

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1826
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Open Government
5/5/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Open Meetings Act provides the public an opportunity to become informed about public business. The statute requires that every meeting of a governmental body, with some exceptions, be open to the public. Currently, the Texas Open Meetings Act, which applies to certain government acts, defines "meetings" as deliberations between a quorum of a governmental body where that body discusses, considers, or acts upon its public business. "Deliberations" are verbal exchanges during a meeting concerning issues within the jurisdiction of the governmental body.

The definitions of "deliberation" and "meeting" currently in statute differ from how courts and attorneys general interpret these. For example:

- In response to an inquiry on whether policy position letters fall within the scope of deliberations and meetings, the Texas attorney general has stated that "a letter signed by a quorum of a governmental body, concerning public business...would normally be an official action...subject to the requirements of the act." Tex. Atty. Gen. Op. DM-95 (1992).
- In *Hitt v. Mabry*, 687 S.W.2d 791 (Tex. App- San Antonio 1985, no writ), the court decided that members of the San Antonio Independent School District Board of Trustees violated the act by conducting public business without each other's presence via telephone conferences.

C.S.S.B. 1826 amends the definition of "deliberations" to include situations where a communication originates from a member of a governmental body, the member then circulates the communication amongst a quorum, and especially where the communication concerns public business. C.S.S.B. 1826 also amends the definition of "meeting" to include written deliberations.

C.S.S.B. 1826 amends current law relating to the definition in the open meetings law of the term "deliberation."

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 551.001(2) and (4), Government Code, as follows:

- (2) Redefines "deliberation" to mean a verbal or written exchange, rather than a verbal exchange during meeting, between a quorum of a governmental body, or between a quorum of a governmental body and another person, concerning an issue within the jurisdiction of the governmental body or any public business. Provides that a written exchange includes an e-mail, letter, or other written communication that is produced by or originates from a member of the governmental body, is circulated among a quorum of the governmental body, and concerns an issue within the jurisdiction of the governmental body or any public business.

(4) Redefines "meeting" to mean certain gatherings, including, except as otherwise provided by this subdivision, a gathering involving certain conditions by the governmental body, including one at which a quorum of members of the governmental body are present or actively participating.

SECTION 2. Effective date: September 1, 2011.