

BILL ANALYSIS

Senate Research Center

S.B. 1297
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Open Government
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

To ensure public business is conducted in an open and transparent manner, the Texas Open Meetings Act (Act) prohibits a member of a state or local governmental body's board or commission from communicating with its fellow board members unless it is in an open meeting. As a result, boards cannot communicate electronically or otherwise outside of publicly posted meetings about official business or policy matters.

S.B. 1297 expands the Act by authorizing governmental bodies to use a publicly viewable electronic communications board through which board members can communicate with each other, thereby facilitating electronic communications between board members while still protecting the public's interest in open and transparent government. Although the bill authorizes electronic communication among board members, no official action can be taken via this method of communication.

S.B. 1297 imposes the following requirements and controls on official message boards:

- the communication must be in writing;
- the writing must be posted to an online message board that is viewable and searchable by the public;
- the communication must be displayed in real time and be displayed on the online message board for no less than 30 days after the communication is first posted;
- the governmental body may have only one online message board that the governmental body either owns or controls;
- the online message board must be prominently displayed on the governmental body's primary Internet website;
- the online message board may only be used by members of the governmental body and/or its officers;
- a communication that a member of the governmental body removes from an online message board after the 30-day window is subject to the Public Information Act and must be retained for six years; and
- the governmental body may not vote or take any action that is required to be taken at a meeting simply by posting a written communication to an online message board.

S.B. 1297 amends current law relating to written electronic communications between members of a governmental body.

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 Subchapter A, Chapter 551, Government Code, by adding Section 551.006, as follows:

Sec. 551.006. WRITTEN ELECTRONIC COMMUNICATIONS ACCESSIBLE TO PUBLIC. (a) Provides that a communication or exchange of information between

members of a governmental body about public business or public policy over which the governmental body has supervision or control does not constitute a meeting or deliberation for purposes of this chapter if:

- (1) the communication is in writing;
- (2) the writing is posted to an online message board or similar Internet application that is viewable and searchable by the public; and
- (3) the communication is displayed in real time and displayed on the online message board or similar Internet application for no less than thirty days after the communication is first posted.

(b) Authorizes a governmental body to have no more than one online message board or similar Internet application to be used for the purposes described in subsection (a). Requires that the online message board or similar Internet application be owned or controlled by the governmental body, be prominently displayed on the governmental body's primary Internet web page, and be no more than one click away from the governmental body's primary Internet web page.

(c) Authorizes the online message board or similar Internet application described in subsection (a) to only be used by members of the governmental body or staff members of the governmental body who have received specific authorization from a member of the governmental body. Requires that, in the event that a staff member posts a communication to the online message board or similar Internet application, the name and title of the staff member be posted along with the communication.

(d) Requires the governmental body, if a governmental body removes from the online message board or similar Internet application a communication that has been posted for at least thirty days, to maintain the posting for a period of six years. Provides that this communication is public information and is required to be disclosed in accordance with Chapter 552 (Public Information), Government Code.

(e) Prohibits the governmental body from voting or taking any action that is required to be taken at a meeting under this chapter of the governmental body by posting a communication to the online message board or similar Internet application. Prohibits a communication or posting to the online message board or similar Internet application from being construed to be an action of the governmental body.

SECTION 2. Effective date: September 1, 2013.