

By: Fallon

H.B. No. 3203

A BILL TO BE ENTITLED

1 AN ACT
2 relating to recordings of meetings of certain governmental bodies;
3 creating offenses.

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

5 SECTION 1. Section 551.001, Government Code, is amended by
6 adding Subdivision (9) to read as follows:

7 (9) "Video recording" means a recording of reasonable
8 quality on which a combination of audio and video is recorded.

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

11 Sec. 551.021. MINUTES AND [~~OR~~] RECORDING OF OPEN MEETING
12 REQUIRED.

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

15 (a) Except as provided by Section 551.0215, a [A]
16 governmental body shall prepare and keep for each open meeting of
17 the body:

18 (1) minutes [~~or make a recording~~] of the [~~each open~~]
19 meeting; and

20 (2) either:

21 (A) a video recording of the meeting; or

22 (B) a recording of the meeting if the meeting is a

23 telephone conference call meeting authorized by Subchapter F or by

24 other law [~~of the body~~].

1 SECTION 4. Subchapter B, Chapter 551, Government Code, is
2 amended by adding Section 551.0215 to read as follows:

3 Sec. 551.0215. MINUTES OR RECORDING OF OPEN MEETING
4 REQUIRED. (a) This section applies only to:

5 (1) a municipal governmental body described by Section
6 551.001(3)(C) or (D) for a municipality with a population of less
7 than 25,000;

8 (2) a county governmental body described by Section
9 551.001(3)(B), (D), (F), or (G) for a county with a population of
10 less than 100,000; and

11 (3) a school district board of trustees for a school
12 district with a student enrollment of less than 5,000.

13 (b) A governmental body shall prepare and keep minutes or
14 make a recording of each open meeting of the body.

15 (c) The minutes must:

16 (1) state the subject of each deliberation; and

17 (2) indicate each vote, order, decision, or other
18 action taken.

19 SECTION 5. Subchapter B, Chapter 551, Government Code, is
20 amended by adding Section 551.024 to read as follows:

21 Sec. 551.024. INTERNET ARCHIVE OF RECORDINGS. (a) This
22 section does not apply to a governmental body to which Section
23 551.0215 applies.

24 (b) Except as provided by Subsection (c), a governmental
25 body shall archive and make available on the Internet website of the
26 body or the governmental entity to which the body belongs each
27 recording of an open meeting required to be recorded under this

1 chapter or other law.

2 (c) If neither the governmental body nor the governmental
3 entity to which the body belongs maintains an Internet website, the
4 body shall archive and make available on an existing Internet
5 website, including a publicly accessible video-sharing or social
6 networking site, each recording described by Subsection (b). The
7 archived recordings must be easily found by searching the name of
8 the body on the Internet.

9 (d) A governmental body must archive and make a recording
10 described by this section available on the applicable Internet
11 website not later than the second business day after the date the
12 meeting is held. A governmental body may not remove a recording from
13 an Internet website once the recording is made available to the
14 public.

15 (e) A governmental body is exempt from the requirements of
16 this section to the extent a catastrophe, as defined by Section
17 551.0411, or a technical breakdown prevents the body from complying
18 with this section. Following the catastrophe or technical
19 breakdown, the governmental body shall make all reasonable efforts
20 to make the required recording of the open meeting available in a
21 timely manner.

22 SECTION 6. Section 551.0725(b), Government Code, is amended
23 to read as follows:

24 (b) Notwithstanding Section 551.1035 [~~551.103(a),~~
25 ~~Government Code~~], the commissioners court of a county to which that
26 section applies must make a recording of the proceedings of a closed
27 meeting to deliberate the information.

1 SECTION 7. Section 551.0726, Government Code, is amended to
2 read as follows:

3 Sec. 551.0726. TEXAS FACILITIES COMMISSION: DELIBERATION
4 REGARDING CONTRACT BEING NEGOTIATED; CLOSED MEETING. [~~(a)~~] The
5 Texas Facilities Commission may conduct a closed meeting to
6 deliberate business and financial issues relating to a contract
7 being negotiated if, before conducting the closed meeting:

8 (1) the commission votes unanimously that
9 deliberation in an open meeting would have a detrimental effect on
10 the position of the state in negotiations with a third person; and

11 (2) the attorney advising the commission issues a
12 written determination finding that deliberation in an open meeting
13 would have a detrimental effect on the position of the state in
14 negotiations with a third person and setting forth that finding
15 therein.

