

BILL ANALYSIS

H.B. 3627
By: Paddie
State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Catastrophic events such as hurricanes and tornados can make it difficult for impacted governmental bodies to timely respond to public information requests as these events can disrupt the ability of employees to work and shut down government offices. As a result, state law allows governmental bodies impacted by a catastrophe to temporarily suspend the requirements of state public information law until the impact of the catastrophe is no longer such that the public information requests cannot be responded to.

It has been reported that some governmental bodies are attempting to use this authority in response to the COVID-19 pandemic, even though agencies are fully staffed and the remote work environment does not impact the accessibility of much of the information requested, which exists in electronic format. Additionally, these reports indicate that certain governmental bodies are abusing the authority to renew or reissue suspensions of the requirements, thus creating extended periods during which the public is unable to obtain information to which they are otherwise entitled.

While a temporary suspension of the requirements to reply to public information requests is necessary during a truly catastrophic event, this reported use and overuse is not consistent with the intent of the law. H.B. 3627 seeks to address this issue and ensure that the public retains the right to request and receive public information by limiting what constitutes a catastrophe that qualifies an impacted governmental body to suspend the requirements of state public information law and allowing the requirements to be suspended once per catastrophe with a maximum period of suspension of 14 consecutive calendar days.

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. 3627 amends the Government Code to narrow the scope of certain provisions authorizing a governmental body impacted by a qualifying catastrophe to temporarily suspend the requirements of state public information law by requiring that the condition or occurrence constituting a catastrophe that interferes with the governmental body's ability to comply with the requirements do so directly and specifying that a catastrophe does not mean a period when a governmental body's physical office is closed but staff is required to work remotely and can access information responsive to an application for public information electronically.

H.B. 3627 makes further revisions to the provisions authorizing the temporary suspension of the requirements of state public information law as follows:

- requires that the impact of the catastrophe be significant and such that it directly causes the inability of a governmental body to comply with the requirements;
- prohibits a governmental body that initiates an initial suspension period from initiating another suspension period related to the same catastrophe, except for a single extension period;
- prohibits the combined suspension period following the initial suspension and any extension thereafter from exceeding 14 consecutive calendar days with respect to any single catastrophe; and
- requires a governmental body to immediately resume compliance with all requirements of state public information law upon conclusion of any suspension period.

H.B. 3627 sets out a provision to add the following to certain law:

- a governmental body that closes its physical offices but requires staff to work, including remotely, is required to make a good faith effort to continue responding to applications for public information, to the extent staff have access to public information responsive to an application, while its administrative offices are closed, pursuant to certain law while its administrative offices are closed; and
- failure to respond to requests in that manner may constitute a refusal to request an attorney general's decision or a refusal to supply public information or information that the attorney general has determined is public information that is not excepted from disclosure under certain law.

EFFECTIVE DATE

September 1, 2021.