301.034, Government Code, is transferred to Subchapter F, Chapter 301, Government Code,

SECTION 14. Same as House version.

SECTION 15. Same as House version.

SECTION 16. Same as House version.

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as added by this Act, and redesignated as Section 301.071, Government Code, to read as follows:

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

No equivalent provision.

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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

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(4) the timing and logistics of a maintenance or construction activity involving the building, facilities, or grounds that affects a legislative office or agency. [FA1]

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

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

SECTION 17. Same as House version.

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.

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

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

(e) In this section:

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

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

(3) "Legislative employee" means an employee of, assistant or a person performing services under a contract entered into with either house of the legislature, a committee of either house, or a legislative agency, or credentialed intern for any part of the legislative branch of state government, including

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the house, the senate, a member of the house or senate, the lieutenant governor, an officer of the house or senate, a house or senate committee, a joint committee, or a legislative agency.

Sec. 306.009. CUSTODIAN OF CERTAIN LEGISLATIVE RECORDS. (a) A member of the legislature, the lieutenant governor, an officer of the house or senate, or a legislative agency, office, or committee that stores records with or transfers records to the Legislative Reference Library or the Texas State Library and Archives Commission:

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

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

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

No equivalent provision.

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

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

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

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

(a) The council shall:

- (1) study and investigate the functions and problems of state departments, agencies, and officers;
- (2) conduct investigations and studies and make reports that may be considered useful to the legislative branch of state government;
- (3) gather and disseminate information for the legislature's use;
- (4) meet and perform council functions during the legislative interim;
- (5) make periodic reports to all members of the legislature and keep the legislature fully informed of all issues that may come before the council, any action taken on an issue, and the progress made on an issue;
- (6) report council recommendations to the legislature and, if appropriate, provide drafts of legislation with the report;
- (7) assist the legislature in drafting proposed legislation;
- ~~(8) provide legal advice and other legal services to the legislature; and~~
- (8) provide legal advice and other legal services to the legislature; and
- (9) provide data-processing services to aid members and legislative committees in accomplishing their legislative duties.

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

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SECTION 21. Same as House version.

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Sec. 323.017. CONFIDENTIAL AND PRIVILEGED COMMUNICATIONS. (a) Communications, including conversations, correspondence, and electronic communications, between a member of the legislature or the lieutenant governor, an officer of the house or senate, a legislative agency, office, or committee, or a member of the staff of any of those officers or entities and an assistant or employee of the council that relate to a request by the officer or entity ~~[official]~~ for information, advice, or opinions from an assistant or employee of the council are confidential and subject to legislative privilege.

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

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

(2) the communication is given privately; and

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

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

(d) The ~~[However, the]~~ member of the legislature, ~~[or]~~ lieutenant governor, house or senate officer, or legislative agency, office, or committee may choose to disclose all or a part of the communications, information, advice, or opinions to which this section applies[;] and to which the individual

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~~or entity was a party [such a disclosure does not violate the law of this state].~~

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

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

(1) subject to legislative privilege; and

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

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.

No equivalent provision.

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SECTION 22. Same as House version.

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

(4) "Legislative entity" means a member of the legislature, the lieutenant governor, an officer of the house or senate, or

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a legislative committee, department, or office, but does not include a legislative agency created by Subtitle C, Title 3.

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

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

No equivalent provision.

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

(b) The library shall contain, as may best be made available for legislative use, the following items:

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

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

(3) checklists of public documents in each state;

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

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

(6) legislative records; and

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

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

No equivalent provision.

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

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

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

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

(c) At the close of each legislative session, each daily legislative journal, bill, or resolution possessed by the senate or house sergeant at arms shall be delivered to the library to be managed as a legislative record under Section 324.0085 [~~disposed of at the discretion of the director~~].

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

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

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

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

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

No equivalent provision.

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.

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(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.

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

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

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

(A) the director and librarian of the commission;

(B) the state records administrator; and

(C) the records management officer.

(d) Legislative records shall be transferred to the library or a depository outside the library under Section 324.0086, in accordance with any applicable records retention schedule approved by the director under this section.

(e) A legislative entity may retrieve, for temporary use, records transferred by the legislative entity to the library or a depository outside the library.

The director and library employees shall assist the legislative entity with retrieval of the records, and the legislative entity shall return the records to the library following the legislative entity's use.

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

(g) Under the direction of the public information officer of the legislative entity that transferred a legislative record to

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

Sec. 324.0086. PLACEMENT IN OTHER DEPOSITORY.

(a) A member of the legislature may apply to the board to place records that were created or received by the member's office during the member's term in a depository other than the library.

