

GOVERNMENT CODE

CHAPTER 551. OPEN MEETINGS

Subchapter A. General Provisions

§ 551.001. Definitions

In this chapter:

- (1) “Closed meeting” means a meeting to which the public does not have access.
- (2) “Deliberation” means a verbal exchange during a meeting between a quorum of a governmental body, or between a quorum of a governmental body and another person, concerning an issue within the jurisdiction of the governmental body or any public business.
- (3) “Governmental body” means:
 - (A) a board, commission, department, committee, or agency within the executive or legislative branch of state government that is directed by one or more elected or appointed members;
 - (B) a county commissioners court in the state;
 - (C) a municipal governing body in the state;
 - (D) a deliberative body that has rulemaking or quasi-judicial power and that is classified as a department, agency, or political subdivision of a county or municipality;
 - (E) a school district board of trustees;
 - (F) a county board of school trustees;
 - (G) a county board of education;
 - (H) the governing board of a special district created by law;
 - (I) a local workforce development board created under Section 2308.253;
 - (J) a nonprofit corporation that is eligible to receive funds under the federal

community services block grant program and that is authorized by this state to serve a geographic area of the state; and

- (K) a nonprofit corporation organized under Chapter 67, Water Code, that provides a water supply or wastewater service, or both, and is exempt from ad valorem taxation under Section 11.30, Tax Code.

(4) “Meeting” means:

- (A) a deliberation between a quorum of a governmental body, or between a quorum of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered or during which the governmental body takes formal action; or

(B) except as otherwise provided by this subdivision, a gathering:

- (i) that is conducted by the governmental body or for which the governmental body is responsible;
- (ii) at which a quorum of members of the governmental body is present;
- (iii) that has been called by the governmental body; and
- (iv) at which the members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the governmental body, about the public business or public policy over which the governmental body has supervision or control. The term does not include the gathering of a quorum of a governmental body at a social function unrelated to the public business that is conducted by the body, or the attendance by a quorum of a governmental body at a regional, state, or national convention or workshop, if formal action is not taken and any discussion of public business is incidental to the social function, convention, or workshop. The term includes a session of a governmental body.

(5) “Open” means open to the public.

(6) “Quorum” means a majority of a governmental body, unless defined differently by applicable law or rule or the charter of the governmental body.

§ 551.0015. Certain Property Owners' Associations Subject to Law

- (a) A property owners' association is subject to this chapter in the same manner as a governmental body if:
 - (1) membership in the property owners' association is mandatory for owners or for a defined class of owners of private real property in a defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more;
 - (2) the property owners' association has the power to make mandatory special assessments for capital improvements or mandatory regular assessments; and
 - (3) the amount of the mandatory special or regular assessments is or has ever been based in whole or in part on the value at which the state or a local governmental body assesses the property for purposes of ad valorem taxation under Section 20, Article VIII, Texas Constitution.
- (b) The governing body of the association, a committee of the association, and members of the governing body or of a committee of the association are subject to this chapter in the same manner as the governing body of a governmental body, a committee of a governmental body, and members of the governing body or of a committee of the governmental body.

§ 551.002. Open Meetings Requirement

Every regular, special, or called meeting of a governmental body shall be open to the public, except as provided by this chapter.

§ 551.003. Legislature

In this chapter, the legislature is exercising its powers to adopt rules to prohibit secret meetings of the legislature, committees of the legislature, and other bodies associated with the legislature, except as specifically permitted in the constitution.

§ 551.0035. Attendance by Governmental Body at Legislative Committee or Agency Meeting

- (a) This section applies only to the attendance by a quorum of a governmental body at a meeting of a committee or agency of the legislature. This section does not apply to attendance at the meeting by members of the legislative committee or agency holding the meeting.

- (b) The attendance by a quorum of a governmental body at a meeting of a committee or agency of the legislature is not considered to be a meeting of that governmental body if the deliberations at the meeting by the members of that governmental body consist only of publicly testifying at the meeting, publicly commenting at the meeting, and publicly responding at the meeting to a question asked by a member of the legislative committee or agency.

§ 551.004. Open Meetings Required by Charter

This chapter does not authorize a governmental body to close a meeting that a charter of the governmental body:

- (1) prohibits from being closed; or
- (2) requires to be open.

Subchapter B. Record of Open Meeting

§ 551.021. Minutes or Tape Recording of Open Meeting Required

- (a) A governmental body shall prepare and keep minutes or make a tape recording of each open meeting of the body.
- (b) The minutes must:
 - (1) state the subject of each deliberation; and
 - (2) indicate each vote, order, decision, or other action taken.

§ 551.022. Minutes and Tape Recordings of Open Meeting: Public Record

The minutes and tape recordings of an open meeting are public records and shall be available for public inspection and copying on request to the governmental body's chief administrative officer or the officer's designee.

§ 551.023. Recording of Meeting by Person in Attendance

- (a) A person in attendance may record all or any part of an open meeting of a governmental body by means of a tape recorder, video camera, or other means of aural or visual reproduction.

- (b) A governmental body may adopt reasonable rules to maintain order at a meeting, including rules relating to:
 - (1) the location of recording equipment; and
 - (2) the manner in which the recording is conducted.
- (c) A rule adopted under Subsection (b) may not prevent or unreasonably impair a person from exercising a right granted under Subsection (a).

Subchapter C. Notice of Meetings

§ 551.041. Notice of Meeting Required

A governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body.

