

SUBJECT: Creating a limitations period for certain actions under open meetings laws

COMMITTEE: Government Transparency and Operation — committee substitute recommended

VOTE: 7 ayes — Elkins, Capriglione, Gonzales, Lucio, Shaheen, Tinderholt, Uresti

0 nays

WITNESSES: For — Don Glywasky, City of Galveston; (*Registered, but did not testify*: Tom Tagliabue, City of Corpus Christi; Mark Mendez, Tarrant County; John Dahill, Texas Conference of Urban Counties; Zindia Thomas, Texas Municipal League)

Against — Mike Kelly, Pine Forest Investment Group; Donnis Baggett, Texas Press Association; (*Registered, but did not testify*: Kelley Shannon, Freedom of Information Foundation of Texas; Terri Hall, Texans Uniting for Reform and Freedom (TURF); Michael Schneider, Texas Association of Broadcasters)

BACKGROUND: The Open Meetings Act (Government Code, ch. 551) governs open meetings requirements for governmental bodies. Sec. 551.141 establishes that an action taken by a governmental body in violation of the act is voidable. Sec 551.142 allows an individual to bring an action by mandamus or injunction to stop, prevent, or reverse a violation or threatened violation of the act by members of a governmental body.

Civil Practice and Remedies Code, sec. 16.051 establishes that for every action for which there is no express limitations period, it must be brought within four years after the day the cause of action accrues.

DIGEST: CSHB 1784 would establish a limitations period on actions brought under Government Code, secs. 551.141 and 551.142. A person would have to bring a suit or an action within two years after the alleged violation occurred or after it should reasonably have been discovered.

The bill would take effect September 1, 2017, and would apply only to a violation that occurred on or after that date.

**SUPPORTERS
SAY:**

CSHB 1784 would create a reasonable time frame for individuals to file actions against a governmental body claiming a violation of the Open Meetings Act. Currently, a statute of limitations is not established for these actions, which can cause undue financial harm to third parties or delay development projects if an action is not brought on a decision in a timely manner.

While the default limitations period under the Civil Practice and Remedies Code is four years, the bill would set a two-year limitations period, which would be more equitable for all involved parties by ensuring that citizens would have ample opportunity to bring forth their claim while protecting third parties from undue harm.

**OPPONENTS
SAY:**

CSHB 1784 could negatively affect government transparency. One of the protections citizens have to ensure that government business is conducted with public awareness is the ability to bring action against a governmental body alleged to be in violation of the Open Meetings Act. The time an individual would have to discover and investigate an alleged violation would be cut in half, thereby reducing the efficiency of the act.

The default four-year limitations period already is reasonable and is not known to be taken advantage of by complainants.