

By: Ellis

S.B. No. 471

A BILL TO BE ENTITLED

AN ACT

relating to technological efficiencies in the recording of certain open meetings.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 551.001, Government Code, is amended by adding Subdivision (7) to read as follows:

(7) "Recording" means a tangible medium on which audio or a combination of audio and video is recorded, including a disc, tape, wire, film, electronic storage drive, or other medium now existing or later developed.

SECTION 2. The heading to Section 551.021, Government Code, is amended to read as follows:

Sec. 551.021. MINUTES OR [~~TAPE~~] RECORDING OF OPEN MEETING REQUIRED.

SECTION 3. Subsection (a), Section 551.021, Government Code, is amended to read as follows:

(a) A governmental body shall prepare and keep minutes or make a [~~tape~~] recording of each open meeting of the body.

SECTION 4. Section 551.022, Government Code, is amended to read as follows:

Sec. 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

1 administrative officer or the officer's designee.

2 SECTION 5. Subsection (a), Section 551.023, Government  
3 Code, is amended to read as follows:

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

7 SECTION 6. Subsection (b), Section 551.0725, Government  
8 Code, is amended to read as follows:

9 (b) Notwithstanding Section 551.103(a), Government Code,  
10 the commissioners court must make a [~~tape~~] recording of the  
11 proceedings of a closed meeting to deliberate the information.

12 SECTION 7. Subsection (b), Section 551.0726, Government  
13 Code, is amended to read as follows:

14 (b) Notwithstanding Section 551.103(a), the commission must  
15 make a [~~tape~~] recording of the proceedings of a closed meeting held  
16 under this section.

17 SECTION 8. The heading to Section 551.103, Government Code,  
18 is amended to read as follows:

19 Sec. 551.103. CERTIFIED AGENDA OR [~~TAPE~~] RECORDING  
20 REQUIRED.

21 SECTION 9. Subsections (a) and (d), Section 551.103,  
22 Government Code, are amended to read as follows:

23 (a) A governmental body shall either keep a certified agenda  
24 or make a [~~tape~~] recording of the proceedings of each closed  
25 meeting, except for a private consultation permitted under Section  
26 551.071.

27 (d) A [~~tape~~] recording made under Subsection (a) must

1 include announcements by the presiding officer at the beginning and  
2 the end of the meeting indicating the date and time.

3 SECTION 10. Section 551.104, Government Code, is amended to  
4 read as follows:

5 Sec. 551.104. CERTIFIED AGENDA OR RECORDING [~~TAPE~~];  
6 PRESERVATION; DISCLOSURE. (a) A governmental body shall preserve  
7 the certified agenda or [~~tape~~] recording of a closed meeting for at  
8 least two years after the date of the meeting. If an action  
9 involving the meeting is brought within that period, the  
10 governmental body shall preserve the certified agenda or recording  
11 [~~tape~~] while the action is pending.

12 (b) In litigation in a district court involving an alleged  
13 violation of this chapter, the court:

14 (1) is entitled to make an in camera inspection of the  
15 certified agenda or recording [~~tape~~];

16 (2) may admit all or part of the certified agenda or  
17 recording [~~tape~~] as evidence, on entry of a final judgment; and

18 (3) may grant legal or equitable relief it considers  
19 appropriate, including an order that the governmental body make  
20 available to the public the certified agenda or recording [~~tape~~] of  
21 any part of a meeting that was required to be open under this  
22 chapter.

23 (c) The certified agenda or recording [~~tape~~] of a closed  
24 meeting is available for public inspection and copying only under a  
25 court order issued under Subsection (b)(3).

26 SECTION 11. Subsection (f), Section 551.121, Government  
27 Code, is amended to read as follows:

1           (f) Each part of the telephone conference call meeting that  
2 is required to be open to the public shall be audible to the public  
3 at the location specified in the notice of the meeting as the  
4 location of the meeting and shall be ~~[tape]~~ recorded. The ~~[tape]~~  
5 recording shall be made available to the public.

6           SECTION 12. Subsection (d), Section 551.122, Government  
7 Code, is amended to read as follows:

8           (d) Each part of the telephone conference call meeting that  
9 is required to be open to the public shall be audible to the public  
10 at the location where the quorum is present and shall be recorded  
11 ~~[tape-recorded]~~. The ~~[tape]~~ recording shall be made available to  
12 the public.

13           SECTION 13. Subsection (e), Section 551.125, Government  
14 Code, is amended to read as follows:

15           (e) Each part of the telephone conference call meeting that  
16 is required to be open to the public shall be audible to the public  
17 at the location specified in the notice of the meeting as the  
18 location of the meeting and shall be recorded ~~[tape-recorded]~~. The  
19 ~~[tape]~~ recording shall be made available to the public.

20           SECTION 14. Subsection (e), Section 551.130, Government  
21 Code, is amended to read as follows:

22           (e) The location where a quorum is physically present must  
23 be open to the public during the open portions of a telephone  
24 conference call meeting. The open portions of the meeting must be  
25 audible to the public at the location where the quorum is present  
26 and be recorded ~~[tape-recorded]~~ at that location. The ~~[tape]~~  
27 recording shall be made available to the public.

1 SECTION 15. The heading to Section 551.145, Government  
2 Code, is amended to read as follows:

3 Sec. 551.145. CLOSED MEETING WITHOUT CERTIFIED AGENDA OR  
4 [~~TAPE~~] RECORDING; OFFENSE; PENALTY.

5 SECTION 16. Subsection (a), Section 551.145, Government  
6 Code, is amended to read as follows:

7 (a) A member of a governmental body commits an offense if  
8 the member participates in a closed meeting of the governmental  
9 body knowing that a certified agenda of the closed meeting is not  
10 being kept or that a [~~tape~~] recording of the closed meeting is not  
11 being made.

12 SECTION 17. The heading to Section 551.146, Government  
13 Code, is amended to read as follows:

14 Sec. 551.146. DISCLOSURE OF CERTIFIED AGENDA OR [~~TAPE~~]  
15 RECORDING OF CLOSED MEETING; OFFENSE; PENALTY; CIVIL LIABILITY.

16 SECTION 18. Subsections (a) and (c), Section 551.146,  
17 Government Code, are amended to read as follows:

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

- 22 (1) commits an offense; and  
23 (2) is liable to a person injured or damaged by the  
24 disclosure for:

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

1 (B) reasonable attorney fees and court costs; and

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

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

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

9 (2) the disclosure was the result of a mistake of fact  
10 concerning the nature or content of the certified agenda or [~~tape~~]  
11 recording.

12 SECTION 19. This Act takes effect immediately if it  
13 receives a vote of two-thirds of all the members elected to each  
14 house, as provided by Section 39, Article III, Texas Constitution.  
15 If this Act does not receive the vote necessary for immediate  
16 effect, this Act takes effect September 1, 2013.