§ 551.0411. Meeting Notice Requirements in Certain Circumstances.

(a) Section 551.041 does not require a governmental body that recesses an open meeting to the following regular business day to post notice of the continued meeting if the action is taken in good faith and not to circumvent this chapter. If an open meeting is continued to the following regular business day and, on that following day, the governmental body continues the meeting to another day, the governmental body must give written notice as required by this subchapter of the meeting continued to that other day.

(b) A governmental body that is prevented from convening an open meeting that was otherwise properly posted under Section 551.041 because of a catastrophe may convene the meeting in a convenient location within 72 hours pursuant to Section 551.045 if the action is taken in good faith and not to circumvent this chapter. If the governmental body is unable to convene the open meeting within those 72 hours, the governmental body may subsequently convene the meeting only if the governmental body gives written notice of the meeting as required by this subchapter.

(c) In this section, "catastrophe" means a condition or occurrence that interferes physically with the ability of a governmental body to conduct a meeting, including:

- (1) fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
- (2) power failure, transportation failure, or interruption of communication facilities;
- (3) epidemic; or
- (4) riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

§ 551.042. Inquiry Made at Meeting

- (a) If, at a meeting of a governmental body, a member of the public or of the governmental body inquires about a subject for which notice has not been given as required by this subchapter, the notice provisions of this subchapter do not apply to:
 - (1) a statement of specific factual information given in response to the inquiry;
or
 - (2) a recitation of existing policy in response to the inquiry.
- (b) Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.

§ 551.043. Time and Accessibility of Notice; General Rule¹

- (a) The notice of a meeting of a governmental body must be posted in a place readily accessible to the general public at all times for at least 72 hours before the scheduled time of the meeting, except as provided by Sections 551.044-551.046.
- (b) If this chapter specifically requires or allows a governmental body to post notice of a meeting on the Internet:
 - (1) the governmental body satisfies the requirement that the notice must be posted in a place readily accessible to the general public at all times by making a good-faith attempt to continuously post the notice on the Internet during the prescribed period;
 - (2) the governmental body must still comply with any duty imposed by this chapter to physically post the notice at a particular location; and
 - (3) if the governmental body makes a good-faith attempt to continuously post the notice on the Internet during the prescribed period, the notice physically posted at the location prescribed by this chapter must be readily accessible to the general public during normal business hours.

¹This provisions incorporates an amendment effective September 1, 2005 that adds the last clause of section 551.043(a) and all of section 551.043(b).

§ 551.044. Exception to General Rule: Governmental Body With Statewide Jurisdiction (Effective September 1, 2005).

- (a) The secretary of state must post notice on the Internet of a meeting of a state board, commission, department, or officer having statewide jurisdiction for at least seven days before the day of the meeting. The secretary of state shall provide during regular office hours a computer terminal at a place convenient to the public in the office of the secretary of state that members of the public may use to view notices of meetings posted by the secretary of state.
- (b) Subsection (a) does not apply to:
 - (1) the Texas Department of Insurance, as regards proceedings and activities under Title 5, Labor Code, of the department, the commissioner of insurance, or the commissioner of workers' compensation;² or
 - (2) the governing board of an institution of higher education.

§ 551.045. Exception to General Rule: Notice of Emergency Meeting or Emergency Addition to Agenda

- (a) In an emergency or when there is an urgent public necessity, the notice of a meeting or the supplemental notice of a subject added as an item to the agenda for a meeting for which notice has been posted in accordance with this subchapter is sufficient if it is posted for at least two hours before the meeting is convened.
- (b) An emergency or an urgent public necessity exists only if immediate action is required of a governmental body because of:
 - (1) an imminent threat to public health and safety; or
 - (2) a reasonably unforeseeable situation.
- (c) The governmental body shall clearly identify the emergency or urgent public necessity in the notice or supplemental notice under this section.
- (d) A person who is designated or authorized to post notice of a meeting by a governmental body under this subchapter shall post the notice taking at face value

²This provision incorporates an amendment effective September 1, 2005 that reflects the abolition of the Workers' Compensation Commission.

the governmental body's stated reason for the emergency or urgent public necessity.

§ 551.046. Exception to General Rule: Committee of Legislature

The notice of a legislative committee meeting shall be as provided by the rules of the house of representatives or of the senate.

§ 551.047. Special Notice to News Media of Emergency Meeting or Emergency Addition to Agenda

- (a) The presiding officer of a governmental body, or the member of a governmental body who calls an emergency meeting of the governmental body or adds an emergency item to the agenda of a meeting of the governmental body, shall notify the news media of the emergency meeting or emergency item as required by this section.
- (b) The presiding officer or member is required to notify only those members of the news media that have previously:
 - (1) filed at the headquarters of the governmental body a request containing all pertinent information for the special notice; and
 - (2) agreed to reimburse the governmental body for the cost of providing the special notice.
- (c) The presiding officer or member shall give the notice by telephone or telegraph.

§ 551.048. State Governmental Body: Notice to Secretary of State; Place of Posting Notice

- (a) A state governmental body shall provide notice of each meeting to the secretary of state.
- (b) The secretary of state shall post the notice on the Internet. The secretary of state shall provide during regular office hours a computer terminal at a place convenient to the public in the office of the secretary of state that members of the public may use to view the notice.

§ 551.049. County Governmental Body: Place of Posting Notice

A county governmental body shall post notice of each meeting on a bulletin board at a place convenient to the public in the county courthouse.

