

1-1 By: Paxton S.B. No. 861  
 1-2 (In the Senate - Filed February 26, 2021; March 11, 2021,  
 1-3 read first time and referred to Committee on Business & Commerce;  
 1-4 April 9, 2021, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 8, Nays 1; April 9, 2021,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17		X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 861 By: Hancock

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to remote meetings under the open meetings law.  
 1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 1-23 SECTION 1. Section 551.125, Government Code, is amended to  
 1-24 read as follows:  
 1-25 Sec. 551.125. MEETING FROM REMOTE LOCATIONS BY TELEPHONE  
 1-26 CONFERENCE CALL [~~OTHER GOVERNMENTAL BODY~~]. (a) Except as  
 1-27 otherwise provided by this subchapter, this chapter does not  
 1-28 prohibit a governmental body from holding an open or closed meeting  
 1-29 from one or more remote locations by telephone conference call.  
 1-30 (b) A meeting held by telephone conference call may be held  
 1-31 only if:  
 1-32 (1) [~~an emergency or public necessity exists within~~  
 1-33 ~~the meaning of Section 551.045 of this chapter; and~~  
 1-34 [~~2~~] the convening at one location of a quorum of the  
 1-35 governmental body is difficult or impossible; or  
 1-36 (2) [~~3~~] the meeting is held by an advisory board.  
 1-37 (c) The telephone conference call meeting is subject to the  
 1-38 notice requirements applicable to other meetings except as  
 1-39 otherwise provided by Subsection (d).  
 1-40 (d) The notice of the telephone conference call meeting  
 1-41 must:  
 1-42 (1) include the statement "Telephone conference call  
 1-43 under Section 551.125, Government Code" in lieu of the place of the  
 1-44 meeting;  
 1-45 (2) list each physical location where members of the  
 1-46 public may listen to or participate in the meeting, including:  
 1-47 (A) any location that is open to the public where  
 1-48 a member of the governmental body intends to participate in the  
 1-49 meeting; and  
 1-50 (B) any facility provided by the governmental  
 1-51 body for members of the public to listen to the meeting or provide  
 1-52 testimony or comments;  
 1-53 (3) include access information for an audio feed of  
 1-54 the meeting; and  
 1-55 (4) if applicable, include instructions for members of  
 1-56 the public to provide testimony or comments to the governmental  
 1-57 body [specify as the location of the meeting the location where  
 1-58 meetings of the governmental body are usually held].  
 1-59 (e) Any method of access that is provided to the public for  
 1-60 listening to or participating in the telephone conference call