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

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

21 Sec. 551.103. CERTIFIED AGENDA AND [~~OR~~] RECORDING REQUIRED.

22 SECTION 9. Section 551.103, Government Code, is amended by
23 amending Subsection (a) and adding Subsection (e) to read as
24 follows:

25 (a) Except as provided by Section 551.1035, a [~~A~~]
26 governmental body shall prepare and [~~either~~] keep for each closed
27 meeting of the body:

1 (1) a certified agenda [~~or make a recording~~] of the
2 proceedings of the [~~each closed~~] meeting; and

3 (2) either:

4 (A) a video recording of the meeting; or

5 (B) a recording of the meeting if the meeting is a
6 telephone conference call meeting authorized by Subchapter F or by
7 other law[~~, except for a private consultation permitted under~~
8 ~~Section 551.071~~].

9 (e) Subsection (a) does not apply to a private consultation
10 permitted under Section 551.071.

11 SECTION 10. Subchapter E, Chapter 551, Government Code, is
12 amended by adding Section 551.1035 to read as follows:

13 Sec. 551.1035. CERTIFIED AGENDA OR RECORDING REQUIRED.

14 (a) This section applies only to a governmental body to which
15 Section 551.0215 applies.

16 (b) A governmental body shall either keep a certified agenda
17 or make a recording of the proceedings of each closed meeting.

18 (c) The presiding officer shall certify that an agenda kept
19 under Subsection (b) is a true and correct record of the
20 proceedings.

21 (d) The certified agenda must include:

22 (1) a statement of the subject matter of each
23 deliberation;

24 (2) a record of any further action taken; and

25 (3) an announcement by the presiding officer at the
26 beginning and the end of the meeting indicating the date and time.

27 (e) A recording made under Subsection (b) must include

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

3 (f) Subsection (b) does not apply to a private consultation
4 permitted under Section 551.071.

5 SECTION 11. Section 551.104, Government Code, is amended to
6 read as follows:

7 Sec. 551.104. CERTIFIED AGENDA AND [~~OR~~] RECORDING;
8 PRESERVATION; DISCLOSURE. (a) Except as provided by Subsection
9 (b), a [A] governmental body shall permanently preserve the
10 certified agenda and [~~or~~] recording of a closed meeting.

11 (b) A governmental body to which Section 511.1035 applies
12 shall preserve the certified agenda or recording of a closed
13 meeting for at least two years after the date of the meeting. If an
14 action involving the meeting is brought within that period, the
15 governmental body shall preserve the certified agenda or recording
16 while the action is pending.

17 (c) [~~(b)~~] In litigation in a district court involving an
18 alleged violation of this chapter, the court:

19 (1) is entitled to make an in camera inspection of the
20 certified agenda and [~~or~~] recording;

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

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

1 (d) [~~(e)~~] The certified agenda and [~~or~~] recording of a
2 closed meeting are [~~is~~] available for public inspection and copying
3 only under a court order issued under Subsection (c)(3) [~~(b)(3)~~].

4 SECTION 12. Section 551.121(f), Government Code, is amended
5 to read as follows:

6 (f) Each part of the telephone conference call meeting that
7 is required to be open to the public must be:

8 (1) audible to the public at the location specified in
9 the notice of the meeting as the location of the meeting; and

10 (2) broadcast over the Internet in the manner
11 prescribed by Section 551.128 [~~, and~~

12 [~~(3) recorded and made available to the public in an~~
13 ~~online archive located on the Internet website of the entity~~
14 ~~holding the meeting]~~.

15 SECTION 13. Section 551.122(d), Government Code, is amended
16 to read as follows:

17 (d) Each part of the telephone conference call meeting that
18 is required to be open to the public shall be audible to the public
19 at the location where the quorum is present [~~and shall be recorded.~~
20 ~~The recording shall be made available to the public]~~.

21 SECTION 14. Section 551.123, Government Code, is amended to
22 read as follows:

23 Sec. 551.123. TEXAS BOARD OF CRIMINAL JUSTICE. [~~(a)~~] The
24 Texas Board of Criminal Justice may hold an open or closed emergency
25 meeting by telephone conference call.