§ 551.050. Municipal Governmental Body: Place of Posting Notice

A municipal governmental body shall post notice of each meeting on a bulletin board at a place convenient to the public in the city hall.

§ 551.051. School District: Place of Posting Notice

A school district shall post notice of each meeting on a bulletin board at a place convenient to the public in the central administrative office of the district.

§ 551.052. School District: Special Notice to News Media

- (a) A school district shall provide special notice of each meeting to any news media that has:
 - (1) requested special notice; and
 - (2) agreed to reimburse the district for the cost of providing the special notice.
- (b) The notice shall be by telephone or telegraph.

§ 551.053. District or Political Subdivision Extending Into Four or More Counties: Notice to Public, Secretary of State, and County Clerk; Place of Posting Notice

- (a) The governing body of a water district or other district or political subdivision that extends into four or more counties shall:
 - (1) post notice of each meeting at a place convenient to the public in the administrative office of the district or political subdivision;
 - (2) provide notice of each meeting to the secretary of state; and
 - (3) provide notice of each meeting to the county clerk of the county in which the administrative office of the district or political subdivision is located.
- (b) The secretary of state shall post the notice provided under Subsection (a)(2) on the Internet. The secretary of state shall provide during regular office hours a computer terminal at a place convenient to the public in the office of the secretary of state that members of the public may use to view the notice.
- (c) A county clerk shall post the notice provided under Subsection (a)(3) on a bulletin board at a place convenient to the public in the county courthouse.

§ 551.054. District or Political Subdivision Extending Into Fewer Than Four Counties: Notice to Public and County Clerks; Place of Posting Notice

- (a) The governing body of a water district or other district or political subdivision that extends into fewer than four counties shall:
 - (1) post notice of each meeting at a place convenient to the public in the administrative office of the district or political subdivision; and
 - (2) provide notice of each meeting to the county clerk of each county in which the district or political subdivision is located.
- (b) A county clerk shall post the notice provided under Subsection (a)(2) on a bulletin board at a place convenient to the public in the county courthouse.

§ 551.055. Institution of Higher Education

In addition to providing any other notice required by this subchapter, the governing board of a single institution of higher education:

- (1) shall post notice of each meeting at the county courthouse of the county in which the meeting will be held;
- (2) shall publish notice of a meeting in a student newspaper of the institution if an issue of the newspaper is published between the time of the posting and the time of the meeting; and
- (3) may post notice of a meeting at another place convenient to the public.

Subchapter D. Exceptions To Requirement That Meetings Be Open

§ 551.071. Consultation With Attorney; Closed Meeting

A governmental body may not conduct a private consultation with its attorney except:

- (1) when the governmental body seeks the advice of its attorney about:
 - (A) pending or contemplated litigation; or
 - (B) a settlement offer; or

- (2) on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter.

§ 551.072. Deliberation Regarding Real Property; Closed Meeting

A governmental body may conduct a closed meeting to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

§ 551.0725. Commissioners Courts: Deliberation Regarding Contract Being Negotiated; Closed Meeting

- (a) The commissioners court of a county with a population of 400,000 or more may conduct a closed meeting to deliberate business and financial issues relating to a contract being negotiated if, before conducting the closed meeting:
 - (1) the commissioners court votes unanimously that deliberation in an open meeting would have a detrimental effect on the position of the commissioners court in negotiations with a third person; and
 - (2) the attorney advising the commissioners court issues a written determination that deliberation in an open meeting would have a detrimental effect on the position of the commissioners court in negotiations with a third person.
- (b) Notwithstanding Section 551.103(a), Government Code, the commissioners court must make a tape recording of the proceedings of a closed meeting to deliberate the information.

§ 551.0726. Texas Building and Procurement Commission: Deliberation Regarding Contract Being Negotiated; Closed Meeting.

- (a) The Texas Building and Procurement Commission may conduct a closed meeting to deliberate business and financial issues relating to a contract being negotiated if, before conducting the closed meeting:
 - (1) the commission votes unanimously that deliberation in an open meeting would have a detrimental effect on the position of the state in negotiations with a third person; and
 - (2) the attorney advising the commission issues a written determination finding that deliberation in an open meeting would have a detrimental effect on the

position of the commissioners court in negotiations with a third person and setting forth that finding therein.

- (b) Notwithstanding Section 551.103(a), Government Code, the commission must make a tape recording of the proceedings of a closed meeting to deliberate the information.

§ 551.073. Deliberation Regarding Prospective Gift; Closed Meeting

A governmental body may conduct a closed meeting to deliberate a negotiated contract for a prospective gift or donation to the state or the governmental body if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

§ 551.074. Personnel Matters; Closed Meeting

- (a) This chapter does not require a governmental body to conduct an open meeting:
 - (1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or
 - (2) to hear a complaint or charge against an officer or employee.
- (b) Subsection (a) does not apply if the officer or employee who is the subject of the deliberation or hearing requests a public hearing.

§ 551.0745. Personnel Matters Affecting County Advisory Body; Closed Meeting

- (a) This chapter does not require the commissioners court of a county to conduct an open meeting:
 - (1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a member of an advisory body; or
 - (2) to hear a complaint or charge against a member of an advisory body.
- (b) Subsection (a) does not apply if the individual who is the subject of the deliberation or hearing requests a public hearing.