2-1 meeting must be widely available at no cost to the public,  
 2-2 including:  
 2-3 (1) a toll-free telephone number; or  
 2-4 (2) a free, widely available computer application that  
 2-5 can be installed on:  
 2-6 (A) a mobile telephone;  
 2-7 (B) a computer;  
 2-8 (C) an Internet-connected television; or  
 2-9 (D) a similar, widely available electronic  
 2-10 device.  
 2-11 (f) [(e)] Each part of the telephone conference call  
 2-12 meeting that is required to be open to the public shall be audible  
 2-13 to the public using the access information described by Subsection  
 2-14 (d) [at the location specified in the notice of the meeting as the  
 2-15 location of the meeting] and shall be recorded. The recording shall  
 2-16 be made available to the public.  
 2-17 (g) [(f)] The [location designated in the notice as the  
 2-18 location of the meeting shall provide two-way communication during  
 2-19 the entire telephone conference call meeting and the]  
 2-20 identification of each party to the telephone conference shall be  
 2-21 clearly stated prior to speaking.  
 2-22 (h) If the governmental body prepares an agenda packet that  
 2-23 would have been distributed to members of the public at a  
 2-24 face-to-face meeting, the governmental body shall make the packet  
 2-25 available electronically so that members of the public listening  
 2-26 remotely can follow along with the meeting.  
 2-27 SECTION 2. Section 551.127, Government Code, is amended to  
 2-28 read as follows:  
 2-29 Sec. 551.127. MEETING FROM REMOTE LOCATIONS BY  
 2-30 VIDEOCONFERENCE CALL. (a) Except as otherwise provided by this  
 2-31 section, this chapter does not prohibit a governmental body from  
 2-32 holding an open or closed meeting from one or more remote locations  
 2-33 by videoconference call.  
 2-34 (b) [(a-1)] A member or employee of a governmental body may  
 2-35 participate remotely in a meeting of the governmental body by means  
 2-36 of a videoconference call if the [video and] audio feed and, if  
 2-37 applicable, video feed of the member's or employee's participation  
 2-38 [, as applicable, is broadcast live at the meeting and] complies  
 2-39 with the provisions of this section.  
 2-40 (c) [(a-2)] A member of a governmental body who  
 2-41 participates in a meeting as provided by Subsection (b) [(a-1)]  
 2-42 shall be counted as present at the meeting for all purposes.  
 2-43 (d) [(a-3)] A member of a governmental body who  
 2-44 participates in a meeting by videoconference call shall be  
 2-45 considered absent from any portion of the meeting during which  
 2-46 audio [or video] communication with the member is lost or  
 2-47 disconnected. The governmental body may continue the meeting only  
 2-48 if members in a number sufficient to constitute a quorum of the body  
 2-49 remain audible and visible to each other and, during the open  
 2-50 portion of the meeting, to the public [remains present at the  
 2-51 meeting location or, if applicable, continues to participate in a  
 2-52 meeting conducted under Subsection (c)].  
 2-53 [(b) A meeting may be held by videoconference call only if a  
 2-54 quorum of the governmental body is physically present at one  
 2-55 location of the meeting, except as provided by Subsection (c).  
 2-56 [(c) A meeting of a state governmental body or a  
 2-57 governmental body that extends into three or more counties may be  
 2-58 held by videoconference call only if the member of the governmental  
 2-59 body presiding over the meeting is physically present at one  
 2-60 location of the meeting that is open to the public during the open  
 2-61 portions of the meeting.]  
 2-62 (e) [(d)] A meeting held by videoconference call is subject  
 2-63 to the notice requirements applicable to other meetings except as  
 2-64 otherwise provided by Subsection (f) [in addition to the notice  
 2-65 requirements prescribed by this section].  
 2-66 (f) [(e)] The notice of a meeting to be held by  
 2-67 videoconference call must:  
 2-68 (1) include the statement "Videoconference call under  
 2-69 Section 551.127, Government Code" in lieu of the place of the

3-1 meeting;  
3-2 (2) list each physical location where members of the  
3-3 public may observe or participate in the meeting, including:  
3-4 (A) any location that is open to the public where  
3-5 a member of the governmental body intends to participate in the  
3-6 meeting; and  
3-7 (B) any facility provided by the governmental  
3-8 body for members of the public to observe the meeting or provide  
3-9 testimony or comments;  
3-10 (3) include access information for both audio-only and  
3-11 audiovisual feeds of the meeting; and  
3-12 (4) if applicable, include instructions for members of  
3-13 the public to provide testimony or comments to the governmental  
3-14 body [specify as a location of the meeting the location where a  
3-15 quorum of the governmental body will be physically present and  
3-16 specify the intent to have a quorum present at that location, except  
3-17 that the notice of a meeting to be held by videoconference call  
3-18 under Subsection (c) must specify as a location of the meeting the  
3-19 location where the member of the governmental body presiding over  
3-20 the meeting will be physically present and specify the intent to  
3-21 have the member of the governmental body presiding over the meeting  
3-22 present at that location. The location where the member of the  
3-23 governmental body presiding over the meeting is physically present  
3-24 shall be open to the public during the open portions of the  
3-25 meeting].  
3-26 (g) Any method of access that is provided to the public for  
3-27 the purpose of observing or participating in a meeting held under  
3-28 this section must be widely available at no cost to the public,  
3-29 including:  
3-30 (1) a toll-free telephone number; or  
3-31 (2) a free, widely available computer application that  
3-32 can be installed on:  
3-33 (A) a mobile telephone;  
3-34 (B) a computer;  
3-35 (C) an Internet-connected television; or  
3-36 (D) a similar, widely available electronic  
3-37 device.  
3-38 (h) [~~(f)~~] Each portion of a meeting held by videoconference  
3-39 call that is required to be open to the public shall be [~~visible~~  
3-40 ~~and~~] audible and, if applicable, visible to the public using the  
3-41 access information described by Subsection (f) [~~at the location~~  
3-42 ~~specified under Subsection (e)].~~ If a problem occurs that causes a  
3-43 meeting to no longer be [~~visible and~~] audible to the public [~~at that~~  
3-44 ~~location],~~ the meeting must be recessed until the problem is  
3-45 resolved. If the problem is not resolved in six hours or less, the  
3-46 meeting must be adjourned.  
3-47 (i) [~~(g)~~] The governmental body shall make at least an audio  
3-48 recording of the meeting. The recording shall be made available to  
3-49 the public.  
3-50 (j) [~~(h)~~] The location specified under Subsection (e), and  
3-51 each remote location from which a member of the governmental body  
3-52 participates, shall have two-way audio and video communication with  
3-53 each other location during the entire meeting.] The face of each  
3-54 participant in the videoconference call who is participating in the  
3-55 call using video communication, while that participant is speaking,  
3-56 shall be clearly visible, and the voice audible, to each other  
3-57 participant and, during the open portion of the meeting, to the  
3-58 members of the public, including [~~in attendance at the physical~~  
3-59 ~~location described by Subsection (e) and] at any [other] location~~  
3-60 ~~described by Subsection (f)(2) [of the meeting that is open to the~~  
3-61 ~~public].~~  
3-62 (k) A participant in the videoconference call using solely  
3-63 audio communication:  
3-64 (1) shall, while the participant is speaking, be  
3-65 clearly audible to each other participant and, during the open  
3-66 portion of the meeting, to the members of the public, including at  
3-67 any location described by Subsection (f)(2); and  
3-68 (2) must be clearly identified before speaking.  
3-69 (1) [~~(i)~~] The Department of Information Resources by rule

