



**Agenda Item:** Review of Texas Open Meeting Act Requirements

**Background:** Staff will present on the Open Meeting Requirements as required by Texas Local Government Code Section 551.

# TEXAS OPEN MEETINGS ACT

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GOVERNMENT CODE 551

# TEXAS OPEN MEETINGS ACT

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- Defines what a Government Body is
- Defines a Quorum
- Defines a Meeting
- Defines Notice Requirements
- Requires Recording of Meetings
- Defines Penalties for Non-Compliance

# GOVERNMENTAL BODIES INCLUDE

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- State boards, commissions, departments, committees or agencies within the legislative or executive branch
- County commissioners courts, municipal governing bodies, school boards, special district boards and deliberative bodies with a rulemaking or quasi-judicial authority that are part of a municipality or county
- Local workforce development boards
- Certain nonprofit corporations and property owner associations

# QUORUM

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- A **Quorum** is defined as a majority of the governing body unless otherwise defined by law. Generally, the act applies whenever a quorum of a governmental body meets.
- *Note: The quorum does NOT change if positions on the governing body are vacant, i.e. 9 members, 2 vacant positions, 5 members still required in attendance to be a quorum*

# MEETINGS

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- A meeting requires a gathering of a quorum of the governmental body that includes:
  - deliberation about the government body's public business or formal action
  - opportunity for members to ask, speak about or listen to information relating to public business
- ***Note: If members leave a meeting, resulting in the loss of a quorum, the meeting should be recessed until a quorum is again present.***
- Exceptions include a gathering of a quorum at the following if there is no formal action taken and any discussion of public business is incidental to the authorized event:
  - Social function
  - Convention or workshop
  - Ceremonial event
  - Press conference

# MEETINGS

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- Must be accessible to the public
- Located within the boundaries of the government body's jurisdiction
- Accessible to individuals with disabilities
- The public must be able to record by video or audio

# PUBLIC COMMENTS

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- The act states that the governmental body shall allow the public the right to speak at a meeting. Reasonable limits can be imposed but cannot discriminate among speakers based on their views.
- If a member of the public speaks on an item not listed on the agenda, legislation allows that a member of the government body can address the comment with a **statement of specific factual information or the recitation of an existing policy as it relates to the comment**. It does not allow any deliberation or decision on the item.



# NOTICE OF A MEETING (POSTING AGENDAS)

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- The notice of a meeting (agenda) must be posted 72 hours prior to the meeting and be in a location readily accessible to the public at all times during the 72 hours. Weekends are counted as part of the 72 hours.
- The written notice of a meeting must include:
  - Date of meeting
  - Time of meeting
  - Place of meeting
  - Subject(s) to be considered at the meeting
    - The subjects to be considered at the meeting must have a sufficient description so that the public can discern what will be discussed. i.e. Chair Update is NOT a sufficient description of the item.
    - *Example of Sufficient Description:* Chair Update on Activities on Behalf of the Park Board of Trustees for the Month of December 2022.

# NOTICE OF A MEETING (POSTING AGENDAS)

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- Local municipalities are required to post notices at City Hall.
- Where the act allows to post on the internet, the following provisions apply:
  - The governmental body satisfies the requirement that the notice 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 72 hours prior to the meeting.
  - The governmental body must still comply with posting the notice at the require location (City Hall for a municipality).
  - If the governmental body makes a good faith attempt to continuously post the notice on the internet during the 72 hours, the notice physically posted at the required location must be readily accessible to the general public during normal business hours.
- Actions taken at meetings without proper notice are voidable but can be ratified at a subsequent meeting that has been properly noticed

# EMERGENCY MEETINGS

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- In emergencies as defined by the act, the notice must be posted 1 hour prior to the meeting.
  - The notice must clearly define the emergency or urgent public necessity
  - The media must be notified IF they have previously requested to receive special notices in the event of emergency meetings.
  - Emergencies are defined as:
    - An imminent threat to public health/Safety
    - A reasonably unforeseeable situation
      - fire, flood, hurricane, tornado, earthquake, or wind, rain or snow storm
      - power failure, transportation failure or interruption of communication facilities
      - epidemic, riot, civil disturbance, enemy attack or other actual threat of lawlessness or violence

# CLOSED MEETINGS (EXECUTIVE SESSIONS)

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- A governmental body may meet in a closed meeting/executive session when expressly authorized to do so by statute.
- Some allowable exceptions for conducting a closed meeting:
  - Consultation with Attorney regarding pending or possible litigation, settlement offer or on a matter that falls within the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas
  - Deliberation Regarding Real Property, i.e. purchase, rental, etc. if it would be detrimental to the position of the government body in an open meeting such as a negotiation with a third party
  - Personnel Matters to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a employee or hear a charge or complaint. Note: This does NOT apply if the employee who is subject to the deliberation requests a public hearing. This rule does not apply to a category of employees but to a specific employee(s), i.e. CEO.

# CLOSED MEETINGS (EXECUTIVE SESSIONS)

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- Closed meetings can only be held for deliberation. Any action or vote taken must be conducted in an open meeting,
- Closed meetings/Executive Sessions must be posted in the same manner as an open meeting.
- There must be a quorum to conduct the meeting.
- The meeting must be convened as an open meeting and the legal provision authorizing the governmental body to go into a closed meeting must be identified.
- A certified agenda or recording of the closed meeting is required but is only released by Court Order. The recording must include announcement by presiding officer of date and time of start and stop of closed meeting.
- Only members of the governmental body have the right to attend a closed meeting but can invite others if necessary as long as it does not defeat the legal basis of the meeting.

# RECORDS OF MEETING

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- A governmental body shall prepare and keep minutes or make a recording of each open meeting.
- The minutes must:
  - State the subject of each deliberation.
  - Indicate each vote, order, decision or other action taken.
- Minutes and recordings of an open meeting are public records and are to be available for public inspection upon request

# VIDEOCONFERENCE

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- A member or an employee of the governing body may participate remotely in a meeting by means of a videoconference call if the Video/Audio feed is broadcast live at the meeting.
- The meeting can only be held if a quorum of the governmental body is physically present at one location.
- Remote participants are counted in attendance.
- Remote participants are counted absent from any portion of the meeting during which the video or audio communication with the participant is lost or disconnected.
- The member of the governmental body presiding over the meeting must be present at the physical location.
- Participation by phone is not considered attending the meeting. The member is not counted present and cannot vote on agenda items.
- Teleconference may be allowed in certain emergency situations.