

Office of the Attorney General (OAG):

The Office of the Governor is in receipt of OAG's request to temporarily suspend certain open-meeting provisions of Texas law. OAG asserts that strict compliance with these laws could prevent, hinder, or delay necessary action by numerous governmental bodies in relation to efforts to cope with the COVID-19 disaster. State and local officials can slow the spread of COVID-19 by avoiding meetings that bring many people into congregate settings. OAG has identified provisions that frustrate this public-health goal by requiring that government officials, members of their staff, and members of the public be physically present at a specified meeting location. OAG's request would relax these open-meeting requirements to allow for telephonic or videoconference meetings of governmental bodies, without the need for face-to-face contact during a pandemic.

COVID-19 notwithstanding, Texans deserve transparency in government. To that end, OAG's request would leave important open-meeting protections in place. A governmental body would still be required to give the public written notice before holding a telephonic or videoconference meeting. *See, e.g.*, TEX. GOV'T CODE §§ 551.041, 551.043–551.044, 551.125(c), 551.127(d), 551.141. A governmental body would still have to provide the public with a recording of the telephonic or videoconference meeting. *See, e.g., id.* §§ 551.125(e), 551.127(g). And members of the public would still be entitled to participate and address the governmental body during the telephonic or videoconference meeting, perhaps through a dial-in number or videoconference software. *See, e.g., id.* §§ 551.007(b), 551.125(e).

Accordingly, the Office of the Governor agrees that it is appropriate to suspend certain open-meeting provisions, subject in each case to the following conditions that will apply to any governmental body invoking this suspension:

The requisite notice of a telephonic or videoconference meeting must comply with existing law on meeting notices and also must include in the meeting notice a toll-free dial-in number or a free-of-charge videoconference link that provides two-way communication for members of the public to both hear the meeting and address the governmental body.

If a governmental body prepares an agenda packet that would have publicly circulated in hard copy at a face-to-face meeting, an electronic copy of the agenda packet must be posted with the agenda to allow members of the public to follow along with the telephonic or videoconference meeting.

The public must be provided access to a recording of any telephonic or videoconference meeting.

In answering open-meeting questions during this disaster, OAG should remind state and local officials of the many requirements that remain in place during this temporary suspension. OAG's request recognizes that transparency is essential at this time, even if face-to-face contact is not.

In accordance with section 418.016 of the Texas Government Code, and subject to the conditions set forth above, the Office of the Governor suspends the following statutes to the extent necessary to allow telephonic or videoconference meetings and to avoid congregate settings in physical locations:

- those statutes that require a quorum or a presiding officer to be physically present at the specified location of the meeting; provided, however, that a quorum still must participate in the telephonic or videoconference meeting
 - TEX. GOV'T CODE § 551.122(b)
 - TEX. GOV'T CODE § 551.127(a-3), (b)–(c), (e), (h)–(i)
 - TEX. GOV'T CODE § 551.130(c)–(d), (i)
 - TEX. GOV'T CODE § 322.003(d), (e)(2)
 - TEX. GOV'T CODE § 845.007(f)(2)
 - TEX. GOV'T CODE § 855.007(f)(2)
 - TEX. CIV. PRAC. & REM. CODE § 74.102(f)
 - TEX. INS. CODE § 2151.057(d)(1)
 - TEX. LOCAL GOV'T CODE § 379B.0085(a)
- those that require physical posting of a notice; provided, however, that the online notice must include a toll-free dial-in number or a free-of-charge videoconference link, along with an electronic copy of any agenda packet
 - TEX. GOV'T CODE § 551.043(b)(2)–(3)
 - TEX. GOV'T CODE §§ 551.049–551.051
- those that require the telephonic or videoconference meeting to be audible to members of the public who are physically present at the specified location of the meeting; provided, however, that the dial-in number or videoconference link provided in the notice must make the meeting audible to members of the public and allow for their two-way communication; and further provided that a recording of the meeting must be made available to the public
 - TEX. GOV'T CODE § 551.121(f)(1)
 - TEX. GOV'T CODE § 551.122(d)
 - TEX. GOV'T CODE § 551.125(e)–(f)
 - TEX. GOV'T CODE § 551.126(d)(1)
 - TEX. GOV'T CODE § 551.127(f), (j)
 - TEX. GOV'T CODE § 551.130(e)–(f)
 - TEX. GOV'T CODE § 551.131(e)(1)
 - TEX. GOV'T CODE § 322.003(e)(3)
 - TEX. GOV'T CODE § 436.054(e)
 - TEX. GOV'T CODE § 845.007(f)(3)
 - TEX. GOV'T CODE § 855.007(f)(3)
 - TEX. AGRIC. CODE § 41.061(c)–(d)
 - TEX. AGRIC. CODE § 41.1565(c)–(d)
 - TEX. AGRIC. CODE § 41.205(d)–(e)

- TEX. AGRIC. CODE § 62.0021(c)–(d)
- TEX. EDUC. CODE § 66.08(h)(2)(B)
- TEX. FAM. CODE § 264.504(e)
- TEX. FIN. CODE § 11.106(c)(4)–(5)
- TEX. FIN. CODE § 154.355(d)(2)–(3)
- TEX. INS. CODE § 462.059(a)(1), (c)
- TEX. INS. CODE § 463.059(d)
- TEX. INS. CODE § 2151.057(e)
- TEX. INS. CODE § 2210.1051(b)(2)–(3)
- TEX. INS. CODE § 2211.0521(b)(2)–(3)
- TEX. LOCAL GOV'T CODE § 379B.0085(b)(2)–(3)
- TEX. SPEC. LOC. DIST. CODE § 9601.056(c)
- TEX. TRANSP. CODE § 173.106(e)–(f)
- TEX. TRANSP. CODE § 366.262(c)–(d)
- TEX. TRANSP. CODE § 370.262(c)–(d)
- those that may be interpreted to require face-to-face interaction between members of the public and public officials; provided, however, that governmental bodies must offer alternative methods of communicating with their public officials
 - TEX. GOV'T CODE § 551.007(b)
 - TEX. GOV'T CODE § 551.125(b)(1), (d)

This suspension is in effect until terminated by the Office of the Governor or until the March 13, 2020 disaster declaration is lifted or expires.

Thank you,

James P. Sullivan
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Office of Governor Greg Abbott