4-1 shall specify minimum technical standards for ~~[audio and video~~  
 4-2 ~~signals at]~~ a meeting held by videoconference call. ~~[The quality of~~  
 4-3 ~~the audio and video signals perceptible at each location of the~~  
 4-4 ~~meeting must meet or exceed those standards.]~~

4-5 (m) [(j)] The audio and video signals perceptible by  
 4-6 members of the public using the access information described under  
 4-7 Subsection (f) [at each location of the meeting described by  
 4-8 Subsection (h)] must be of sufficient quality so that members of the  
 4-9 public ~~[at each location]~~ can observe the demeanor or ~~[and]~~ hear the  
 4-10 voice, as applicable, of each participant in the open portion of the  
 4-11 meeting.

4-12 (n) [(k)] Without regard to whether a member of the  
 4-13 governmental body is participating in a meeting from a remote  
 4-14 location by videoconference call, a governmental body may allow a  
 4-15 member of the public to testify or provide comments at a meeting  
 4-16 from a remote location by videoconference call.

4-17 (o) A governmental body that is holding a meeting by  
 4-18 videoconference call where public testimony is taken or comments  
 4-19 are provided shall allow a member of the public to testify or  
 4-20 provide comments from a remote location using video or audio  
 4-21 communication.

4-22 (p) If the governmental body prepares an agenda packet that  
 4-23 would have been distributed to members of the public at a  
 4-24 face-to-face meeting, the governmental body shall make the packet  
 4-25 available electronically so that members of the public observing  
 4-26 remotely can follow along with the meeting.

4-27 (q) This subsection applies only to a governmental body  
 4-28 located in an area of this state that the state broadband  
 4-29 development office designates as eligible under the state broadband  
 4-30 development program. Notwithstanding Subsection (d) or (j), a  
 4-31 member of the governmental body may participate remotely in an open  
 4-32 or closed meeting of the governmental body using solely audio  
 4-33 communication and shall be counted as present during the meeting  
 4-34 provided that:

4-35 (1) the identification of each participant in the  
 4-36 meeting is clearly stated prior to speaking;

4-37 (2) the member is considered absent from any portion  
 4-38 of the meeting during which audio communication with the member is  
 4-39 lost or disconnected; and

4-40 (3) the governmental body may continue the meeting  
 4-41 only if members in a number sufficient to constitute a quorum of the  
 4-42 body remain audible to each other and, during the open portion of  
 4-43 the meeting, to the public.