26 [~~(b) The portion of the telephone conference call meeting~~
27 ~~that is open shall be recorded. The recording shall be made~~

1 ~~available to be heard by the public at one or more places designated~~
2 ~~by the board.]~~

3 SECTION 15. Section 551.126(d), Government Code, is amended
4 to read as follows:

5 (d) A meeting held by video conference call is subject to
6 the notice requirements applicable to other meetings. In addition,
7 a meeting held by video conference call shall:

8 (1) be visible and audible to the public at the
9 location specified in the notice of the meeting as the location of
10 the meeting; and

11 (2) ~~[be recorded by audio and video; and~~
12 ~~(3)]~~ have two-way audio and video communications with
13 each participant in the meeting during the entire meeting.

14 SECTION 16. Section 551.1281(b), Government Code, is
15 amended to read as follows:

16 (b) The governing board of a general academic teaching
17 institution or of a university system that includes one or more
18 component general academic teaching institutions, for any
19 regularly scheduled meeting of the governing board for which notice
20 is required under this chapter, shall:

21 (1) post as early as practicable in advance of the
22 meeting on the Internet website of the institution or university
23 system, as applicable, any written agenda and related supplemental
24 written materials provided to the governing board members in
25 advance of the meeting by the institution or system for the members'
26 use during the meeting; and

27 (2) broadcast the meeting, other than any portions of

1 the meeting closed to the public as authorized by law, over the
2 Internet in the manner prescribed by Section 551.128~~[, and~~

3 ~~[(3) record the broadcast and make that recording~~
4 ~~publicly available in an online archive located on the~~
5 ~~institution's or university system's Internet website].~~

6 SECTION 17. Section 551.1282(b), Government Code, is
7 amended to read as follows:

8 (b) A governing board to which this section applies, for any
9 regularly scheduled meeting of the governing board for which notice
10 is required under this chapter, shall:

11 (1) post as early as practicable in advance of the
12 meeting on the Internet website of the district any written agenda
13 and related supplemental written materials provided by the district
14 to the board members for the members' use during the meeting; and

15 (2) broadcast the meeting, other than any portions of
16 the meeting closed to the public as authorized by law, over the
17 Internet in the manner prescribed by Section 551.128~~[, and~~

18 ~~[(3) record the broadcast and make that recording~~
19 ~~publicly available in an online archive located on the district's~~
20 ~~Internet website].~~

21 SECTION 18. Section 551.130(e), Government Code, is amended
22 to read as follows:

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

1 ~~available to the public~~].

2 SECTION 19. Section 551.131(e), Government Code, is amended
3 to read as follows:

4 (e) A meeting held by video conference call is subject to
5 the notice requirements applicable to other meetings. In addition,
6 a meeting held by video conference call shall:

7 (1) be visible and audible to the public at the
8 location specified in the notice of the meeting as the location of
9 the meeting; and

10 (2) ~~[be recorded by audio and video; and~~

11 ~~(3)]~~ have two-way audio and video communications with
12 each participant in the meeting during the entire meeting.

13 SECTION 20. Section 551.142(a), Government Code, is amended
14 to read as follows:

15 (a) A ~~[An interested]~~ person, including a member of the news
16 media, may bring an action by mandamus or injunction to stop,
17 prevent, or reverse a violation or threatened violation of this
18 chapter ~~[by members of a governmental body]~~.

19 SECTION 21. The heading to Section 551.145, Government
20 Code, is amended to read as follows:

21 Sec. 551.145. CLOSED MEETING WITHOUT CERTIFIED AGENDA OR
22 RECORDING; OFFENSE ~~[, PENALTY]~~.

23 SECTION 22. Section 551.145(a), Government Code, is amended
24 to read as follows:

25 (a) A member of a governmental body commits an offense if
26 the member participates in a closed meeting of the ~~[governmental]~~
27 body knowing that a certified agenda of the ~~[closed]~~ meeting is not

1 being kept or that a recording required by this chapter or other law
2 of the [~~closed~~] meeting is not being made.

3 SECTION 23. Subchapter G, Chapter 551, Government Code, is
4 amended by adding Sections 551.147 and 551.148 to read as follows:

5 Sec. 551.147. OPEN MEETING WITHOUT RECORDING; OFFENSE. (a)
6 A member of a governmental body commits an offense if the member
7 participates in an open meeting of the body knowing that a recording
8 required by this chapter or other law of the meeting is not being
9 made.

