

## **BILL ANALYSIS**

Senate Research Center

S.B. 471  
By: Ellis  
Open Government  
7/16/2013  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, the Open Meetings Act requires “tape recordings” of public meetings and many other official procedures. Tape recording is an analog technology and was harmonious with the time the Act was first adopted, 1967.

However, as digital recording technologies have become more widespread, the statutory requirement for “tape recordings” has become burdensome. The use of tapes is no longer practical or cost-effective. It has become more difficult for governmental bodies to purchase the supplies and equipment necessary for tape recording or to train employees in their use. Also, it is more difficult for governmental bodies to store, reproduce, and distribute to the public the records using an obsolete technology.

The use of modern technology would significantly improve the capacity of governmental bodies to share and distribute public information.

S.B. 471 amends Chapter 551 (Open Meetings), Government Code, to remove the requirement to use only “tape” for recording procedures subject to the Open Meetings Act. With this change, governmental bodies will not be restricted to the use of tapes for recordings and may either use digital technology or keep their current analog systems.

S.B. 471 amends current law relating to technological efficiencies in the recordings of certain open meetings.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 551.001, Government Code, by adding Subdivision (7) to define "recording."

SECTION 2. Amends the heading to Section 551.021, Government Code, to read as follows:

Sec. 551.021. MINUTES OR RECORDING OF OPEN MEETING REQUIRED.

SECTION 3. Amends Section 551.021(a), Government Code, to require a governmental body to prepare and keep minutes or make a recording, rather than a tape recording, of each open meeting of the body.

SECTION 4. Amends Section 551.022, Government Code, as follows:

Sec. 551.022. New heading: MINUTES AND RECORDINGS OF OPEN MEETING: PUBLIC RECORD. Provides that the minutes and recordings, rather than tape recordings, of an open meeting are public records and requires that the minutes and recordings be available for public inspection and copying upon request to the governmental body's chief administrative officer or the officer's designee.

SECTION 5. Amends Section 551.023(a), Government Code, to authorize a person in attendance to record all or any part of an open meeting of a governmental body by means of a recorder, rather than tape recorder, among certain other means.

SECTION 6. Amends Section 551.0725(b), Government Code, to require the commissioners court to make a recording, rather than a tape recording, of the proceedings of a closed meeting to deliberate the information, notwithstanding Section 551.103(a).

SECTION 7. Amends Section 551.0726(b), Government Code, to require the Texas Facilities Commission to make a recording, rather than a tape recording, of the proceedings of a closed meeting held under this section, notwithstanding Section 551.103(a).

SECTION 8. Amends the heading to Section 551.103, Government Code, to read as follows:

Sec. 551.103. CERTIFIED AGENDA OR RECORDING REQUIRED.

SECTION 9. Amends Sections 551.103(a) and (d), Government Code, as follows:

(a) Requires a governmental body to either keep a certified agenda or make a recording, rather than a tape recording, of the proceedings of each closed meeting, except for a private consultation permitted under Section 551.071 (Consultation With Attorney; Closed Meeting).

(d) Makes a conforming change.

SECTION 10. Amends Section 551.104, Government Code, as follows:

Sec. 551.104. New heading: CERTIFIED AGENDA OR RECORDING; PRESERVATION; DISCLOSURE. (a) Requires a governmental body to preserve the certified agenda or recording, rather than tape recording, of a closed meeting for at least two years after the date of the meeting. Makes a conforming change.

(b)-(c) Makes conforming changes.

SECTION 11. Amends Section 551.121(f), Government Code, to require each part of the telephone conference call that is required to be open to the public to be audible to the public at the location specified in the notice of the meeting as the location of the meeting and to be recorded, rather than tape recorded. Makes a conforming change.

SECTION 12. Amends Section 551.122(d), Government Code, to require each part of the telephone conference call meeting that is required to be open to the public to be audible to the public at the location where the quorum is present and to be recorded, rather than tape-recorded. Makes a conforming change.

SECTION 13. Amends Section 551.125(e), Government Code, to require each part of the telephone conference call that is required to be open to the public to be audible to the public at the location specified in the notice of the meeting as the location of the meeting and to be recorded, rather than tape-recorded. Makes a conforming change.

SECTION 14. Amends Section 551.130(e), Government Code, to require that the open portions of the meeting be audible to the public at the location where the quorum is present and be recorded, rather than tape-recorded, at that location. Makes a conforming change.

SECTION 15. Amends the heading to Section 551.145, Government Code, to read as follows:

Sec. 551.145. CLOSED MEETING WITHOUT CERTIFIED AGENDA OR RECORDING; OFFENSE; PENALTY.

SECTION 16. Amends Section 551.145(a), Government Code, to provide that 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 recording, rather than a tape recording, of the closed meeting is not being made.

SECTION 17. Amends the heading to Section 551.146, Government Code, to read as follows:

Sec. 551.146. DISCLOSURE OF CERTIFIED AGENDA OR RECORDING OF CLOSED MEETING; OFFENSE; PENALTY; CIVIL LIABILITY.

SECTION 18. Amends Sections 551.146(a) and (c), Government Code, as follows:

(a) Provides that an individual, corporation, or partnership that without lawful authority knowingly discloses to a member of the public the certified agenda or recording, rather than tape recording, of a meeting that was lawfully closed to the public under this chapter commits an offense and is liable to a person injured or damaged by the disclosure for certain costs and damages.

(c) Makes a conforming change.

SECTION 19. Effective date: upon passage or September 1, 2013.