

By: Fallon

H.B. No. 3708

A BILL TO BE ENTITLED

AN ACT

relating to recordings of meetings of certain governmental bodies;
creating offenses.

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

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

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

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

(a) Except as provided by Section 551.0215, a [A]
governmental body shall prepare and keep minutes or make a
recording of each open meeting of the body.

SECTION 3. Subchapter B, Chapter 551, Government Code, is
amended by adding Section 551.0215 to read as follows:

Sec. 551.0215. MINUTES AND RECORDING OF OPEN MEETING
REQUIRED IN CERTAIN POPULOUS COUNTIES. (a) Subject to Subsection
(b), this section applies only to a governmental body located
wholly or partly in:

(1) a county with a population of more than two million
that is adjacent to a county with a population of more than one
million; and

(2) a county with a population of more than 600,000
that is adjacent to a county with a population of more than two

1 million.

2 (b) This section does not apply to:

3 (1) a governmental body described by Section
4 551.001(3)(A);

5 (2) 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 located wholly or partly in a county described by
8 Subsection (a); or

9 (3) a school district board of trustees for a school
10 district with a student enrollment of less than 5,000 located
11 wholly or partly in a county described by Subsection (a).

12 (c) A governmental body shall prepare and keep for each open
13 meeting of the body:

14 (1) minutes of the meeting; and

15 (2) either:

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

17 (B) a recording of the meeting if the meeting is a
18 telephone conference call meeting authorized by Subchapter F or by
19 other law.

20 (d) The minutes must:

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

22 (2) indicate each vote, order, decision, or other
23 action taken.

24 SECTION 4. Subchapter B, Chapter 551, Government Code, is
25 amended by adding Section 551.024 to read as follows:

26 Sec. 551.024. INTERNET ARCHIVE OF RECORDINGS. (a) This
27 section applies only to a governmental body to which Section

1 551.0215 applies.

2 (b) Except as provided by Subsection (c), a governmental
3 body shall archive and make available on the Internet website of the
4 body or the governmental entity to which the body belongs each
5 recording of an open meeting required to be recorded under this
6 chapter or other law.

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

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

20 (e) A governmental body is exempt from the requirements of
21 this section to the extent a catastrophe, as defined by Section
22 551.0411, or a technical breakdown prevents the body from complying
23 with this section. Following the catastrophe or technical
24 breakdown, the governmental body shall make all reasonable efforts
25 to make the required recording of the open meeting available in a
26 timely manner.

27 SECTION 5. Section [551.0725\(b\)](#), Government Code, is amended

1 to read as follows:

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

6 SECTION 6. Section 551.103, Government Code, is amended by
7 amending Subsection (a) and adding Subsection (e) to read as
8 follows:

9 (a) Except as provided by Section 551.1035, a [A]
10 governmental body shall either keep a certified agenda or make a
11 recording of the proceedings of each closed meeting[~~, except for a~~
12 ~~private consultation permitted under Section 551.071~~].

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

15 SECTION 7. Subchapter E, Chapter 551, Government Code, is
16 amended by adding Section 551.1035 to read as follows:

17 Sec. 551.1035. CERTIFIED AGENDA AND RECORDING REQUIRED IN
18 CERTAIN POPULOUS COUNTIES. (a) This section applies only to a
19 governmental body to which Section 551.0215 applies.

20 (b) A governmental body shall prepare and keep for each
21 closed meeting of the body:

22 (1) a certified agenda of the proceedings of the
23 meeting; and

24 (2) either:

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

26 (B) a recording of the meeting if the meeting is a
27 telephone conference call meeting authorized by Subchapter F or by

1 other law.

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

5 (d) The certified agenda must include:

6 (1) a statement of the subject matter of each
7 deliberation;

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

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

11 (e) A recording made under Subsection (b) must include
12 announcements by the presiding officer at the beginning and the end
13 of the meeting indicating the date and time.

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

16 SECTION 8. Section 551.104, Government Code, is amended to
17 read as follows:

18 Sec. 551.104. CERTIFIED AGENDA AND [~~OR~~] RECORDING;
19 PRESERVATION; DISCLOSURE. (a) Except as provided by Subsection
20 (b), a [A] governmental body shall preserve the certified agenda or
21 recording of a closed meeting for at least two years after the date
22 of the meeting. If an action involving the meeting is brought
23 within that period, the governmental body shall preserve the
24 certified agenda or recording while the action is pending.

25 (b) A governmental body to which Section 551.1035 applies
26 shall permanently preserve the certified agenda and recording of a
27 closed meeting.

1 (c) In litigation in a district court involving an alleged
2 violation of this chapter, the court:

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

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

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

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

15 SECTION 9. Section 551.142(a), Government Code, is amended
16 to read as follows:

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

21 SECTION 10. Section 551.145, Government Code, is amended to
22 read as follows:

23 Sec. 551.145. CLOSED MEETING WITHOUT CERTIFIED AGENDA OR
24 RECORDING; OFFENSE [~~—PENALTY~~]. (a) A member of a governmental body
25 to which Section 551.103 applies commits an offense if the member
26 participates in a closed meeting of the [~~governmental~~] body knowing
27 that a certified agenda of the [~~closed~~] meeting is not being kept or

1 that a recording of the [~~closed~~] meeting is not being made.

2 (b) A member of a governmental body to which Section
3 551.1035 applies commits an offense if the member participates in a
4 closed meeting of the body knowing that a certified agenda of the
5 meeting is not being kept or that a recording required by this
6 chapter or other law of the meeting is not being made.

7 (c) An offense under Subsection (a) or (b) is a Class C
8 misdemeanor.

9 SECTION 11. Subchapter G, Chapter 551, Government Code, is
10 amended by adding Sections 551.147 and 551.148 to read as follows:

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

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

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

23 (b) An offense under Subsection (a) is a Class C
24 misdemeanor.

25 SECTION 12. Section 11.1513(b), Education Code, is amended
26 to read as follows:

27 (b) The board of trustees may accept or reject the

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

11 SECTION 13. The changes in law made by this Act apply only
12 to a meeting held or a recording required to be made on or after
13 September 1, 2017. A meeting held or a recording required to be
14 made before the effective date of this Act is governed by the law in
15 effect immediately before the effective date of this Act, and the
16 former law is continued in effect for that purpose.

17 SECTION 14. This Act takes effect September 1, 2017.