10 (b) An offense under Subsection (a) is a Class C
11 misdemeanor.

12 Sec. 551.148. FAILURE TO ARCHIVE RECORDING; OFFENSE. (a) A
13 member of a governmental body commits an offense if the member
14 knowingly fails to ensure that a recording of an open meeting of the
15 body is made available and maintained on the Internet if required,
16 and as provided, by this chapter.

17 (b) An offense under Subsection (a) is a Class C
18 misdemeanor.

19 SECTION 24. Section 7.106(b), Education Code, is amended to
20 read as follows:

21 (b) In a manner that complies with Section 551.128,
22 Government Code, the agency shall broadcast over the Internet live
23 video and audio of each open meeting held by the board.
24 [~~Subsequently, the agency shall make available through the agency's~~
25 ~~Internet website archived video and audio for each meeting for~~
26 ~~which live video and audio was provided under this subsection.]~~

27 SECTION 25. Section 11.1513(b), Education Code, is amended

1 to read as follows:

2 (b) The board of trustees may accept or reject the
3 superintendent's recommendation regarding the selection of
4 district personnel and shall include the board's acceptance or
5 rejection in, as applicable, the minutes, recording, or [~~of the~~
6 ~~board's meeting, as required under Section 551.021, Government~~
7 ~~Code, in the]~~ certified agenda [~~or tape recording required under~~
8 ~~Section 551.103, Government Code, or in the recording]~~ required
9 under Chapter 551 [~~Section 551.125 or 551.127~~], Government Code[~~,~~
10 ~~as applicable~~]. If the board rejects the superintendent's
11 recommendation, the superintendent shall make alternative
12 recommendations until the board accepts a recommendation.

13 SECTION 26. Section 418.183(f), Government Code, is amended
14 to read as follows:

15 (f) A governmental body subject to Chapter 551 is not
16 required to conduct an open meeting to deliberate information to
17 which this section applies. Notwithstanding Section 551.1035, a
18 [~~551.103(a), the~~] governmental body to which that section applies
19 must make a [~~tape~~] recording of the proceedings of a closed meeting
20 to deliberate the information.

21 SECTION 27. Section 116.006(b), Health and Safety Code, is
22 amended to read as follows:

23 (b) Section 551.125, Government Code, applies to a meeting
24 held by conference call under this section, except that Section
25 551.125(b), Government Code, does not apply. The council shall
26 record each meeting held by conference call and make the recording
27 available to the public.

1 SECTION 28. Section 370.262(d), Transportation Code, is
2 amended to read as follows:

3 (d) Each part of the telephone conference call meeting that
4 by law must be open to the public shall be audible to the public at
5 the location specified in the notice [~~and shall be tape-recorded or~~
6 ~~documented by written minutes. On conclusion of the meeting, the~~
7 ~~tape recording or the written minutes of the meeting shall be made~~
8 ~~available to the public~~].

9 SECTION 29. Section 8(c), Chapter 1507 (S.B. 456), Acts of
10 the 76th Legislature, Regular Session, 1999 (Article 5190.14,
11 Vernon's Texas Civil Statutes), is amended to read as follows:

12 (c) Chapter 551, Government Code, does not apply to a
13 meeting of a subcommittee of the governing body of a local
14 organizing committee if:

15 (1) the subcommittee consists of not more than five
16 members;

17 (2) the meeting is not held in a public building;

18 (3) the subcommittee makes a tape recording of the
19 proceedings of the meeting [~~in compliance with Section 551.103,~~
20 ~~Government Code,~~] and the local organizing committee preserves the
21 tape recording for two years from the date the recording is made;

22 (4) the subcommittee does not discuss or decide any
23 financial matters during the meeting; and

24 (5) any decision made by the subcommittee will not
25 become effective without being reviewed and officially adopted by
26 the governing body of the local organizing committee at a meeting
27 held in compliance with Chapter 551, Government Code.

1 SECTION 30. The changes in law made by this Act apply only
2 to a meeting held or a recording required to be made on or after
3 September 1, 2017. A meeting held or a recording required to be made
4 before the effective date of this Act is governed by the law in
5 effect immediately before the effective date of this Act, and the
6 former law is continued in effect for that purpose.

7 SECTION 31. This Act takes effect September 1, 2017.