

Texas Open Meetings Act Training

** This presentation satisfies the training requirement
of Section 551.005 of the Texas Government Code.*



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Presentation Outline

- Background and Purpose of the Act
- Applicability of the Act
- Procedures and Requirements for Open Meetings
- Exceptions to General Rules
- Closed Meetings/Executive Sessions
- Recordkeeping
- Penalties and other Consequences
- Resources



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Background

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About the Open Meetings Act

- Adopted in 1967
- Found in Chapter 551 of the Texas Government Code
- Requires meetings of governmental bodies to be:
 - Open to the public (*except for expressly authorized closed sessions*); and
 - Preceded by public notice of the:
 - Time;
 - Place; and
 - Subject matter of the meeting
- “The provisions of [the Act] are mandatory and are to be liberally construed in favor of open government.”



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What is the Purpose of the Act?

Enacted to ensure Texas government is transparent, open, and accountable to the people.

- “The Act is intended to safeguard the public’s interest in knowing the workings of its governmental bodies.” *Cox Enterprises, Inc. v. Board of Trustees of Austin Indep. Sch. Dist.*, 706 S.W.2d 956, 960 (Tex. 1986).
- The Act was passed on the premise that “citizens are entitled . . . not only to know what government decides but to observe how and why every decision is reached.” *Acker v. Tex. Water Comm’n*, 790 S.W.2d 299, 300 (Tex. 1990).
- The provisions of the Open Meetings Act “should be liberally construed to effect its purpose.” *Finlan v. City of Dallas*, 888 F. Supp. 779, 782 (N.D. Tex. 1995).



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Applicability

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When Does the Act Apply?

- Every regular, special or called meeting of a governmental body shall be open to the public, except as provided by the Act.
- The Act *generally* applies whenever there is:
 - a quorum of a governmental body; and
 - that body is meeting.



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Who is Subject to the Act?

- City council
- A department, agency, or subdivision of a city that has authority to promulgate policy-making rules (i.e., rulemaking body) or to decide contested cases (i.e., quasi-judicial)
- Entities **required by other law** to comply with the Act
 - Economic Development Corporations
 - Planning and Zoning Commission
 - TIRZ Board
- 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")



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What is a Quorum?

- A quorum is a majority of a governmental body unless otherwise defined by law.
- **Home rule city:** Charter generally states the quorum requirement.
- **Type A city:**
 - Regular meeting – majority of the councilmembers (3/5).
 - Special meeting or meeting to impose taxes – two-thirds of the councilmembers (4/5).
- **Type B:** The mayor and three aldermen or four aldermen.
- **Type C:** A majority of the board of commissioners (2/3).
- **Boards and Commissions:** Look to statute, ordinance or resolution creating the board or commission.



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Meetings

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What is a Meeting?

- If a gathering is **called by the governmental body**, or the **governmental body is responsible for** the gathering, a **meeting** occurs when:
 - a **quorum** of a governmental body gathers;
 - **public business** that the governmental body has authority to supervise or oversee is **discussed**; and
 - the members **receive information from, give information to, ask questions of, or receive questions from any third person**, including an employee of the governmental body.
- **Examples:** staff briefings, formal meetings, town-hall meetings, workshops, council retreats
- Develop a habit of asking yourself, “Is this a meeting?”



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What is a Meeting?

- A deliberation (a verbal or written exchange) between a **quorum** of a governmental body, or between a **quorum** of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered or during which the governmental body takes formal action.
 - **Examples:** circulating an invoice or letter for signature outside of a formal meeting, attending a P&Z meeting, discussions over e-mail
- Develop a habit of asking yourself, “Is this a meeting?”



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Prohibited Series of Communications

- Also referred to as a “walking quorum”
- The Act may apply even when deliberating in numbers less than a quorum.
- An offense is committed is when **a member of a governmental body**:
 - **knowingly** engages in at least **one communication among a series of communications** that each occur **outside of a meeting** authorized by this chapter and that concern an issue within the jurisdiction of the governmental body in which **the members engaging in the individual communications constitute fewer than a quorum of members** but **the members engaging in the series of communications constitute a quorum of members**; and
 - **knew at the time** the member engaged in the communication that the series of communications:
 - involved or would involve a **quorum**; and
 - **would constitute a deliberation** once a quorum of members engaged in the series of communications.