4-44 SECTION 3. Section 551.131(d), Government Code, is amended  
 4-45 to read as follows:

4-46 (d) A meeting held by telephone conference call must  
 4-47 otherwise comply with the procedures under Sections 551.125(c),  
 4-48 (d), ~~[(e), and]~~ (f), and (g).

4-49 SECTION 4. Subchapter F, Chapter 551, Government Code, is  
 4-50 amended by adding Section 551.132 to read as follows:

4-51 Sec. 551.132. REMOTE PARTICIPATION BY SINGLE MEMBER. (a)  
 4-52 Notwithstanding Section 551.125 or 551.127, this chapter does not  
 4-53 prohibit a governmental body with three or more members from  
 4-54 holding an open or closed meeting where not more than one member of  
 4-55 the body is participating remotely through the use of a telephone or  
 4-56 computer application, provided that:

4-57 (1) when speaking, the member who is participating  
 4-58 remotely is clearly audible to each other member of the body and,  
 4-59 during the portion of the meeting that is open, to the public in  
 4-60 attendance at the physical location of the meeting;

4-61 (2) the member who is participating remotely is able  
 4-62 to hear all portions of the meeting; and

4-63 (3) the identification of each participant in the  
 4-64 meeting is clearly stated prior to speaking.

4-65 (b) A member of a governmental body who participates in a  
 4-66 meeting under this section shall be counted as present at the  
 4-67 meeting for all purposes, except that the member shall be counted as  
 4-68 absent from any portion of the meeting during which audio  
 4-69 communication with the member is lost or disconnected.

5-1 (c) If a problem occurs where a quorum of a governmental  
5-2 body is not participating in a meeting under this section, the  
5-3 meeting must be recessed until the problem is resolved. If the  
5-4 problem is not resolved in six hours or less, the meeting must be  
5-5 adjourned.

5-6 SECTION 5. Section 61.06641(i), Education Code, is amended  
5-7 to read as follows:

5-8 (i) Notwithstanding Chapter 551, Government Code, or any  
5-9 other law, the advisory council may meet by telephone conference  
5-10 call, videoconference, or other similar telecommunication method.  
5-11 A meeting held by telephone conference call, videoconference, or  
5-12 other similar telecommunication method is subject to the  
5-13 requirements of Sections 551.125(c), (d), (f), and (g)  
5-14 [~~551.125(e)-(f)~~], Government Code.

5-15 SECTION 6. Section 81.406(b), Health and Safety Code, is  
5-16 amended to read as follows:

5-17 (b) The task force may meet telephonically in accordance  
5-18 with Section 551.125 [~~551.125(b)(3)~~], Government Code.

5-19 SECTION 7. Section 117.056(b), Health and Safety Code, is  
5-20 amended to read as follows:

5-21 (b) To ensure appropriate representation from all areas of  
5-22 this state, the committee may meet by videoconference or telephone  
5-23 conference call. A meeting held by videoconference or telephone  
5-24 conference call under this subsection must comply with the  
5-25 requirements applicable to a telephone conference call under  
5-26 Sections 551.125(c), (d), [~~(e), and~~] (f), and (g), Government Code.  
5-27 Sections 551.125(b) and 551.127, Government Code, do not apply to  
5-28 the committee.

5-29 SECTION 8. Section 370.262(a), Transportation Code, is  
5-30 amended to read as follows:

5-31 (a) Chapter 551, Government Code, does not prohibit any open  
5-32 or closed meeting of the board, a committee of the board, or the  
5-33 staff, or any combination of the board or staff, from being held by  
5-34 telephone conference call. The board may hold an open or closed  
5-35 meeting by telephone conference call subject to the requirements of  
5-36 Sections 551.125(c), (d), (f), and (g) [~~551.125(c)-(f)~~],  
5-37 Government Code, but is not subject to the requirements of  
5-38 Subsection (b) of that section.

5-39 SECTION 9. This Act takes effect immediately if it receives  
5-40 a vote of two-thirds of all the members elected to each house, as  
5-41 provided by Section 39, Article III, Texas Constitution. If this  
5-42 Act does not receive the vote necessary for immediate effect, this  
5-43 Act takes effect September 1, 2021.

5-44 \* \* \* \* \*