

SUBJECT: Creating the legislative public health oversight board; revising definitions

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

SENATE VOTE: On final passage, April 19 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — None

Against — None

On — John Carlo, Texas Medical Association and Texas Public Health Coalition; (*Registered, but did not testify*: Barbara Klein and Jennifer Sims, Department of State Health Services)

BACKGROUND: Health and Safety Code sec. 81.003 defines "public health disaster" as:

- a state of disaster declared by the governor; and
- a determination by the commissioner of the Department of State Health Services (DSHS) that there is an immediate threat from a communicable disease that poses a high risk of death or serious long-term disability and creates a substantial risk of public exposure.

Under sec. 81.082, a declaration of a public health disaster may continue for a maximum of 30 days. A public health disaster may be renewed one time by the commissioner of DSHS for an additional 30 days.

DIGEST: SB 966 would revise and add definitions under Health and Safety Code ch. 81 and would establish the legislative public health oversight board.

The bill would revise the definition of "public health disaster" under

current law to mean:

- a state of disaster declared by the governor; and
- a determination by the commissioner of the Department of State Health Services (DSHS) that there was an immediate threat from a communicable disease, health condition, or chemical, biological, radiological, or electromagnetic exposure that posed a high risk of death or serious harm to the public and created a substantial risk of harmful public exposure.

"Public health emergency" would be defined as a determination by the DSHS commissioner, evidenced in a commissioner-issued emergency order, that there was an immediate threat from a communicable disease, health condition, or chemical, biological, radiological, or electromagnetic exposure that:

- potentially posed a risk of death or severe illness or harm to the public; and
- potentially created a substantial risk of harmful exposure to the public.

Public health disaster or emergency. The bill would specify that a declaration of a public health disaster or an order of public health emergency under Health and Safety Code sec. 81.082 could continue for a maximum of 30 days after the date the disaster or emergency was declared or ordered by the commissioner of DSHS.

Renewal. A public health disaster or public health emergency could be renewed by the Legislature or the legislative public health oversight board, rather than the DSHS commissioner, for an additional 30 days. A disaster declaration or order of emergency could be renewed more than one time, and each renewal period could not exceed 30 days.

If the Legislature or the legislative public health oversight board was unable to meet to consider renewing a declaration of a public health disaster or an order of a public health emergency, the declaration or order

would continue until the Legislature or the board met unless the DSHS commissioner or governor terminated the declaration or order.

By the seventh day after the date the commissioner of DSHS issued an initial declaration of a public health disaster or an order of a public health emergency, the commissioner would have to consult with the chairs of the standing committees of the Senate and House with primary jurisdiction over public health regarding the disaster or emergency.

Legislative public health oversight board. SB 966 would establish the legislative public health oversight board to provide oversight for declarations of public health disasters and orders of public health emergencies issued by the commissioner of DSHS and perform other specified duties.

Membership. The board would consist of:

- the lieutenant governor and House speaker, who would be joint chairs of the board;
- the chair of the Senate committee and the chair of the House committee with primary jurisdiction over public health;
- a member of the Senate appointed by the lieutenant governor; and
- a member of the House appointed by the speaker.

As soon as practicable after the bill's effective date, the lieutenant governor and House speaker would have to appoint the legislative members to the legislative public health oversight board.

Meetings. Under the bill, the board would have to meet in Austin, with certain exceptions, and would have to meet as often as necessary to perform the board's duties. Board meetings could be held at any time at the request of either chair or on written petition of a majority of the board members from each house of the Legislature.

As an exception to state open meetings laws and other law, for a meeting in Austin at which both joint chairs of the board were physically present,

any number of the other board members could attend the meeting by telephone conference call, video conference call, or other similar telecommunication device.

A board meeting held by use of telephone conference call, video conference call, or other similar telecommunication device:

- would be subject to the notice requirements applicable to other meetings;
- would have to specify in the notice of the meeting the location in Austin in which the joint chairs would be physically present;
- would have to be open to the public and audible to the public at the location specified in the required notice; and
- would have to provide two-way audio communication between all board members in attendance during the entire meeting.

Effective date. This 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, 2021.

**SUPPORTERS
SAY:**

SB 966 would address calls to include the Legislature in decision-making during future public health disasters and emergencies by establishing the legislative public health oversight board. After the Department of State Health Services (DSHS) declared a public health disaster for Texas on March 12, 2020, in relation to the COVID-19 pandemic, concerns were raised that legislative oversight was bypassed despite many Texans seeking clarification on or modification to the declaration. The creation under the bill of the legislative oversight board would ensure the voices of the Legislature were not sidelined during future public health disasters and emergencies and that elected representatives were involved in the decision-making process. Creating the board also would provide a better balance of powers and improve accountability for DSHS.

**CRITICS
SAY:**

By establishing a legislative public health oversight board, SB 966 could hinder the state from responding efficiently to mitigate the spread of a communicable disease during a public health disaster or emergency.

Additionally, the bill should include members with medical expertise on the legislative oversight board to ensure qualified persons were consulted on public health measures.