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Procedures and Requirements

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Notice Requirements



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Contents of Notice

- The Act requires **written notice** of the:
 - **date, hour, place,** and **subject** of each meeting
 - applies for both open and closed meetings
- The notice must be **sufficient to apprise the general public** of the subject matter to be discussed – legal sufficiency depends on and can vary based on the facts:
 - Listings like “personnel” or “new business/old business” are generally **insufficient**.
 - The *more important* the issue is to the public, the **more specific** the notice should be.
 - “Public forum” or “public comment” is sufficient notice to hear from residents concerning items **not** on the agenda.



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Contents of Notice

- **Effective September 1, 2025:**
 - the notice for a meeting at which a governmental body will discuss or adopt its budget is required to include:
 - a physical copy of the proposed budget (unless the proposed budget has been made clearly accessible on its website's homepage) and
 - a taxpayer impact statement showing, for the median-valued homestead property, a comparison of the property tax bill in dollars from the current fiscal year to an estimate of the property tax bill in dollars for the same property for the upcoming fiscal year if the city's proposed budget is adopted and if the budget funded by the no-new-revenue rate is adopted instead.



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Timing of Posting

- Regular and Special-Called Meetings:
 - At least 72 hours before the scheduled time of the meeting
- Emergency Meetings:
 - At least one hour before scheduled time of the meeting
- **Effective September 1, 2025:**
 - Notice of the meeting must be posted for at least three business days before the scheduled date of the meeting.
 - See TML Example Charts



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Business Day Calculation Charts

Chart 1 – Example without holiday

Notice Date	Business Day 1	Business Day 2	Business Day 3	Meeting Date
Tuesday	Wednesday	Thursday	Friday	Monday
Wednesday	Thursday	Friday	Monday	Tuesday
Thursday	Friday	Monday	Tuesday	Wednesday
Friday	Monday	Tuesday	Wednesday	Thursday
Monday	Tuesday	Wednesday	Thursday	Friday

Chart 2 – Example including holiday: *Veterans Day, Tuesday, November 11, 2025*

Notice Date	Business Day 1	Business Day 2	Business Day 3	Meeting Date
Wed., 11/5	Thurs., 11/6	Fri., 11/7	Mon., 11/10	Wed., 11/12
Thur., 11/6	Fri., 11/7	Mon., 11/10	Wed., 11/12	Thurs., 11/13
Fri., 11/7	Mon., 11/10	Wed., 11/12	Thurs., 11/13	Fri., 11/14
Mon., 11/10	Wed., 11/12	Thur., 11/13	Fri., 11/14	Mon., 11/17



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Place of Posting

- A city must post its meeting notice on a physical or electronic bulletin board at a place convenient to the public in city hall.
- A city that maintains an internet website must also concurrently post **notice** of its meeting and **agenda** for the meeting on the city's website.



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Meeting Requirements



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Logistical Requirements

- The meeting must be held in a location that is accessible to the public.
- The location of the meeting must have sufficient space for members of the public to attend.
- The meeting must be held in a room that is physically accessible to those with disabilities.



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Quorum Requirements

- A meeting may not be convened unless a quorum is physically present in the meeting room.
- If a quorum is lost, council may not take any action.
- A meeting may recess to following business day if the action is taken in good faith and not to circumvent the Act's requirements.



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Public Commenting Requirements

Agenda Items

- The Act gives the public the right to speak on items on the agenda either ***before*** or ***during*** the city council's consideration of the item.
- The city may set reasonable rules regarding the public's right to address the governmental body, including how long the person may speak on the agenda item.
- The city council may not prohibit public criticism of the council unless the public criticism is otherwise prohibited by law.
- City should allot double time for a person who must address the council through a translator.



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Public Commenting Requirements

Non-Agenda Items

- City council can allow the public to speak on items **not** on the agenda and may set reasonable rules regarding the number, frequency, and length of presentation but may not discriminate against speakers.
- Members of council may not deliberate on non-agenda items, and are limited to responding with:
 - 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.



