



Testimony

HB 1656

Testimony Before the Texas House Committee on State Affairs

by Shelby Sterling, Policy Analyst

Mr. Chairman and Members of the Committee:

My name is Shelby Sterling, and I am a policy analyst at the Texas Public Policy Foundation. Thank you for the opportunity to address the committee today. I am testifying in support of House Bill 1656.

[Texas Government Code Chapter 418](#), also known as the Texas Disaster Act of 1975, grants broad but temporary emergency powers to the governor and certain local officials, albeit in unequal measure. During the COVID-19 pandemic, officials used this authority to impose a wide variety of rules and restrictions on Texans. As evidenced in the Foundation's research, some of these new regulations imposed at the local level have been burdensome and many conflicted with state orders.*

Events over the past 12 months have sparked concerns over the broad scope and aggressive application of these emergency powers. While circumstances may warrant the use of such powers, they are not unlimited, nor are government officials allowed to create their own extrajudicial concepts.

Despite this fact, government overreach has been a persistent problem at the local level, with local officials taking alarming actions, such as extending disaster declarations indefinitely; proposing excessive fines and criminal penalties for non-compliance; threatening to commandeer private property; imposing unconstitutional demands on houses of worship; and placing onerous restrictions on certain businesses, such as the requirement that restaurants track customers.

Not only have local authorities overstepped their jurisdiction by implementing additional restrictions to those already imposed by the state, but they have also imposed rules directly in conflict with the state's orders. Such direct conflict with state orders caused confusion and led to lawsuits and court involvement to clear up the discrepancies. Two distinct examples of this occurred in the [city of Austin](#) and the [city of El Paso](#). Both cities attempted to impose new stay-at-home restrictions, which were in direct conflict with the state's most recent order. Although state authority prevailed, these instances of local overreach caused unnecessary confusion for Texans and stole time and focus away from pandemic response.

These examples of government overreach highlight two problems: abuse of local emergency powers and conflict between state and local disaster orders. The degree to which local governments have acted in authoritarian fashion reveals the need for reform of Chapter 418. Differing emergency orders from state and local governments in response to COVID-19 have led to confusion and chaos. Broad interpretations of current law opened the door to allow local governments the opportunity to abuse such powers.

HB 1656 takes aim at these issues by ensuring that there is consistency in disaster response. This bill would clarify that under the Texas Disaster Act of 1975, state emergency orders supersede any conflicting orders by local authorities. In times of disaster, focus should not be on figuring out which emergency order should be followed or if a local order is proper. Instead, focus should remain on responding to the emergency at hand. Texans need clarity and direct answers during a disaster, not confusion of conflicting state and local orders.

We support HB 1656, which would bring clarity to Texans during a disaster. Thank you for your time and consideration. I will be happy to answer any questions you may have. ★

* For examples of unreasonable rules and restrictions, see [Exposing Overreach: Tarrant County](#); [Exposing Overreach: Harris County](#); and [Austin's Next Power Grab](#).

ABOUT THE AUTHOR



Shelby Sterling, JD, is a policy analyst for the Government for the People campaign at the Texas Public Policy Foundation.

Sterling is a licensed attorney in the state of Texas with a JD from Texas A&M University School of Law in Fort Worth. She participated in the law school's residency externship program and graduated with a concentration in public policy. Sterling received her BA in Letters from the University of Oklahoma, a combination study of philosophy, history, and literature on the U.S. Constitution and the Founding Fathers.

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