

1-1 By: Ellis S.B. No. 471
 1-2 (In the Senate - Filed February 11, 2013; February 13, 2013,
 1-3 read first time and referred to Committee on Open Government;
 1-4 March 18, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 5, Nays 0; March 18, 2013,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			

1-14 COMMITTEE SUBSTITUTE FOR S.B. No. 471 By: Ellis

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to technological efficiencies in the recording of certain
 1-18 open meetings.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Section 551.001, Government Code, is amended by
 1-21 adding Subdivision (7) to read as follows:

1-22 (7) "Recording" means a tangible medium on which audio
 1-23 or a combination of audio and video is recorded, including a disc,
 1-24 tape, wire, film, electronic storage drive, or other medium now
 1-25 existing or later developed.

1-26 SECTION 2. The heading to Section 551.021, Government Code,
 1-27 is amended to read as follows:

1-28 Sec. 551.021. MINUTES OR ~~[TAPE]~~ RECORDING OF OPEN MEETING
 1-29 REQUIRED.

1-30 SECTION 3. Subsection (a), Section 551.021, Government
 1-31 Code, is amended to read as follows:

1-32 (a) A governmental body shall prepare and keep minutes or
 1-33 make a ~~[tape]~~ recording of each open meeting of the body.

1-34 SECTION 4. Section 551.022, Government Code, is amended to
 1-35 read as follows:

1-36 Sec. 551.022. MINUTES AND ~~[TAPE]~~ RECORDINGS OF OPEN
 1-37 MEETING: PUBLIC RECORD. The minutes and ~~[tape]~~ recordings of an
 1-38 open meeting are public records and shall be available for public
 1-39 inspection and copying on request to the governmental body's chief
 1-40 administrative officer or the officer's designee.

1-41 SECTION 5. Subsection (a), Section 551.023, Government
 1-42 Code, is amended to read as follows:

1-43 (a) A person in attendance may record all or any part of an
 1-44 open meeting of a governmental body by means of a ~~[tape]~~ recorder,
 1-45 video camera, or other means of aural or visual reproduction.

1-46 SECTION 6. Subsection (b), Section 551.0725, Government
 1-47 Code, is amended to read as follows:

1-48 (b) Notwithstanding Section 551.103(a), Government Code,
 1-49 the commissioners court must make a ~~[tape]~~ recording of the
 1-50 proceedings of a closed meeting to deliberate the information.

1-51 SECTION 7. Subsection (b), Section 551.0726, Government
 1-52 Code, is amended to read as follows:

1-53 (b) Notwithstanding Section 551.103(a), the commission must
 1-54 make a ~~[tape]~~ recording of the proceedings of a closed meeting held
 1-55 under this section.

1-56 SECTION 8. The heading to Section 551.103, Government Code,
 1-57 is amended to read as follows:

1-58 Sec. 551.103. CERTIFIED AGENDA OR ~~[TAPE]~~ RECORDING
 1-59 REQUIRED.

1-60 SECTION 9. Subsections (a) and (d), Section 551.103,

2-1 Government Code, are amended to read as follows:

2-2 (a) A governmental body shall either keep a certified agenda
2-3 or make a ~~[tape]~~ recording of the proceedings of each closed
2-4 meeting, except for a private consultation permitted under Section
2-5 551.071.

2-6 (d) A ~~[tape]~~ recording made under Subsection (a) must
2-7 include announcements by the presiding officer at the beginning and
2-8 the end of the meeting indicating the date and time.

2-9 SECTION 10. Section 551.104, Government Code, is amended to
2-10 read as follows:

2-11 Sec. 551.104. CERTIFIED AGENDA OR RECORDING ~~[TAP]~~;
2-12 PRESERVATION; DISCLOSURE. (a) A governmental body shall preserve
2-13 the certified agenda or ~~[tape]~~ recording of a closed meeting for at
2-14 least two years after the date of the meeting. If an action
2-15 involving the meeting is brought within that period, the
2-16 governmental body shall preserve the certified agenda or recording
2-17 ~~[tape]~~ while the action is pending.

2-18 (b) In litigation in a district court involving an alleged
2-19 violation of this chapter, the court:

2-20 (1) is entitled to make an in camera inspection of the
2-21 certified agenda or recording ~~[tape]~~;

2-22 (2) may admit all or part of the certified agenda or
2-23 recording ~~[tape]~~ as evidence, on entry of a final judgment; and

2-24 (3) may grant legal or equitable relief it considers
2-25 appropriate, including an order that the governmental body make
2-26 available to the public the certified agenda or recording ~~[tape]~~ of
2-27 any part of a meeting that was required to be open under this
2-28 chapter.

