

SUBJECT: Limiting catastrophe conditions for suspending public information laws

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 13 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson, Smithee

0 nays

WITNESSES: For — Jessica Priest, Fort Worth Report; (*Registered, but did not testify*: Kelley Shannon, Freedom of Information Foundation of Texas; Laura Prather, Freedom of Information Foundation of Texas and Transparent and Accountable Government Coalition; Joseph Coleman, Hill Country News; Sarah Floerke Gouak, Lower Colorado River Authority; Michael Schneider, Texas Association of Broadcasters; Pamela McPeters, Texas Classroom Teachers Association; Donnis Baggett and Mike Hodges, Texas Press Association; James Quintero, Texas Public Policy Foundation; Carrie Griffith, Texas State Teachers Association; Detrese Harkey)

Against — (*Registered, but did not testify*:; Trey Salinas, CCARE - Austn's Large Commercial and Industrial Customers; Amber Hausenfluck, City of McAllen; Sarah Murphy)

On — Jaie Avila, WOAI-TV, San Antonio; (*Registered, but did not testify*: Justin Gordon, Office of Attorney General)

BACKGROUND: Government Code sec. 552.233 allows a governmental body to suspend temporarily the requirements of the Texas Public Information Act if it is impacted by a catastrophe. The initial suspension period cannot exceed seven consecutive days but can be extended one time for an additional period of seven consecutive days that begins on the day following the last day of the initial suspension period.

Concerns have been raised that the use of this authority during the COVID-19 pandemic is not consistent with the intent of the law. Some

have reported that governmental bodies are using this authority in response to the pandemic even though agencies are fully staffed and much of the requested information is available electronically in the remote work environment.

DIGEST:

HB 3627 would specify that a catastrophe for which a governmental body could suspend temporarily the requirements of the Texas Public Information Act would not include a period when the physical office of the governmental body was closed but staff was required to work remotely and electronically could access information responsive to a public information request.

The bill also would specify that in order to suspend temporarily the requirements of public information laws, a governmental body would have to be significantly impacted by a catastrophe such that the catastrophe directly caused the inability of a governmental body to comply with the requirements.

Under the bill, a governmental body could suspend public information requirements only once for each catastrophe, and could only initiate a single extension related to the same catastrophe. The combined suspension periods could not exceed a total of 14 consecutive calendar days. Upon the conclusion of any suspension period, the governmental body immediately would have to resume compliance with all requirements of the Texas Public Information Act.

Except for the temporary suspension of public information requirements related to a catastrophe, if a governmental body closed its physical offices but required staff to work, including remotely, the body would have to make a good faith effort to continue responding to public information requests. Failure to respond could constitute a refusal to request an attorney general's decision or a refusal to supply public information.

The bill would take effect September 1, 2021.