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Broadcasting Requirements

- Home Rule cities with a population of **50,000** or more must:
 - Make a video and audio recording of reasonable quality of each regularly scheduled open meeting;
 - Make available an archived copy of such recording on the internet site that the city maintains not later than 7 days after the recording; and
 - Maintain the archived recording on the Internet for not less than 2 years.
- General Law cities and Home Rule cities with less than 50,000 in population may broadcast meetings but are not required by law to do so.



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Public Recording the Meeting

- Members of the public (including the media) have a right to record the meeting by audio or video tape or other comparable means.
- The city council may adopt reasonable rules to maintain order in a meeting, including those relating to the location of recording equipment.



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Exceptions

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Exceptions to the General Rules

- Closed Meetings (Executive Sessions)
- Informal or Social Gatherings
- Items of Community Interest
- Emergency Meetings
- Online Message Boards
- Teleconferencing
- Videoconferencing



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Informal or Social Gatherings

The Act **does not** apply to a gathering of a quorum at:

- social functions,
- regional, state, or national workshops,
- a candidate forum, appearance or debate,
- ceremonial events, or
- press conferences

provided that:

- no action is taken **and**
- discussion of public business is incidental to the event



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Items of Community Interest

A quorum of the city council may receive a report from staff and members of council about items of community interest during a council meeting *without having to give notice of the subject of the report* if **no action is taken and possible action is not discussed regarding the information provided in the report.**

- Expression of thanks, congratulations, or condolences
- Information regarding holiday schedules
- Honorary or salutary recognition of a public official, public employee or citizen
- Reminder of upcoming event sponsored the governing body
- Information of upcoming events sponsored by other entities if governmental body, public official, or public employee plans to attend
- Announcement involving an imminent threat to the public health and safety of people in the city that has taken place after posting of the agenda



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Emergency Meetings

- When there is an imminent threat to public health and safety or a reasonably unforeseeable situation, an emergency meeting may be held after one hour notice is provided.
- A reasonably unforeseeable situation includes:
 - Fire, flood, earthquake, hurricane, tornado, wind, rain, or snowstorm;
 - Power failure, transportation failure, or interruption of communication facilities;
 - Epidemic; or
 - Riots, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.
- The notice must describe the emergency.
- Any deliberations or actions at an emergency meeting must be limited to responding to the emergency identified in the notice.



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Online Message Boards

- Communication between councilmembers about public business or public policy over which the council has supervision or control **does not** constitute a meeting if certain conditions are met. The communication must be:
 - in writing;
 - posted to an **online message board** that is viewable and searchable by the public; and
 - displayed in real time and displayed on the message board for no less than 30 days after the communication is first posted.
- The online message board:
 - must be owned and controlled by the city
 - must be prominently displayed on the city's primary website and no more than one click away from the city's website
 - may only be used by city councilmembers (or city employees who post their name and title and that have received authorization from the council)
 - the council may **not** vote or take action by posting on the city's online message board
 - if the city removes a posted message, the city must retain the posting for six years.



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Online Message Boards

- **Effective 9/1/2025:**
 - A city may authorize its Zoning Commission or similar entity to establish and use an online message board for the communication or exchange of information between its members
 - Must be reauthorized every two years by the city
 - An employee of the city must monitor the message board for compliance with the law



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Online Message Boards

City of Austin Council Message Board
Only City Council members and authorized staff are allowed to post on this message board.

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[Board index](#) [Search](#) [Active topics](#)

Active topics
[Go to advanced search](#)

