

# Texas Open Meetings Act

## Chapter 551, Texas Government Code



**ALLISON, BASS & MAGEE, LLP**  
**1301 NUECES ST., SUITE 201.**  
**AUSTIN, TEXAS 78701**  
**512-482-0701**  
**[e.magee@allison-bass.com](mailto:e.magee@allison-bass.com)**

# Meetings



- § 551.002. Every regular, special, or called meeting shall be open to the public unless an exception under the Act applies.
- Quorum is present during which public business or public policy over which the county has supervision or control is discussed or considered or takes formal action. § 551.001(4)(A).
- Gathering conducted by County where a quorum received information from, gives information to, asks questions of, or receives questions from any third person about public business or public policy. § 551.001(4)(B).



- **The term “meeting” does not include:**

- Social functions unrelated to public business;
- Attendance at a regional, state, or national conference;
- Workshop (not referring to a Commissioners Court Workshop), ceremonial event or press conference;
- Candidate forum, appearance, or debate

# Notice



- Shall give written notice of the date, hour, place, and subject of each meeting held.
  - Exceptions to Notice requirements
  - Items of community interest which no action will be taken
  - Emergency Meetings or Emergency Additions to the Agenda
    - ✦ Posted for 1 hour before the meeting is convened
    - ✦ Special Notice to news media of emergency
      - By telephone, facsimile or electronic mail at least 1 hour before
  - §§551.041; 551.0411; 551.0415;551.042; 551.045

# Posting requirements



- Shall post notice of each meeting on a bulletin board at a place convenient to the public in the county courthouse.
  - Must be “posted in a place readily accessible to the general public at all times for at least 72 hours before meeting;
  - Posting the notice on the internet complies with “readily accessible” – still must comply with physically posting requirement at county courthouse (and it must be readily accessible to the general public during normal business hours)
    - ✦ Maintains an Internet website;
    - ✦ County with a population of 65,000 or more
  - §§ 551.043; 551.049; 551.056

# Public Testimony



- Shall allow public to address an item on the agenda before or during consideration of the item
- May adopt reasonable rules including limiting the total amount of time allowable to address the Commissioners Court
- May not prohibit public criticism – including criticism of any act, omission, policy, procedure, program, or service.
- § 551.007

# Minutes and Recordings



- Shall prepare and keep minutes or make a recording of each open meeting of the body
  - Must state the subject of each deliberation
  - Indicate each vote, order, decision or other action taken
- Shall be available for public inspection and copying
- A person in attendance may record all or any part of an open meetings
  - Commissioners Court may adopt reasonable rules to maintain order

§§ 551.021; 551.022 and 551.023

# Closed Meetings



- **Procedures:**
  - First Convene in an Open Meeting
  - Announce that a closed meeting will be held
  - Identify the section or sections authorizing the closed meeting
  - Final action, decision or vote must be in open meeting
  - Certified agenda or recording
    - ✦ Preserve certified agenda or recording of a closed meeting for 2 years.

§§551.101; 551.102; 551.103; 551.104



# Exceptions



- §551.071. Consultation with Attorney. 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. Real Property. 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.

# Exceptions



- **§ 551.0725. Deliberation Regarding Contract Being Negotiated**

(a) The commissioners court of a county 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) ..., the commissioners court must make a recording of the proceedings of a closed meeting to deliberate the information.

- **§ 551.074. Personnel Matters.**

(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.

# Enforcement of the Act



- **Action Voidable**
  - Mandamus and Injunctive relief
- **Criminal Penalties**
  - Series of communications
  - Closed meeting not permitted
  - Closed meeting without certified agenda
  - Disclosure of certified agenda or recording of closed meeting

§§551.141. 551.142; 551.143; 551.144; 551.145; 551.146