

BILL ANALYSIS

Senate Research Center

S.B. 1225
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In the past, catastrophes, natural disasters, and other similar emergencies rendered it difficult or impossible for impacted governmental bodies to timely respond to Texas Public Information Act (TPIA) requests, either due to emergency work related to the catastrophe or, in some cases, because government offices were closed due to inaccessibility or damage. S.B. 494 (86R) codified a long-standing informal practice of allowing governmental bodies, on rare occasions, to temporarily suspend certain TPIA provisions during a catastrophe.

Before the COVID-19 pandemic, the catastrophe notice provision of the TPIA was rarely used. However, when pandemic-related closures began in March 2020, dozens of governmental bodies across Texas filed catastrophe notices. Certain governmental bodies abused the temporary suspension process, requesting multiple, consecutive catastrophe notices. This allowed for roadblocks to information at a time when Texans most needed to ask questions and obtain information. While a temporary suspension of responding to TPIA requests may be necessary during a disaster, overuse of the catastrophe notice provision is not consistent with the spirit of the law.

S.B. 1225 seeks to amend the Texas Government Code to specify that:

a catastrophe notice and suspension of the TPIA should not be allowed unless the incident significantly impacts a governmental body and directly causes the inability of a governmental body to comply with requirements of the act;

a catastrophe does not apply to periods in which a governmental body is required to work remotely, but can still electronically access requested information and otherwise respond to TPIA requests; and

a catastrophe notice allows the suspension of TPIA provisions once per catastrophe, with an optional one-time extension.

As proposed, S.B. 1225 amends current law relating to the authority of a governmental body impacted by a catastrophe to temporarily suspend the requirements of the public information law.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 552.233, Government Code, as added by Chapter 462 (S.B. 494), Acts of the 86th Legislature, Regular Session, 2019, as follows:

(a) Provides that, in Section 552.233 (Temporary Suspension of Requirements for Governmental Body Impacted by Catastrophe):

(1) "catastrophe" is redefined as a condition or occurrence that directly interferes, rather than interferes, with the ability of a governmental body to comply with certain requirements of Chapter 552 (Public Information).

(2) "catastrophe" does not mean a period when staff is required to work remotely and can access information responsive to an application for information electronically, but the physical office of the governmental body is closed.

(3) makes a conforming change.

(b) Provides that the requirements of Chapter 552 do not apply to a governmental body during the suspension period determined by the governmental body under Subsections (d) and (e) if the governmental body:

(1) is currently significantly impacted by a catastrophe such that the catastrophe directly causes the inability of a governmental body to comply with the requirements of Chapter 552; and

(2) makes no change to this subdivision.

(d) Authorizes a governmental body to suspend the applicability of the requirements of Chapter 552 to the governmental body for an initial suspension period. Authorizes the governmental body to suspend the applicability of the requirements of Chapter 552 under this subsection only once for each catastrophe.

(e) Authorizes a governmental body to extend an initial suspension period if the governing body determines that the governing body is still impacted by the catastrophe on which the initial suspension period was based. Authorizes the initial suspension period to be extended one time for not more than seven consecutive days that begin on the day following the day the initial suspension period ends. Requires the governing body to submit notice of the extension to the office of the attorney general on the form prescribed by the office under Subsection (l), rather than Subsection (j).

(f) Prohibits a governmental body that initiates a suspension period under Subsection (d) from initiating another suspension period related to the same catastrophe, except for a single extension period as prescribed in Subsection (e).

(g) Prohibits the combined suspension period for a governmental body filing under Subsections (d) and (e) from exceeding a total of 14 consecutive calendar days with respect to any single catastrophe.

(h) - (l) Makes nonsubstantive changes to these subsections.

(m) Requires the governmental body, upon conclusion of any suspension period initiated pursuant to Subsections (d) or (e), to immediately resume compliance with all requirements of Chapter 552.

SECTION 2. Adds Section 552.2211 as follows:

Sec. 552.2211. PRODUCTION OF PUBLIC INFORMATION WHEN ADMINISTRATIVE OFFICES CLOSED. (a) Requires a governmental body, except as provided by Section 552.233, if a governmental body closes its physical offices, but requires staff to work, including remotely, 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, pursuant to this chapter while its administrative offices are closed.

(b) Provides that failure to respond to requests in accordance with Subsection (a) may constitute a refusal to request an attorney general's decision as provided by Subchapter G (Attorney General Decisions) 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 Subchapter C (Information

Excepted From Required Disclosure) as described by Subsection 552.321(a) (relating to the conditions in which a requestor or the attorney general is authorized to file suit for a writ of mandamus).

SECTION 3. Effective date: September 1, 2021.