§ 551.075. Conference Relating to Investments and Potential Investments Attended by Board of Trustees of Texas Growth Fund; Closed Meeting.

- (a) This chapter does not require the board of trustees of the Texas growth fund to confer with one or more employees of the Texas growth fund or with a third party in an open meeting if the only purpose of the conference is to:
 - (1) receive information from the employees of the Texas growth fund or the third party relating to an investment or a potential investment by the Texas growth fund in:
 - (A) a private business entity, if disclosure of the information would give advantage to a competitor; or
 - (B) a business entity whose securities are publicly traded, if the investment or potential investment is not required to be registered under the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.), and its subsequent amendments, and if disclosure of the information would give advantage to a competitor; or
 - (2) question the employees of the Texas growth fund or the third party regarding an investment or potential investment described by Subdivision (1), if disclosure of the information contained in the questions or answers would give advantage to a competitor.
- (b) During a conference under Subsection (a), members of the board of trustees of the Texas growth fund may not deliberate public business or agency policy that affects public business.
- (c) In this section, “Texas growth fund” means the fund created by Section 70, Article XVI, Texas Constitution.

§ 551.076. Deliberation Regarding Security Devices; Closed Meeting

This chapter does not require a governmental body to conduct an open meeting to deliberate the deployment, or specific occasions for implementation, of security personnel or devices.

§ 551.077. Agency Financed by Federal Government

This chapter does not require an agency financed entirely by federal money to conduct an open meeting.

§ 551.078. Medical Board or Medical Committee

This chapter does not require a medical board or medical committee to conduct an open meeting to deliberate the medical or psychiatric records of an individual applicant for a disability benefit from a public retirement system.

§ 551.0785. Deliberations Involving Medical or Psychiatric Records of Individuals

This chapter does not require a benefits appeals committee for a public self-funded health plan or a governmental body that administers a public insurance, health, or retirement plan to conduct an open meeting to deliberate:

- (1) the medical records or psychiatric records of an individual applicant for a benefit from the plan; or
- (2) a matter that includes a consideration of information in the medical or psychiatric records of an individual applicant for a benefit from the plan.

§ 551.079. Texas Department of Insurance

- (a) The requirements of this chapter do not apply to a meeting of the commissioner of insurance or the commissioner's designee with the board of directors of a guaranty association established under Chapter 2602, Insurance Code, or Article 21.28-C or 21.28-D, Insurance Code, in the discharge of the commissioner's duties and responsibilities to regulate and maintain the solvency of a person regulated by the Texas Department of Insurance.
- (b) The commissioner of insurance may deliberate and determine the appropriate action to be taken concerning the solvency of a person regulated by the Texas Department of Insurance in a closed meeting with persons in one or more of the following categories:
 - (1) staff of the Texas Department of Insurance;
 - (2) a regulated person;
 - (3) representatives of a regulated person; or
 - (4) members of the board of directors of a guaranty association established under Chapter 2602 or Article 21.28-C, or 21.28-D, Insurance Code.³

³This provision incorporates a nonsubstantive amendment effective September 1, 2005 that conforms Government Code section 551.079 to changes in the numbering of Insurance Code provisions.

§ 551.080. Board of Pardons and Paroles

This chapter does not require the Board of Pardons and Paroles to conduct an open meeting to interview or counsel an inmate of a facility of the institutional division of the Texas Department of Criminal Justice.

§ 551.081. Credit Union Commission

This chapter does not require the Credit Union Commission to conduct an open meeting to deliberate a matter made confidential by law.

§ 551.0811. The Finance Commission of Texas

This chapter does not require The Finance Commission of Texas to conduct an open meeting to deliberate a matter made confidential by law.

§ 551.0812. State Banking Board

This chapter does not require the State Banking Board to conduct an open meeting to deliberate a matter made confidential by law.

§ 551.082. School Children; School District Employees; Disciplinary Matter or Complaint

- (a) This chapter does not require a school board to conduct an open meeting to deliberate in a case:
- (1) involving discipline of a public school child; or
 - (2) in which a complaint or charge is brought against an employee of the school district by another employee and the complaint or charge directly results in a need for a hearing.
- (b) Subsection (a) does not apply if an open hearing is requested in writing by a parent or guardian of the child or by the employee against whom the complaint or charge is brought.

§ 551.0821. School Board: Personally Identifiable Information about Public School Student

- (a) This chapter does not require a school board to conduct an open meeting to deliberate a matter regarding a public school student if personally identifiable information about the student will necessarily be revealed by the deliberation.

- (b) Directory information about a public school student is considered to be personally identifiable information about the student for purposes of Subsection (a) only if a parent or guardian of the student, or the student if the student has attained 18 years of age, has informed the school board, the school district, or a school in the school district that the directory information should not be released without prior consent. In this subsection, “directory information” has the meaning assigned by the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), as amended.
- (c) Subsection (a) does not apply if an open meeting about the matter is requested in writing by a parent or guardian of the student or by the student if the student has attained 18 years of age.

§ 551.083. Certain School Boards; Closed Meeting Regarding Consultation With Representative of Employee Group

This chapter does not require a school board operating under a consultation agreement authorized by Section 13.901, Education Code, to conduct an open meeting to deliberate the standards, guidelines, terms, or conditions the board will follow, or instruct its representatives to follow, in a consultation with a representative of an employee group.