Search these results

Search found 12 matches • Page 1 of 1

TOPICS	REPLIES	VIEWS	LAST POST
FY24 Budget Process Outline by Colleen Pate » Fri Jun 30, 2023 2:57 pm » in City of Austin Council Message Board	0	513	by Colleen Pate » Fri Jun 30, 2023 2:57 pm
Requesting an executive session discussion of the HealthSouth ENA by Natalie Deller » Wed Jun 28, 2023 5:20 pm » in City of Austin Council Message Board	0	650	by Natalie Deller » Wed Jun 28, 2023 5:20 pm
City Manager Search Process Timeline by Colleen Pate » Thu Jun 15, 2023 4:47 pm » in City of Austin Council Message Board	0	706	by Colleen Pate » Thu Jun 15, 2023 4:47 pm
Concerns about Overflow of Dogs at the Austin Animal Center and Request for Information by Mackenzie Kelly » Mon Jun 12, 2023 9:58 am » in City of Austin Council Message Board	1	741	by Leslie Pool » Wed Jun 14, 2023 11:06 am
Charter Review Commission by Ryan Alter » Mon Jun 12, 2023 12:00 pm » in City of Austin Council Message Board	1	220	by Paige Ellis » Mon Jun 12, 2023 12:23 pm
Item 84 Amendment by Jose Velasquez » Thu Jun 08, 2023 10:17 am » in City of Austin Council Message Board	0	182	by Jose Velasquez » Thu Jun 08, 2023 10:17 am
Item 58, Fence Code Safety Improvements by Louisa Brinsmade » Wed Jun 07, 2023 8:02 pm » in City of Austin Council Message Board	1	245	by Paige Ellis » Wed Jun 07, 2023 11:05 pm
Agenda Item 45 on Compatibility Reform by Jose Chito Vela » Mon Jun 05, 2023 4:35 pm » in City of Austin Council Message Board	3	511	by Ryan Alter » Wed Jun 07, 2023 9:42 pm
Council Meeting Schedule 6/8/2023 by Colleen Pate » Wed Jun 07, 2023 4:24 pm » in City of Austin Council Message Board	1	215	by Colleen Pate » Wed Jun 07, 2023 5:05 pm
Amendment: Item 40 June 8th Agenda by Colleen Pate » Wed Jun 07, 2023 2:05 pm » in City of Austin Council Message Board	1	188	by Ryan Alter » Wed Jun 07, 2023 3:27 pm

TML TEXAS MUNICIPAL LEAGUE

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Telephone Conference Meetings

- An open or closed meeting may be held by telephone conference if:
 - an emergency or public necessity exists; **and**
 - convening at one location of a quorum is difficult or impossible; **or**
 - the meeting is held by an advisory board.
- City council may use a teleconference call to consult with outside legal counsel.



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Videoconference Meetings

A member of council or city employee may participate remotely in a meeting by **videoconference call** when certain requirements are met, including, among others:

- The video and audio feed of the remote member or employee's participation, as applicable, in the meeting must be broadcast live at the meeting.
- If the city lies in **one or two counties**, a quorum of the city council must be present at one location of the meeting.
- If the city lies in **three or more counties**, the presiding officer must be physically present in the space that is open to the public.
- The meeting notice must specify where the quorum of the city council will be physically present and the intent to have a quorum present.
- Each portion of the meeting held by videoconference call that is required to be open to the public must be visible and audible to the public at the location where the quorum is present.
- The city council must make at least an audio recording of the meeting, and the recording must be made available to the public.



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PID Meetings

Effective 9/1/2025:

Public Improvement District (PID) Advisory Body Meetings:

- If one member of the body is physically present at a meeting, any number of the other members may attend by use of telephone conference call, video conference call, or other similar communication device
- Members attending via telecommunication device are considered present for quorum, voting, and any form of participation in the meeting
- If the members attend via telecommunication device, the body must:
 - Provide two-way audio communication among the members; and
 - if two-way audio is disrupted, stop the meeting until the link is reestablished



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TIRZ Meetings

Effective 9/1/2025:

Tax Increment Reinvestment Zone Board Meetings:

- if the chair or vice chair of the board is physically present at a meeting of the board, any number of the other members may attend the meeting by use of telephone conference call, video conference call, or other similar telecommunication device
- members attending via telecommunication device are considered present for quorum, voting, and any form of participation in the meeting
- if members attend a board meeting via telecommunication device;
 - the meeting is still subject to the notice requirements for other meetings of the board
 - the board must specify in the notice the meeting location where the chair or vice chair will be physically present
 - the board must make the meeting open and audible to the public at the location where the chair or vice chair will be physically present
 - the board must provide two-way audio communication among the members, and if communication is disrupted, the meeting must be stopped until the link is reestablished



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Closed Meetings

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Closed Meetings / Executive Sessions



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Common Exceptions

A governmental body may hold a **closed meeting** only when a statute **expressly authorizes** it to do so.

