

By: Ellis

S.B. No. 471

A BILL TO BE ENTITLED

1 AN ACT
2 relating to technological efficiencies in the recording of certain
3 open meetings.

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

5 SECTION 1. The heading to Section 551.021, Government Code,
6 is amended to read as follows:

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

9 SECTION 2. Section 551.021(a), Government Code, is amended
10 to read as follows:

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

13 SECTION 3. Section 551.022, Government Code, is amended to
14 read as follows:

15 Sec. 551.022. MINUTES AND [~~TAPE~~] RECORDINGS OF OPEN
16 MEETING: PUBLIC RECORD. The minutes and [~~tape~~] recordings of an
17 open meeting are public records and shall be available for public
18 inspection and copying on request to the governmental body's chief
19 administrative officer or the officer's designee.

20 SECTION 4. Section 551.023(a), Government Code, is amended
21 to read as follows:

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

1 SECTION 5. Section 551.0725(b), Government Code, is amended
2 to read as follows:

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

6 SECTION 6. Section 551.0726(b), Government Code, is amended
7 to read as follows:

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

11 SECTION 7. The heading to Section 551.103, Government Code,
12 is amended to read as follows:

13 Sec. 551.103. CERTIFIED AGENDA OR [~~TAPE~~] RECORDING
14 REQUIRED.

15 SECTION 8. Sections 551.103(a) and (d), Government Code,
16 are amended to read as follows:

17 (a) A governmental body shall either keep a certified agenda
18 or make a [~~tape~~] recording of the proceedings of each closed
19 meeting, except for a private consultation permitted under Section
20 551.071.

21 (d) A [~~tape~~] recording made under Subsection (a) must
22 include announcements by the presiding officer at the beginning and
23 the end of the meeting indicating the date and time.

24 SECTION 9. Section 551.104, Government Code, is amended to
25 read as follows:

26 Sec. 551.104. CERTIFIED AGENDA OR RECORDING [~~TAPE~~];
27 PRESERVATION; DISCLOSURE. (a) A governmental body shall preserve

1 the certified agenda or [~~tape~~] recording of a closed meeting for at
2 least two years after the date of the meeting. If an action
3 involving the meeting is brought within that period, the
4 governmental body shall preserve the certified agenda or recording
5 [~~tape~~] while the action is pending.

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

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

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

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

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

20 SECTION 10. Section 551.121(f), Government Code, is amended
21 to read as follows:

22 (f) Each part of the telephone conference call meeting that
23 is required to be open to the public shall be audible to the public
24 at the location specified in the notice of the meeting as the
25 location of the meeting and shall be [~~tape~~] recorded. The [~~tape~~]
26 recording shall be made available to the public.

27 SECTION 11. Section 551.122(d), Government Code, is amended

1 to read as follows:

2 (d) Each part of the telephone conference call meeting that
3 is required to be open to the public shall be audible to the public
4 at the location where the quorum is present and shall be recorded
5 [~~tape-recorded~~]. The [~~tape~~] recording shall be made available to
6 the public.

7 SECTION 12. Section 551.125(e), Government Code, is amended
8 to read as follows:

9 (e) Each part of the telephone conference call meeting that
10 is required to be open to the public shall be audible to the public
11 at the location specified in the notice of the meeting as the
12 location of the meeting and shall be recorded [~~tape-recorded~~]. The
13 [~~tape~~] recording shall be made available to the public.

14 SECTION 13. Section 551.130(e), Government Code, is amended
15 to read as follows:

16 (e) The location where a quorum is physically present must
17 be open to the public during the open portions of a telephone
18 conference call meeting. The open portions of the meeting must be
19 audible to the public at the location where the quorum is present
20 and be recorded [~~tape-recorded~~] at that location. The [~~tape~~]
21 recording shall be made available to the public.

22 SECTION 14. The heading to Section 551.145, Government
23 Code, is amended to read as follows:

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

26 SECTION 15. Section 551.145(a), Government Code, is amended
27 to read as follows:

1 (a) A member of a governmental body commits an offense if
2 the member participates in a closed meeting of the governmental
3 body knowing that a certified agenda of the closed meeting is not
4 being kept or that a [~~tape~~] recording of the closed meeting is not
5 being made.

6 SECTION 16. The heading to Section 551.146, Government
7 Code, is amended to read as follows:

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

10 SECTION 17. Sections 551.146(a) and (c), Government Code,
11 are amended to read as follows:

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

16 (1) commits an offense; and

17 (2) is liable to a person injured or damaged by the
18 disclosure for:

19 (A) actual damages, including damages for
20 personal injury or damage, lost wages, defamation, or mental or
21 other emotional distress;

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

23 (C) at the discretion of the trier of fact,
24 exemplary damages.

25 (c) It is a defense to prosecution under Subsection (a)(1)
26 and an affirmative defense to a civil action under Subsection
27 (a)(2) that:

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

3 (2) the disclosure was the result of a mistake of fact
4 concerning the nature or content of the certified agenda or [~~tape~~
5 recording.

6 SECTION 18. This Act takes effect immediately if it
7 receives a vote of two-thirds of all members elected to each house,
8 as provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect on September 1, 2013.