

BILL ANALYSIS

H.B. 3259
By: Rogers
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

During the COVID-19 pandemic, the Texas Water Development Board (TWDB) conducted open meetings virtually in accordance with executive orders to contain the spread of COVID-19 and the corresponding allowance for virtual and telephonic open meetings. As noted in the TWDB's sunset self-evaluation report, members of the public became accustomed to remote participation by only telephone or audio while that allowance was in place. However, following the allowance's expiration in September 2021, a member of the public may now only participate remotely in TWDB open meetings if the member is capable of using both audio and video. Without an allowance for participation by telephone or audio only, the members of the public most affected are those who do not have the necessary broadcast equipment or sufficient broadband service to participate remotely via videoconference. To participate in open meetings again, these individuals could potentially face long and costly travel to meetings held at the TWDB's headquarters in Austin. Expanding public access to open meetings by telephone or audio could lower barriers to participation for those with connectivity challenges.

The 80th Texas Legislature created the Water Conservation Advisory Council in 2007 and directed the TWDB to appoint membership and provide staff support for the council's work. The council serves as a professional forum for the continuing development of water conservation resources, expertise, and progress evaluation, and its 23 members represent a diverse group of entities and interest groups. Each biennium, the council prepares a legislative report detailing progress made in water conservation in Texas as well as recommendations to advance such conservation. The council may hold public meetings to accomplish its work, but existing requirements of the state open meetings law as applied to the council are unclear. During the COVID-19 pandemic, the council conducted its work virtually in accordance with executive orders and corresponding allowance for virtual and telephonic open meetings. Since that allowance expired in September 2021, the council has adhered to in-person quorum requirements. The volunteer members of the council spend considerable time and resources traveling to attend meetings in addition to their regular employment. Clarity regarding requirements for council meetings under the state open meetings law could lower barriers to participation for volunteers, prevent volunteer fatigue, and provide additional options for public participation and attendance. Under an allowance as proposed by the bill, all meetings would still be subject to notice requirements and would still be required to offer a physical location where the chairperson is present and that is open to the public, with the addition of two-way communication capabilities. This allowance would simply require only the chairperson, rather than a quorum of these volunteers spread throughout Texas, to participate at a physical location.

H.B. 3259 seeks to address these issues by providing certain authority for the TWDB to allow a member of the public to testify at a TWDB meeting from a remote location by telephone conference call or videoconference call and for the council to hold an open or closed meeting by videoconference call.

CRIMINAL JUSTICE IMPACT

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

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 3259 amends the Water Code to authorize the Texas Water Development Board (TWDB) to allow a member of the public to testify at a TWDB meeting from a remote location by the following:

- telephone conference call, if the voice of each member of the public testifying by such call is audible to each other participant while the testifying participant is speaking; or
- videoconference call in accordance with videoconference call provisions of the state open meetings law.

The bill authorizes the Water Conservation Advisory Council to hold an open or closed meeting by videoconference call in accordance with those provisions' certain physical presence requirement for the member presiding over the meeting.

EFFECTIVE DATE

September 1, 2023.