Examples:

- Deliberations on the purchase, exchange, lease or value of real property
- Personnel matters
- Economic development matters
- Consultation with attorney on legal matters, pending or contemplated litigation, or settlement offers
- **(Effective 6/20/25) Cybersecurity Measures, including cybersecurity policy or contract solely intended to protect a critical infrastructure facility located within the city**



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Closed Meeting Requirements

- The city must provide notice of items to be discussed in a closed meeting.
- **Procedure:** Before the city council may conduct a closed meeting, the council must:
 - have a **quorum**;
 - properly **convene** in an open meeting;
 - **announce** that a closed meeting will be held; and
 - **identify** in the open meeting the **section of the law** that allows the closed meeting.
- A final action, decision, or vote on a matter deliberated on in a closed meeting must be made in the open meeting only. No straw vote or poll allowed.



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Who May Attend a Closed Meeting?

- Only members of a governmental body have a right to attend a closed meeting.
- A governmental body may include others in a closed meeting if:
 - necessary to the matter under consideration,
 - but it may not admit a person whose presence is against the interests of the governmental body that the closed meeting is designed to protect.



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Recordkeeping

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Recordkeeping Requirements



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Recordkeeping – Open Meetings

- A governmental body must **prepare and keep minutes** of a meeting **or a recording** of each open meeting.
- The **minutes must**:
 - State the subject of each deliberation; and
 - Indicate each vote, order, decision, or other action taken.
- The **minutes or recording** of the meeting are **public records** and must be made available pursuant to a PIA request.



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Recordkeeping – Closed Meetings

- A city shall make and keep a certified agenda **or** a recording of the closed meeting.
- A certified agenda must include:
 - a statement of the subject of each deliberation;
 - a record of any further action taken; and
 - an announcement by the presiding officer at the beginning and the end of the meeting indicating the date and time (a recording must also include these announcements by the presiding officer).
- The presiding officer **must certify** that the agenda is a true and correct record of the closed meeting.
- The certified agenda or recording is **confidential** and may not be released absent court action.
- A **current member** of the governmental body may review the certified agenda or recording.



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Penalties and Other Consequences

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Unauthorized Closed Meeting

- A member of a governmental body commits an offense if a closed meeting is not permitted under the Act and the member knowingly:
 - Calls or aids in calling or organizing the closed meeting;
 - Closes or aids in closing the meeting to the public; or
 - Participates in the closed meeting.
 - **Affirmative defense:** a member acted in reasonable reliance on a court order, attorney general opinion, or the written opinion of the governmental body's attorney.
- The offense is a misdemeanor punishable by a fine of between \$100 - \$500, confinement in county jail for between 1-6 months, or both.



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Prohibited Series of Communications

- Knowingly engaging in a prohibited series of communications is a misdemeanor offense punishable by:
 - a fine of not less than \$100 or more than \$500;
 - confinement in the county jail for not less than one month or more than six months; or
 - both the fine and confinement.



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Failure to Keep Certified Agenda

- It is a Class C misdemeanor to participate in a closed meeting knowing that a certified agenda or recording of the closed meeting is not being made.



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Unauthorized Disclosure

- It is a Class B misdemeanor to disclose a closed session certified agenda or recording to a member of the public without a court order.
- A person injured by the unlawful disclosure of a closed session certified agenda or tape recording of a lawfully closed meeting may sue for damages, attorney fees, and exemplary damages.



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Voidability

- An action taken by a city in violation of the Act is ***voidable***
 - A voidable action may be retaken at a later meeting (ratified), but that action will not be given retroactive effect.
- Any interested person may bring a **civil lawsuit** to force officials to comply with the Act, to **enjoin** officials from acting, or to **void actions taken** in an illegal meeting.
- A court may assess costs and attorneys' fees to the prevailing party.



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Questions?

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Resources

TML

www.tml.org

(512) 231-7400

TSLAC

Records Management

<https://www.tsl.texas.gov/slrn>

OAG

Open Government
Hotline

(877) OPEN TEX

(512) 478-6736

OAG's Open Government
Training

<https://texasattorneygeneral.gov/og/open-government-training>



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