

- SUBJECT:** Subjecting some homeowner associations to the Open Meeting Act
- COMMITTEE:** Business and Industry — favorable, without amendment
- VOTE:** 7 ayes — Brimer, Dukes, Corte, George, Ritter, Solomons, Woolley  
0 nays  
2 absent — Giddings, Siebert
- WITNESSES:** For — Randy Birdwell; William B. Orr; Steve Rhatigan  
Against — Susan Hill, Texas Neighborhoods Together  
On — Larry Niemann, Texas Community Associations Institute
- BACKGROUND:** Under the Open Meetings Act, every regular, special, or called meeting of a governmental body must be open to the public, with exceptions. The agencies are required to prepare and keep minutes or make a tape recording of each open meeting of the body as public information. The body must post written notice of the date, hour, place, and subject of each meeting in a place readily accessible to the general public at least 72 hours before the scheduled time. Emergency meetings have different notice requirements. Notice of each meeting must be provided to the secretary of state.
- Meetings do not have to be open to the public if they involve consultation with an attorney on litigation or deliberations on real property, a prospective gift, personnel matters, a conference with employees, or deliberations on security devices. Members of a government body commit an offense if they knowingly conspire to circumvent open meeting laws by meeting in numbers less than a quorum for the purpose of secret deliberations.
- DIGEST:** HB 3407 would hold property owner associations to the same open meetings requirements as a governmental entity. The bill would amend Chapters 551 and 552 of the Government code to stipulate that associations would have to comply with open meeting laws if:
- membership in the association was mandatory for owners or for a defined

class of owners of private real property in a defined geographic area;

- the association had the power to make mandatory regular assessments or mandatory special assessments for capital improvements; and
- the amount of the mandatory assessment was, or had ever been, based on the ad valorem tax value.

The governing body of the association, an association committee, and members of the governing body or committee, would be subject to the same open meeting laws applicable to a governmental entity.

The bill would take effect on September 1, 1999, and apply only to meetings of a property owner association held on or after that date.

**SUPPORTERS  
SAY:**

Some property owner associations are similar to municipalities. They have mandatory membership, assess property taxes, and provide basic community services. Due to this resemblance to a political subdivision, these associations should be subject to the Open Meetings Act.

Accountability of these associations should match their degree of responsibility. Some home owner associations have operating budgets of millions of dollars, but they are not required to make decisions about spending that money in meetings open to residents, nor to respond to requests for documentation of how the money is spent.

HB 3407 would increase the accountability of these associations by requiring them to conduct their business in full view of the residents they serve. The bill would apply only to associations that most closely resemble political subdivisions. Other homeowner associations would not be subject to the law.

**OPPONENTS  
SAY:**

HB 3430 would raise membership costs for homeowners who must be members in an association. Costs associated with public notice requirements ultimately would be passed on to the homeowners. Homeowner associations are nonprofit organizations, not governmental entities. They already are regulated by the Texas Non-Profit Corporation Act (art. 1396, Vernon's Texas Civil Statutes), which contains provisions for meetings and record keeping.

Homeowner associations do not have government authority. They cannot

issue bonds and they have no right of eminent domain. Most homeowners' associations assess fees based on property values, but do not actually collect property taxes. They should not be subject to the same rules as government entities.

This bill would make private problems of homeowners a public issue. Owners who went before the association because of financial or other problems would be subject to public scrutiny by their neighbors. This would violate owners' rights to privacy.