2-29 (c) The certified agenda or recording ~~[tape]~~ of a closed
2-30 meeting is available for public inspection and copying only under a
2-31 court order issued under Subsection (b)(3).

2-32 SECTION 11. Subsection (f), Section 551.121, Government
2-33 Code, is amended to read as follows:

2-34 (f) Each part of the telephone conference call meeting that
2-35 is required to be open to the public shall be audible to the public
2-36 at the location specified in the notice of the meeting as the
2-37 location of the meeting and shall be ~~[tape]~~ recorded. The ~~[tape]~~
2-38 recording shall be made available to the public.

2-39 SECTION 12. Subsection (d), Section 551.122, Government
2-40 Code, is amended to read as follows:

2-41 (d) Each part of the telephone conference call meeting that
2-42 is required to be open to the public shall be audible to the public
2-43 at the location where the quorum is present and shall be recorded
2-44 ~~[tape-recorded]~~. The ~~[tape]~~ recording shall be made available to
2-45 the public.

2-46 SECTION 13. Subsection (e), Section 551.125, Government
2-47 Code, is amended to read as follows:

2-48 (e) Each part of the telephone conference call meeting that
2-49 is required to be open to the public shall be audible to the public
2-50 at the location specified in the notice of the meeting as the
2-51 location of the meeting and shall be recorded ~~[tape-recorded]~~. The
2-52 ~~[tape]~~ recording shall be made available to the public.

2-53 SECTION 14. Subsection (e), Section 551.130, Government
2-54 Code, is amended to read as follows:

2-55 (e) The location where a quorum is physically present must
2-56 be open to the public during the open portions of a telephone
2-57 conference call meeting. The open portions of the meeting must be
2-58 audible to the public at the location where the quorum is present
2-59 and be recorded ~~[tape-recorded]~~ at that location. The ~~[tape]~~
2-60 recording shall be made available to the public.

2-61 SECTION 15. The heading to Section 551.145, Government
2-62 Code, is amended to read as follows:

2-63 Sec. 551.145. CLOSED MEETING WITHOUT CERTIFIED AGENDA OR
2-64 ~~[TAP]~~ RECORDING; OFFENSE; PENALTY.

2-65 SECTION 16. Subsection (a), Section 551.145, Government
2-66 Code, is amended to read as follows:

2-67 (a) A member of a governmental body commits an offense if
2-68 the member participates in a closed meeting of the governmental
2-69 body knowing that a certified agenda of the closed meeting is not

3-1 being kept or that a [~~tape~~] recording of the closed meeting is not
3-2 being made.

3-3 SECTION 17. The heading to Section 551.146, Government
3-4 Code, is amended to read as follows:

3-5 Sec. 551.146. DISCLOSURE OF CERTIFIED AGENDA OR [~~TAPE~~]
3-6 RECORDING OF CLOSED MEETING; OFFENSE; PENALTY; CIVIL LIABILITY.

3-7 SECTION 18. Subsections (a) and (c), Section 551.146,
3-8 Government Code, are amended to read as follows:

3-9 (a) An individual, corporation, or partnership that without
3-10 lawful authority knowingly discloses to a member of the public the
3-11 certified agenda or [~~tape~~] recording of a meeting that was lawfully
3-12 closed to the public under this chapter:

3-13 (1) commits an offense; and

3-14 (2) is liable to a person injured or damaged by the
3-15 disclosure for:

3-16 (A) actual damages, including damages for
3-17 personal injury or damage, lost wages, defamation, or mental or
3-18 other emotional distress;

3-19 (B) reasonable attorney fees and court costs; and

3-20 (C) at the discretion of the trier of fact,
3-21 exemplary damages.

3-22 (c) It is a defense to prosecution under Subsection (a)(1)
3-23 and an affirmative defense to a civil action under Subsection
3-24 (a)(2) that:

3-25 (1) the defendant had good reason to believe the
3-26 disclosure was lawful; or

3-27 (2) the disclosure was the result of a mistake of fact
3-28 concerning the nature or content of the certified agenda or [~~tape~~]
3-29 recording.

3-30 SECTION 19. This Act takes effect immediately if it
3-31 receives a vote of two-thirds of all the members elected to each
3-32 house, as provided by Section 39, Article III, Texas Constitution.
3-33 If this Act does not receive the vote necessary for immediate
3-34 effect, this Act takes effect September 1, 2013.

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