

**SUBJECT:** Amending certain operations of the Legislature

**COMMITTEE:** House Administration — committee substitute recommended

**VOTE:** 11 ayes — Geren, Howard, Anchia, Anderson, Flynn, Ortega, Parker, Sanford, Sherman, Thierry, E. Thompson

0 nays

**WITNESSES:** None

**BACKGROUND:** Interested parties suggest that state law should be updated to reflect the current practices of the legislative branch of government.

**DIGEST:** CSHB 4181 would make certain changes to the operation of the Legislature, including amending statutes regarding confidential communications, the convening of the Legislature, and the operations of committees.

**Legislative privilege.** The bill would specify that a communication was confidential and subject to legislative privilege if it was given privately, concerned a legislative activity or function, and was among or between a member or officer of either house, the lieutenant governor, a member of the governing body of a legislative agency, or a legislative employee.

Communications that were confidential and subject to legislative privilege would include:

- certain communications, including conversations, correspondence, and electronic communications, with a parliamentarian that relate to a request for information, advice, or opinions; and
- certain communications with staff of the Texas Legislative Council, including records relating to requests for the drafting of proposed legislation.

The bill would specify that certain communications were subject to

attorney-client privilege if one of the parties was a legislative attorney and the communication was made in connection with the attorney's provision of legal advice or services.

A member of the Legislature, the lieutenant governor, or an officer of either house who was a party to a communication could choose to disclose all or part of an otherwise confidential communication.

**Legislative records.** CSHB 4181 would make certain employees of the Legislature that stored records with or transferred records to the Legislative Reference Library or the Texas State Library and Archives Commission custodians of records for the purpose of public information laws. Those individuals also would possess, maintain, or control the records for purposes of litigation.

A member of the Legislature or certain legislative employees who used a system made available by the Texas Legislative Council to transmit, store, or maintain records would control the records for purposes of litigation and would be the custodian of the records.

The bill would define "legislative record" as any record created or received by the office of a member of the Legislature or the lieutenant governor during the official's term. A legislative record would not be considered a state record.

**Record requests.** Records relating to requests made of a parliamentarian or Texas Legislative Council staff would not be subject to request, inspection, or duplication under public information laws. A governmental body could withhold the records without a decision from the attorney general.

**Legislative Reference Library.** The Legislative Reference Library would be the depository for any legislative record. A member of the Legislature also could apply to the Legislative Library Board to place records in a depository other than the library.

The depository director would be responsible for the preservation of records in a depository other than the library. Ownership and legal custody of the records would remain with the Legislature, and the records could not be intermingled with other holdings.

The library director would have to 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. The bill would require the director to notify the appropriate public information officer upon a disclosure request as soon as practicable.

**Convening the Legislature.** CSHB 4181 would make amendments to statutes regarding the convening of the Legislature, including:

- requiring the lieutenant governor, or a designated senator, to attend and preside at the organization of the Senate;
- requiring the secretary of the Senate from the previous session, if present, to act as temporary secretary;
- specifying that the secretary of the Senate or chief clerk would call the members of each house by district in numerical order;
- requiring the presiding officer of each house to ensure that a journal of the proceedings were kept;
- specifying that the presiding officer of a house of the Legislature and the secretary of the Senate or chief clerk would have to attend each day until a quorum was present; and
- other changes made by the bill.

**Standing committees.** CSHB 4181 would remove the requirement of each standing committee to formulate legislative programs and initiate and draft certain legislation.

The bill would allow committees to meet in any location in the state as authorized by an adopted rule of the house during the interim. The bill also would allow each house to create special committees individually or jointly by rule.

**General investigating committees.** CSHB 4181 would require the president of the Senate or the House speaker to designate the chairman and vice chairman of a Senate or House general investigating committee, respectively. A vice chairman and secretary no longer would be selected by the committee members.

A quorum of a joint general investigating committee would be constituted by a majority from each house's committee, rather than seven total members.

The bill would specify that information held by a general investigating committee would be confidential except as provided by the rules of the house establishing the committee.

**Other provisions.** CSHB 4181 would make certain amendments regarding the presiding officers' authority to make decisions on contracts for construction and maintenance of the Robert E. Johnson Sr. legislative office building.

The bill also would increase the maximum aggregate contributions allowed from a contributor for the speaker's reunion day ceremony from \$500 to \$1,000 cash or value.

An oath made in this state could be administered and certified by the secretary of the Senate or the chief clerk of the House.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.