§ 551.084. Investigation; Exclusion of Witness From Hearing

A governmental body that is investigating a matter may exclude a witness from a hearing during the examination of another witness in the investigation.

§ 551.085. Governing Board of Certain Providers of Health Care Services

- (a) This chapter does not require the governing board of a municipal hospital, municipal hospital authority, hospital district created under general or special law, or nonprofit health maintenance organization created under Section 534.101, Health and Safety Code, to conduct an open meeting to deliberate:
 - (1) pricing or financial planning information relating to a bid or negotiation for the arrangement or provision of services or product lines to another person if disclosure of the information would give advantage to competitors of the hospital, hospital district, or nonprofit health maintenance organization; or
 - (2) information relating to a proposed new service or product line of the hospital, hospital district, or nonprofit health maintenance organization before publicly announcing the service or product line.

- (b) The governing board of a health maintenance organization created under Section 281.0515, Health and Safety Code, that is subject to this chapter is not required to conduct an open meeting to deliberate information described by Subsection (a).

§ 551.086. Certain Public Power Utilities: Competitive Matters

- (a) Notwithstanding anything in this chapter to the contrary, the rules provided by this section apply to competitive matters of a public power utility.
- (b) In this section:
 - (1) “Public power utility” means an entity providing electric or gas utility services that is subject to the provisions of this chapter.
 - (2) “Public power utility governing body” means the board of trustees or other applicable governing body, including a city council, of a public power utility.
 - (3) “Competitive matter” means a utility-related matter that the public power utility governing body in good faith determines by a vote under this section is related to the public power utility’s competitive activity, including commercial information, and would, if disclosed, give advantage to competitors or prospective competitors but may not be deemed to include the following categories of information:
 - (A) information relating to the provision of distribution access service, including the terms and conditions of the service and the rates charged for the service but not including information concerning utility-related services or products that are competitive;
 - (B) information relating to the provision of transmission service that is required to be filed with the Public Utility Commission of Texas, subject to any confidentiality provided for under the rules of the commission;
 - (C) information for the distribution system pertaining to reliability and continuity of service, to the extent not security-sensitive, that relates to emergency management, identification of critical loads such as hospitals and police, records of interruption, and distribution feeder standards;
 - (D) any substantive rule of general applicability regarding service offerings, service regulation, customer protections, or customer service adopted by the public power utility as authorized by law;

- (E) aggregate information reflecting receipts or expenditures of funds of the public power utility, of the type that would be included in audited financial statements;
 - (F) information relating to equal employment opportunities for minority groups, as filed with local, state, or federal agencies;
 - (G) information relating to the public power utility's performance in contracting with minority business entities;
 - (H) information relating to nuclear decommissioning trust agreements, of the type required to be included in audited financial statements;
 - (I) information relating to the amount and timing of any transfer to an owning city's general fund;
 - (J) information relating to environmental compliance as required to be filed with any local, state, or national environmental authority, subject to any confidentiality provided under the rules of those authorities;
 - (K) names of public officers of the public power utility and the voting records of those officers for all matters other than those within the scope of a competitive resolution provided for by this section;
 - (L) a description of the public power utility's central and field organization, including the established places at which the public may obtain information, submit information and requests, or obtain decisions and the identification of employees from whom the public may obtain information, submit information or requests, or obtain decisions; or
 - (M) information identifying the general course and method by which the public power utility's functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures.
- (c) This chapter does not require a public power utility governing body to conduct an open meeting to deliberate, vote, or take final action on any competitive matter, as that term is defined in Subsection (b)(3). Before a public power utility governing body may deliberate, vote, or take final action on any competitive matter in a closed meeting, the public power utility governing body must first make a good faith determination, by majority vote of its members, that the matter is a competitive matter that satisfies the requirements of Subsection (b)(3). The

vote shall be taken during the closed meeting and be included in the certified agenda or tape recording of the closed meeting. If a public power utility governing body fails to determine by that vote that the matter satisfies the requirements of Subsection (b)(3), the public power utility governing body may not deliberate or take any further action on the matter in the closed meeting. This section does not limit the right of a public power utility governing body to hold a closed session under any other exception provided for in this chapter.

- (d) For purposes of Section 551.041, the notice of the subject matter of an item that may be considered as a competitive matter under this section is required to contain no more than a general representation of the subject matter to be considered, such that the competitive activity of the public power utility with respect to the issue in question is not compromised or disclosed.
- (e) With respect to municipally owned utilities subject to this section, this section shall apply whether or not the municipally owned utility has adopted customer choice or serves in a multiply certificated service area under the Utilities Code.
- (f) Nothing in this section is intended to preclude the application of the enforcement and remedies provisions of Subchapter G.

§ 551.087: Deliberation Regarding Economic Development Negotiations; Closed Meeting

This chapter does not require a governmental body to conduct an open meeting:

- (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or
- (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).

§ 551.088. Deliberations Regarding Test Item

This chapter does not require a governmental body to conduct an open meeting to deliberate a test item or information related to a test item if the governmental body believes that the test item may be included in a test the governmental body administers to individuals who seek to obtain or renew a license or certificate that is necessary to engage in an activity.

Subchapter E. Procedures Relating To Closed Meeting

§ 551.101. Requirement to First Convene in Open Meeting

If a closed meeting is allowed under this chapter, a governmental body may not conduct the closed meeting unless a quorum of the governmental body first convenes in an open meeting for which notice has been given as provided by this chapter and during which the presiding officer publicly:

- (1) announces that a closed meeting will be held; and
- (2) identifies the section or sections of this chapter under which the closed meeting is held.

