

# A Year of Virtual Open Meetings Under the Governor's Disaster Proclamation

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State of Disaster Declaration on March 13, 2020

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## Governor Abbott Declares State of Disaster In Texas Due To COVID-19

March 13, 2020 | Austin, Texas | [Proclamation](#)

- **March 13, 2020** – Governor Abbott declares a state of disaster for all counties in Texas under Section 418.014 of the Tex. Gov't Code (TGC)
- Under **TGC 418.016**, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with the disaster **may be suspended upon approval of the Office of the Governor**

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## Authority to Hold Virtual Meetings Under the Texas Open Meetings Act (OMA)

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### Teleconferences (TGC 551.125\*) allowed if:

- Emergency or public necessity (TGC Section 551.045); *and*
- Convening at one location of a quorum of the governmental body (GB) is difficult or impossible; *or*
- Meeting is held by an advisory board

\* Some GBs have specific OMA provisions that may provide greater flexibility or additional requirements. *See, e.g.*, TGC §§ 551.121–.126, .129–.131.

## Authority to Hold Virtual Meetings Under the Texas Open Meetings Act (OMA)

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### Videoconferences (TGC 551.127\*) allowed for state entities:

- Not limited to emergencies
- Live video/audio feed of the remote participants
- Member of the GB presiding over the meeting is physically present at a location open to the public
- Audio or video recording of the meeting available to the public
- Specific notice and technical requirements

\* Some GBs have different requirements.

# Suspended OMA Provisions

- March 16, 2020 - Governor approved request to suspend certain OMA provisions to allow for 100% virtual meetings
- OAG guidance to agencies on application of the suspension
- DIR technical guidance



The screenshot shows the official website of Ken Paxton, Attorney General of Texas. The page is titled "Open Meetings Act Update" and contains the following text:

Governor Abbott's office approved a request by the Office of the Attorney General to temporarily suspend a limited number of open meeting laws in response to the Coronavirus disaster. This action will allow governmental bodies to conduct meetings by telephone or video conference to advance the public health goal of limiting face-to-face meetings (also called "social distancing") to slow the spread of the Coronavirus.

State agencies and local governmental bodies may contact the Office of the Attorney General with questions about the suspension order by telephone at (888) 672-6787 or via email at [TOMA@oag.texas.gov](mailto:TOMA@oag.texas.gov). Officials with questions about teleconference and videoconference capabilities offered by the Texas Department of Information Resources should visit [dir.texas.gov](http://dir.texas.gov) or call (512) 475-4700.

On the right side of the page, there is a section titled "Suspended Open Meetings Act Provisions" with a link to "View List Details".

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## Governor's Suspension Guidance

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### Temporary suspension of certain OMA provisions:

- Telephonic or videoconference open meetings **without the need for face-to-face contact during a pandemic**
  - Suspended requirement of a quorum (or the presiding officer) to be physically present at meeting location
- Requirements during the suspension focused on **notice, public participation, and accessibility**
  - Notice requirements retained
  - Required link to meeting recording on GB's website
  - Required a toll-free number or video link during meeting that allowed two-way communication

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16<sup>th</sup> Annual Advanced Texas Administrative Law Seminar session

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