

BILL ANALYSIS

C.S.H.B. 2683
By: Canales
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

During the COVID-19 pandemic, governmental bodies have been holding open meetings remotely. While many of these meetings have been conducted successfully, some have had issues with public access, such as inadequate accommodation for the public to observe and participate or unfair restrictions for individuals wishing to speak. C.S.H.B. 2683 seeks to resolve this issue by requiring the broadcasting of meetings not otherwise physically accessible and establishing requirements for public access to open meetings at which at least a majority of the members of the governmental body holding the meeting are participating remotely, including requirements for the public posting of certain meeting information and the timely recording and uploading of meetings.

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

C.S.H.B. 2683 amends the Government Code to require a meeting notice issued by a governmental body to include the following:

- for an open meeting, an agenda of the subjects to be considered so that the public is aware of the subjects for public deliberation; and
- for a closed meeting, the subjects to be considered to the extent foreseeable at the time the notice is posted.

The bill prohibits a governmental body from conducting a closed meeting on a subject not included in the notice unless it determines by official action during the open meeting for which the notice was posted that the necessity of considering the subject was not reasonably foreseeable at the time the notice was posted.

C.S.H.B. 2683 requires a governmental body to broadcast an open meeting over the Internet if the physical location of the meeting is not accessible to members of the public or is not large enough to accommodate all persons seeking to attend the meeting in person, including if the location's capacity is reduced because of a public emergency or disaster. The bill requires the broadcast website to provide free and open access for members of the public.

C.S.H.B. 2683 sets out public access procedures for an open meeting of a governmental body at which at least a majority of the members of the body participate by a method other than by appearing in person at the meeting's physical location, including by telephone conference or

videoconference call. These procedures are in addition to existing law governing open meetings in general and prevail over other law to the extent of a conflict. The bill requires an applicable meeting to be recorded and made publicly available not later than 24 hours after the meeting adjourns.

C.S.H.B. 2683 requires notice of the meeting to comply with the requirements of state open meetings law and also to include the following information:

- a list of each physical location where a member of the public may observe and participate in the meeting, including:
 - any location that is open to the public where a member of the governmental body intends to participate in the meeting; and
 - any facility provided by the governmental body for a member of the public to observe or speak at the meeting;
- a toll free telephone number that members of the public may use to hear and, if applicable, speak at the meeting;
- access information for any applicable audiovisual or audio-only feeds; and
- instructions for a member of the public to speak at the meeting from a remote location or while physically present at a location listed in the notice.

C.S.H.B. 2683 requires the body holding the meeting to do the following:

- ensure that members of the public are able to listen to and, if applicable, speak at the meeting by telephone;
- make the meeting audible to the public by telephone and at each location listed in the notice;
- if the meeting is broadcast live over the Internet or held at least partly by videoconference call, provide public access to both audiovisual and audio-only Internet feeds; and
- if applicable, allow public testimony by telephone or videoconference call.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2683 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute clarifies that the requirement for a governmental body to include the subjects to be considered in a closed meeting in the meeting notice applies only to the extent those subjects are foreseeable at the time the notice is posted. The substitute includes a prohibition against the body conducting a closed meeting on a subject not included in the notice unless the body determines by official action during the open session of the meeting that the necessity of considering the subject was not reasonably foreseeable at the time the notice was posted.

The substitute revises the applicability of the public access procedures set out by the bill for certain open meetings to clarify that the procedures apply to an open meeting of a governmental body at which at least a majority of the members of the body participate by a method other than by appearing in person at the meeting's physical location.