§ 551.102. Requirement to Vote or Take Final Action in Open Meeting

A final action, decision, or vote on a matter deliberated in a closed meeting under this chapter may only be made in an open meeting that is held in compliance with the notice provisions of this chapter.

§ 551.103. Certified Agenda or Tape Recording Required

- (a) A governmental body shall either keep a certified agenda or make a tape recording of the proceedings of each closed meeting, except for a private consultation permitted under Section 551.071.
- (b) The presiding officer shall certify that an agenda kept under Subsection (a) is a true and correct record of the proceedings.
- (c) The certified agenda must include:
 - (1) a statement of the subject matter of each deliberation;
 - (2) a record of any further action taken; and
 - (3) an announcement by the presiding officer at the beginning and the end of the meeting indicating the date and time.
- (d) A tape recording made under Subsection (a) must include announcements by the presiding officer at the beginning and the end of the meeting indicating the date and time.

§ 551.104. Certified Agenda or Tape; Preservation; Disclosure

- (a) A governmental body shall preserve the certified agenda or tape recording of a closed meeting for at least two years after the date of the meeting. If an action involving the meeting is brought within that period, the governmental body shall preserve the certified agenda or tape while the action is pending.
- (b) In litigation in a district court involving an alleged violation of this chapter, the court:
 - (1) is entitled to make an in camera inspection of the certified agenda or tape;
 - (2) may admit all or part of the certified agenda or tape as evidence, on entry of a final judgment; and
 - (3) may grant legal or equitable relief it considers appropriate, including an order that the governmental body make available to the public the certified agenda or tape of any part of a meeting that was required to be open under this chapter.
- (c) The certified agenda or tape of a closed meeting is available for public inspection and copying only under a court order issued under Subsection (b)(3).

Subchapter F. Meetings Using Telephone, Videoconference, or Internet

§551.121. Governing Board of Institution of Higher Education; Board for Lease of University Lands

- (a) In this section, “governing board,” “institution of higher education,” and “university system” have the meanings assigned by Section 61.003, Education Code.
- (b) This chapter does not prohibit the governing board of an institution of higher education or the Board for Lease of University Lands from holding an open or closed meeting by telephone conference call.
- (c) A meeting held by telephone conference call may be held only if:
 - (1) the meeting is a special called meeting and immediate action is required; and
 - (2) the convening at one location of a quorum of the governing board or Board for Lease of University Lands is difficult or impossible.

- (d) The telephone conference call meeting is subject to the notice requirements applicable to other meetings.
- (e) The notice of a telephone conference call meeting of a governing board must specify as the location of the meeting the location where meetings of the governing board are usually held. For a meeting of the governing board of a university system, the notice must specify as the location of the meeting the board's conference room at the university system office. For a meeting of the Board for Lease of University Lands, the notice must specify as the location of the meeting a suitable conference or meeting room at The University of Texas System office.
- (f) Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting and shall be tape recorded. The tape recording shall be made available to the public.

§ 551.123. Texas Board of Criminal Justice

- (a) The Texas Board of Criminal Justice may hold an open or closed emergency meeting by telephone conference call.
- (b) The portion of the telephone conference call meeting that is open shall be recorded. The recording shall be made available to be heard by the public at one or more places designated by the board.

§ 551.124. Board of Pardons and Paroles

At the call of the presiding officer of the Board of Pardons and Paroles, the board may hold a hearing on clemency matters by telephone conference call.

§ 551.125. Other Governmental Body

- (a) Except as otherwise provided by this subchapter, this chapter does not prohibit a governmental body from holding an open or closed meeting by telephone conference call.
- (b) A meeting held by telephone conference call may be held only if:
 - (1) an emergency or public necessity exists within the meaning of Section 551.045 of this chapter; and

- (2) the convening at one location of a quorum of the governmental body is difficult or impossible; or
 - (3) the meeting is held by an advisory board.
- (c) The telephone conference call meeting is subject to the notice requirements applicable to other meetings.
 - (d) The notice of the telephone conference call meeting must specify as the location of the meeting the location where meetings of the governmental body are usually held.
 - (e) Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting and shall be tape-recorded. The tape recording shall be made available to the public.
 - (f) The location designated in the notice as the location of the meeting shall provide two-way communication during the entire telephone conference call meeting and the identification of each party to the telephone conference shall be clearly stated prior to speaking.

§ 551.126. Higher Education Coordinating Board

- (a) In this section, “board” means the Texas Higher Education Coordinating Board.
- (b) The board may hold an open meeting by telephone conference call or videoconference call in order to consider a higher education impact statement if the preparation of a higher education impact statement by the board is to be provided under the rules of either the house of representatives or the senate.
- (c) A meeting held by telephone conference call must comply with the procedures described in Section 551.125.
- (d) A meeting held by videoconference call is subject to the notice requirements applicable to other meetings. In addition, a meeting held by videoconference call shall:
 - (1) be visible and audible to the public at the location specified in the notice of the meeting as the location of the meeting;
 - (2) be recorded by audio and video; and

- (3) have two-way audio and video communications with each participant in the meeting during the entire meeting.
- (4)

