

“The price of liberty is eternal vigilance.”

Thomas Jefferson

In order to be vigilant, the public must be informed and able to engage in local government decisions. In medical practice, before a procedure is performed, the patient is to be ‘informed’ and give ‘consent.’ Texas Open Meeting law serves as a type of informed consent by ‘informing’ the public regarding discussion and actions that have an impact to their community. If the public chooses not to attend, it translates into ‘consent’ for public officials to proceed with their decisions. Public notice is critical to ensure government accountability.

Below are three items presented to this Joint Committee to improve Government Code CHAPTER 551. OPEN MEETINGS Subchapter C - Notice of Meetings. Requested enhancements:

- I. **Expand Subject Description Requirements.**
- II. **Methods for Posting Public Notices.**
- III. **Amend 72 Hour Notice to Include a Minimum of Two Business Days.**

**I. Expand Subject Description Requirements.**

Since section 551.041 NOTICE OF MEETING REQUIRED (See References below) specifies that written notice only requires inclusion of date, hour, place, and subject of each meeting, this means crucial information is not being disclosed to the public.

Below are opinions from various Attorneys General regarding subject items:

***How specific does the subject of the posted notice need to be?***

*“The subject of the posted notice has to be sufficient to alert the public, in general terms, of the subjects that will be considered at the meeting.”*

[https://www.oag.state.tx.us/AG\\_Publications/pdfs/openmeetings\\_easy.pdf](https://www.oag.state.tx.us/AG_Publications/pdfs/openmeetings_easy.pdf)

*“The notice must identify the subjects of all deliberations, including those that may take place in executive session. The notice must be sufficient to inform the general public of the subjects to be considered, and if a subject is of particular interest to the community, more specificity may be required.”*

<https://www.texasattorneygeneral.gov/faq/og-frequently-asked-questions#oma> City of San Antonio versus 4<sup>th</sup> Court of Appeals – 820 S.W. 2<sup>nd</sup> page 762 and 766

NOTE: Both of the above links to AG opinions were active at one time. It appears that due to website updates, the above links are not working. This is a problem.

If a public entity is proposing to spend tax dollars on a project, in order to ‘inform’ the public, the subject description of the agenda for meetings and workshops should include:

1. a brief description of the project,
2. purpose of the project, when applicable,
3. proposed dollar amount,
4. how the project will be financed
5. name of person or company proposing project on the agenda, when applicable

**6. Requirement to post meeting document packet on website**

The above information is known by a public entity at the time the agenda is posted, since it is contained in the meeting document packet. If notices only include the agenda, and if meeting document packets are posted on a public entity's website, citizens are required to go that site, find the location of the packet posting, search through the entire meeting packet, which may contain over a hundred pages, to find the above details about a public meeting.

An example of a legal but insufficient agenda description from a municipality with population of 5,500 :

*"Discussion and possible action for an animal shelter." Compared to,  
"Discussion and possible action for new construction of a \$600,000 animal shelter financed by certificate of obligation from ABC Engineering, Austin, TX."*

More details need to be included in subject descriptions on agenda postings, so that the public can be 'informed' and can decide if they 'consent' to the proposed actions. (See 2015 proposed bill language in References below)

**II. Methods for Posting Public Notices.**

Public notices should be posted in: delivered through: as many methods as possible 1) public buildings, 2) public websites, 3) email, 4) social media, 5) distributed to media outlets, (radio, paper, online) as news updates and encourage those media outlets should be encouraged to distribute agenda notices through their social media, email lists, and websites.

1. Electronic notices should require inclusion of the meeting document packets. Because current law only requires the agenda to be posted, in order to see details of potential discussion or action, is it necessary to go to a website to retrieve the meeting document packets. When communicating electronically, attaching the packets is not burdensome to a public entity. If file size is too big, a link to the meeting document packet should be included.
2. Agenda and meeting document packets should be required to be posted as searchable PDF formatted document that allows for searches, and cut and paste functionality.
3. Public entities should encourage the public to sign up for email notices.

**III. Amend 72 Hour Notice to Include a Minimum of Two Business Days.**

Current 72 hour notice that occurs over the weekend does not provide adequate time for the public to receive information regarding proposed agenda action items. For example, when public entities choose to have a meeting on Mondays at 5:00 pm, the posting of that meeting would occur at 5:00 on Friday. Many public entities have scheduled meetings a large portion of the day on Mondays and are not available to respond to questions. Having two business days to receive information is critical for the individuals to preparing for public meetings.

Thank you,  
Sheila Hemphill, on Behalf of Texas Right To Know

**REFERENCES**

Sec. 551.041. NOTICE OF MEETING REQUIRED. A governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body.

**Notice of Meeting Transparency Legislative Council Bill language  
submitted by Senator Charles Perry in 2015 Legislative Session**

By: \_\_\_\_\_ .B. No. \_\_\_\_\_

A BILL TO BE ENTITLED  
AN ACT

relating to notice regarding and approval of certain local government expenditures in an open meeting.

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

SECTION 1. Subchapter C, Chapter 551, Government Code, is amended by adding Section 551.0416 to read as follows:

Sec. 551.0416. NOTICE REGARDING CERTAIN LOCAL GOVERNMENT EXPENDITURES. For each expenditure to which Section 271.909, Local Government Code, applies, the governing body of the governmental agency shall include in the written notice of any meeting in which the governing body will consider approval of the expenditure:

- (1) a description of the expenditure;
- (2) the purpose of the expenditure;
- (3) the amount of the expenditure; and
- (4) the name and, if applicable, business location of each recipient of the expenditure.

SECTION 2. Subchapter Z, Chapter 271, Local Government Code, is amended by adding Section 271.909 to read as follows:

Sec. 271.909. APPROVAL OF CERTAIN EXPENDITURES IN OPEN MEETING. (a) In this section:

- (1) "Governing body" means the board, council, commission, agency, court, or other body or group that is authorized by law to approve expenditures for each respective governmental agency.

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- (2) "Governmental agency" has the meaning assigned by Section 271.003.

(b) A quorum of the governing body of a governmental agency must approve in an open meeting an expenditure equal to or more than:

- (1) \$250,000 if the governmental agency has a population of 500,000 or more;
- (2) \$100,000 if the governmental agency has a population of 100,000 or more but less than 500,000;
- (3) \$50,000 if the governmental agency has a population of 50,000 or more but less than 100,000;
- (4) \$25,000 if the governmental agency has a population of 10,000 or more but less than 50,000; or
- (5) \$10,000 if the governmental agency has a population of less than 10,000.

SECTION 3. This Act takes effect September 1, 2015. **84R8998 BEF-D 2**