

The Texas Open Meetings Act



Texas Municipal League

Applicability of the Act

What Entities are Subject to the Act?

- A **governmental body** as **expressly defined** in the Act – examples: A **city council** or a department, agency, or subdivision of a city that has authority to promulgate policy-making rules (i.e., rulemaking) or to decide contested cases (i.e., quasi-judicial)
- Entities **required by other law** to comply with the Act – examples: The board of directors of an economic development corporation or a local government corporation
- A **board or committee** of an **entity that is subject to the Act**, depending on the board's or committee's **membership** and/or the board's or commission's **authority** (i.e., final decision making authority or "routinely rubber-stamped")

Applicability of the Act

What Constitutes a Meeting?

- A **meeting** occurs when:
 1. A **quorum** of a governmental body gathers;
 2. the **public business** that the governmental body has authority to supervise or oversee is **discussed**; and
 3. **either**:
 - a. a **member** of the governmental body **participates in the discussion**; or
 - b. the governmental body (a) **called the meeting**; (b) **conducts or is responsible for the meeting**; and (c) **at which the members receive information from, give information to, ask questions of, or receive questions from any third person.**
- **social functions** or **regional, state, or national workshops**
- **Examples**: formal meeting, attendance at another entity's meeting, attendance at a city's board or committee meeting, social situations, "staff briefings," using the restroom, "walking quorum," circulating an invoice or letter for signature outside of a meeting, e-mail

Notice Requirements

- The Act requires **written notice** of the **date, hour, place, and subject** of each meeting – **both** open meetings **and** executive sessions
- **Specificity**
- **Internet posting**
- **Emergency meeting** or **supplemental posting**
- **Recordkeeping:** A governmental body must **prepare and keep minutes** of a meeting **or a tape recording** of each open meeting.

Procedures and Requirements Open Meetings

- The Act **does not entitle members of the public to speak at open meetings**
- If a governmental body allows public comment, it may set **reasonable rules** regarding the number, frequency, and length of presentations, but it should not discriminate against speakers
- If a member of the public asks a question about an item that is **not on the agenda**, the members of the governmental body **may not deliberate the item**, and are limited to:
 - A statement of **fact** regarding the issue
 - A statement of **policy** regarding the issue
 - A **proposal** to place the item on a future agenda for deliberation

Procedures and Requirements Executive Sessions

- A governmental body may hold a **closed meeting** only when a statute **expressly authorizes** it to do so
- Common executive session provisions:
 - **Real Property Deliberations**
 - **Personnel Matters**
 - **Economic Development**
 - **Consultation with Attorney**
 - **Security/Homeland Security Measures**

Violations

- An action taken in violation of the Act is *voidable*
- Participating in a closed meeting “knowing that a certified agenda . . . or . . . a tape recording . . . is not being made”
- In general, knowingly disclosing a certified agenda or tape recording of a closed meeting to a member of the public
- Knowingly conspiring to circumvent the Act “by meeting in numbers less than a quorum for the purpose of secret deliberations”
- Knowingly calling, aiding in calling, organizing, or participating in an unlawful closed meeting

Resources

Keep current by using these resources:

- www.tml.org (512-231-7400)
- www.oag.state.tx.us (877-OPEN TEX)
- www.tsl.state.tx.us (for records retention)