(b) The board shall:

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

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

(c) The director is responsible for the preservation of records described by Subsection (a) placed in a depository other than

SENATE VERSION (IE)

the library or an authorized depository outside the library, or of the public information officer of the appropriate house of the legislature in the case of a former legislative entity, the director shall respond to requests received under Chapter 552 for the legislative record.

The director shall notify the public information officer responsible for the legislative record as soon as practicable after receiving a request described by this subsection.

(h) The director may:

(1) transfer legislative records to the Texas State Library and Archives Commission for management under Subchapter L, Chapter 441; and

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

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

Sec. 324.0086. PLACEMENT IN OTHER DEPOSITORY.

(a) A member of the legislature may apply to the board to place records that were created or received by the member's office during the member's term in a depository other than the library.

(b) The board shall:

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

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

(c) The director is responsible for the preservation of records described by Subsection (a) placed in a depository other than

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the library. Ownership and legal custody of the records remain with the legislature as provided by Section 324.0085. The records may not be intermingled with other holdings of the institution that serves as a depository.

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

(6-a) "Legislative record" means any record created or received by the office of a member of the legislature or the lieutenant governor during the official's term of office.

(9) "State agency" means:

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

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

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

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

(11) "State record" means any written, photographic, machine-readable, or other recorded information created or received by or on behalf of a state agency or an elected state official that documents activities in the conduct of state

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the library. Ownership and legal custody of the records remain with the legislature as provided by Section 324.0085. The records may not be intermingled with other holdings of the institution that serves as a depository.

No equivalent provision.

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business or use of public resources. The term includes any recorded information created or received by a Texas government official in the conduct of official business, including officials from periods in which Texas was a province, colony, republic, or state. The term does not include:

- (A) library or museum material made or acquired and maintained solely for reference or exhibition purposes;
- (B) an extra copy of recorded information maintained only for reference; ~~or~~
- (C) a stock of publications or blank forms; or
- (D) a legislative record.

No equivalent provision.

SENATE VERSION (IE)

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

Sec. 441.1821. LEGISLATIVE RECORDS MANAGEMENT. (a) As used in this section, "legislative record" has the meaning assigned by Section 324.001. (b) Upon receipt of a request from the Legislative Reference Library for the return of a legislative record in the custody of the commission, the commission shall immediately return the legislative record to the library, at no cost to the library. (c) Notwithstanding any other law, the Legislative Reference Library shall manage legislative records under Chapter 324. To the extent of any conflict, Chapter 324 prevails over this chapter or any other state law relating to the management of state records that are legislative records.

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

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

- (1) a judge, retired judge, or clerk of a municipal court;
- (2) a judge, retired judge, senior judge, clerk, or commissioner of a court of record;
- (3) a justice of the peace or a clerk of a justice court;
- (4) an associate judge, magistrate, master, referee, or criminal law hearing officer;
- (5) a notary public;
- (6) a member of a board or commission created by a law of this state, in a matter pertaining to a duty of the board or commission;
- (7) a person employed by the Texas Ethics Commission who has a duty related to a report required by Title 15, Election Code, in a matter pertaining to that duty;
- (8) a county tax assessor-collector or an employee of the county tax assessor-collector if the oath relates to a document that is required or authorized to be filed in the office of the county tax assessor-collector;
- (9) the secretary of state or a former secretary of state;
- (10) an employee of a personal bond office, or an employee of a county, who is employed to obtain information required to be obtained under oath if the oath is required or authorized by Article 17.04 or by Article 26.04(n) or (o), Code of Criminal Procedure;
- (11) the lieutenant governor or a former lieutenant governor;
- (12) the speaker of the house of representatives or a former speaker of the house of representatives;
- (13) the governor or a former governor;

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SECTION 29. Same as House version.

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- (14) a legislator or retired legislator;
- (14-a) the secretary of the senate or the chief clerk of the house of representatives;
- (15) the attorney general or a former attorney general;
- (16) the secretary or clerk of a municipality in a matter pertaining to the official business of the municipality;
- (17) a peace officer described by Article 2.12, Code of Criminal Procedure, if:
 - (A) the oath is administered when the officer is engaged in the performance of the officer's duties; and
 - (B) the administration of the oath relates to the officer's duties; or
- (18) a county treasurer.

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

No equivalent provision.

SENATE VERSION (IE)

No equivalent provision.

SECTION 30. Records described by Section 301.041(b) or 301.043, Government Code, as added by this Act, or Section 323.018, Government Code, as amended by this Act, are not subject to request, inspection, or duplication under Chapter 552, Government Code. A governmental body may withhold the records without the necessity of requesting a

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

SENATE VERSION (IE)

decision from the attorney general under Subchapter G, Chapter 552, Government Code.

SECTION 31. Same as House version.

CONFERENCE