§ 551.127. Videoconference Call

- (a) Except as otherwise provided by this section, this chapter does not prohibit a governmental body from holding an open or closed meeting by videoconference call.
- (b) A meeting may be held by videoconference call only if a quorum of the governmental body is physically present at one location of the meeting, except as provided by Subsection (c).
- (c) A meeting of a state governmental body or a governmental body that extends into three or more counties may be held by videoconference call only if a majority of the quorum of the governmental body is physically present at one location of the meeting.
- (d) A meeting held by videoconference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements prescribed by this section.
- (e) The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where a quorum of the governmental body will be physically present and specify the intent to have a quorum present at that location, except that the notice of a meeting to be held by videoconference call under Subsection (c) must specify as a location of the meeting each location where a majority of the quorum of the governmental body will be physically present and specify the intent to have a majority of the quorum of the governmental body present at that location. In addition, the notice of the meeting must specify as a location of the meeting each other location where a member of the governmental body who will participate in the meeting will be physically present during the meeting. Each of the locations shall be open to the public during the open portions of the meeting.
- (f) Each portion of a meeting held by videoconference call that is required to be open to the public shall be visible and audible to the public at each location specified under Subsection (e).

- (g) The governmental body shall make at least an audio recording of the meeting. The recording shall be made available to the public.
- (h) Each location specified under Subsection (e) shall have two-way communication with each other location during the entire meeting. Each participant in the videoconference call, while speaking, shall be clearly visible and audible to each other participant and, during the open portion of the meeting, to the members of the public in attendance at a location of the meeting.
- (i) The Department of Information Resources by rule shall specify minimum standards for audio and video signals at a meeting held by videoconference call. The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed those standards.
- (j) The quality of the audio and video signals perceptible by members of the public at each location of the meeting must:
 - (1) meet or exceed the quality of the audio and video signals perceptible by the members of the governmental body participating in the meeting; and
 - (2) be of sufficient quality so that members of the public at each location of the meeting can observe the demeanor and hear the voice of each participant in the open portion of the meeting.
- (k) Without regard to whether a member of the governmental body is participating in a meeting from a remote location by videoconference call, a governmental body may allow a member of the public to testify at a meeting from a remote location by videoconference call.

§ 551.128. Internet Broadcast of Open Meeting

- (a) In this section, “Internet” means the largest nonproprietary cooperative public computer network, popularly known as the Internet.
- (b) Subject to the requirements of this section, a governmental body may broadcast an open meeting over the Internet.
- (c) A governmental body that broadcasts a meeting over the Internet shall establish an Internet site and provide access to the broadcast from that site. The governmental body shall provide on the Internet site the same notice of the meeting that the governmental body is required to post under Subchapter C. The

notice on the Internet must be posted within the time required for posting notice under Subchapter C.

§ 551.129. Consultations Between Governmental Body and its Attorney

- (a) A governmental body may use a telephone conference call, videoconference call, or communications over the Internet to conduct a public consultation with its attorney in an open meeting of the governmental body or a private consultation with its attorney in a closed meeting of the governmental body.
- (b) Each part of a public consultation by a governmental body with its attorney in an open meeting of the governmental body under Subsection (a) must be audible to the public at the location specified in the notice of the meeting as the location of the meeting.
- (c) Subsection (a) does not:
 - (1) authorize the members of a governmental body to conduct a meeting of the governmental body by telephone conference call, videoconference call, or communications over the Internet; or
 - (2) create an exception to the application of this subchapter.
- (d) Subsection (a) does not apply to a consultation with an attorney who is an employee of the governmental body.
- (e) For purposes of Subsection (d), an attorney who receives compensation for legal services performed, from which employment taxes are deducted by the governmental body, is an employee of the governmental body.

Subchapter G. Enforcement and Remedies; Criminal Violations

§ 551.141. Action Voidable

An action taken by a governmental body in violation of this chapter is voidable.

§ 551.142. Mandamus; Injunction

- (a) An interested person, including a member of the news media, may bring an action by mandamus or injunction to stop, prevent, or reverse a violation or threatened violation of this chapter by members of a governmental body.

- (b) The court may assess costs of litigation and reasonable attorney fees incurred by a plaintiff or defendant who substantially prevails in an action under Subsection (a). In exercising its discretion, the court shall consider whether the action was brought in good faith and whether the conduct of the governmental body had a reasonable basis in law.

§ 551.143. Conspiracy to Circumvent Chapter; Offense; Penalty

- (a) A member or group of members of a governmental body commits an offense if the member or group of members knowingly conspires to circumvent this chapter by meeting in numbers less than a quorum for the purpose of secret deliberations in violation of this chapter.
- (b) An offense under Subsection (a) is a misdemeanor punishable by:
 - (1) a fine of not less than \$100 or more than \$500;
 - (2) confinement in the county jail for not less than one month or more than six months; or
 - (3) both the fine and confinement.

§ 551.144. Closed Meeting; Offense; Penalty

- (a) A member of a governmental body commits an offense if a closed meeting is not permitted under this chapter and the member knowingly:
 - (1) calls or aids in calling or organizing the closed meeting, whether it is a special or called closed meeting;
 - (2) closes or aids in closing the meeting to the public, if it is a regular meeting; or
 - (3) participates in the closed meeting, whether it is a regular, special, or called meeting.
- (b) An offense under Subsection (a) is a misdemeanor punishable by:
 - (1) a fine of not less than \$100 or more than \$500;
 - (2) confinement in the county jail for not less than one month or more than six months; or

(3) both the fine and confinement.

(c) It is an affirmative defense to prosecution under Subsection (a) that the member of the governmental body acted in reasonable reliance on a court order or a written interpretation of this chapter contained in an opinion of a court of record, the attorney general, or the attorney for the governmental body.

§ 551.145. Closed Meeting Without Certified Agenda or Tape Recording; Offense; Penalty

(a) A member of a governmental body commits an offense if the member participates in a closed meeting of the governmental body knowing that a certified agenda of the closed meeting is not being kept or that a tape recording of the closed meeting is not being made.

(b) An offense under Subsection (a) is a Class C misdemeanor.

§ 551.146. Disclosure of Certified Agenda or Tape Recording of Closed Meeting; Offense; Penalty; Civil Liability

(a) An individual, corporation, or partnership that without lawful authority knowingly discloses to a member of the public the certified agenda or tape recording of a meeting that was lawfully closed to the public under this chapter:

(1) commits an offense; and

(2) is liable to a person injured or damaged by the disclosure for:

(A) actual damages, including damages for personal injury or damage, lost wages, defamation, or mental or other emotional distress;

(B) reasonable attorney fees and court costs; and

(C) at the discretion of the trier of fact, exemplary damages.

(b) An offense under Subsection (a)(1) is a Class B misdemeanor.

(c) It is a defense to prosecution under Subsection (a)(1) and an affirmative defense to a civil action under Subsection (a)(2) that:

(1) the defendant had good reason to believe the disclosure was lawful; or

- (2) the disclosure was the result of a mistake of fact concerning the nature or content of the certified agenda or tape recording.

APPENDIX

AMENDMENTS TO OPEN MEETINGS ACT EFFECTIVE JANUARY 1, 2006

§ 551.005. Open Meetings Training.

(a) Each elected or appointed public official who is a member of a governmental body subject to this chapter shall complete a course of training of not less than one and not more than two hours regarding the responsibilities of the governmental body and its members under this chapter not later than the 90th day after the date the member:

- (1) takes the oath of office, if the member is required to take an oath of office to assume the person's duties as a member of the governmental body;
or

- (2) otherwise assumes responsibilities as a member of the governmental body, if the member is not required to take an oath of office to assume the person's duties as a member of the governmental body.

(b) The attorney general shall ensure that the training is made available. The office of the attorney general may provide the training and may also approve any acceptable course of training offered by a governmental body or other entity. The attorney general shall ensure that at least one course of training approved or provided by the attorney general is available on videotape or a functionally similar and widely available medium at no cost. The training must include instruction in:

- (1) the general background of the legal requirements for open meetings;
- (2) the applicability of this chapter to governmental bodies;

(3) procedures and requirements regarding quorums, notice, and recordkeeping under this chapter;

(4) procedures and requirements for holding an open meeting and for holding a closed meeting under this chapter; and

(5) penalties and other consequences for failure to comply with this chapter.

(c) The office of the attorney general or other entity providing the training shall provide a certificate of course completion to persons who complete the training required by this section. A governmental body shall maintain and make available for public inspection the record of its members' completion of the training.

(d) Completing the required training as a member of the governmental body satisfies the requirements of this section with regard to the member's service on a committee or subcommittee of the governmental body and the member's ex officio service on any other governmental body.

(e) The training required by this section may be used to satisfy any corresponding training requirements concerning this chapter or open meetings required by law for the members of a governmental body. The attorney general shall attempt to coordinate the training required by this section with training required by other law to the extent practicable.

(f) The failure of one or more members of a governmental body to complete the training required by this section does not affect the validity of an action taken by the governmental body.

(g) A certificate of course completion is admissible as evidence in a criminal prosecution under this chapter. However, evidence that a defendant completed a course of training offered under this section is not prima facie evidence that the defendant knowingly violated this chapter.

§ 551.056. Additional Posting Requirements for Certain Municipalities, Counties, School Districts, Junior College Districts, and Development Corporations⁴

(a) This section applies only to a governmental body or economic development corporation that maintains an Internet website or for which

⁴Government Code section 551.056 applies only in relation to a meeting held on or after January 4, 2006.

an Internet website is maintained. This section does not apply to a governmental body described by Section 551.001(3)(D).

(b) In addition to the other place at which notice is required to be posted by this subchapter, the following governmental bodies and economic development corporations must also concurrently post notice of a meeting on the Internet website of the governmental body or economic development corporation:

(1) a municipality;

(2) a county;

(3) a school district;

(4) the governing body of a junior college or junior college district, including a college or district that has changed its name in accordance with Chapter 130, Education Code; and

(5) a development corporation organized under the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes).

(c) The following governmental bodies and economic development corporations must also concurrently post the agenda for the meeting on the Internet website of the governmental body or economic development corporation:

(1) a municipality with a population of 48,000 or more;

(2) a county with a population of 65,000 or more;

(3) a school district that contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more;

(4) the governing body of a junior college district, including a district that has changed its name in accordance with Chapter 130, Education Code, that contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more; and

(5) a development corporation organized under the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) that was created by or for:

(A) a municipality with a population of 48,000 or more; or

(B) a county or district that contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more.

(d) The validity of a posted notice of a meeting or an agenda by a governmental body or economic development corporation subject to this section that made a good faith attempt to comply with the requirements of this section is not affected by a failure to comply with a requirement of this section that is due to a technical problem beyond the control of the governmental body or economic development corporation.