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COMMENTARY

## **Hobby: Open government - with no strings attached - should remain state law**

**Bill Hobby, SPECIAL CONTRIBUTOR**

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In Texas, the law is clear. Governing bodies must conduct the people's business in public or face serious penalties. The statute has protected the public and elected representatives alike for the past 42 years with a basic premise: Public bodies should deliberate in public.

The days of making backroom deals are a thing of the past because the Legislature outlawed it by passing the Open Meetings Act in 1967, and strengthening it in 1973.

Yet there are some serious and troubling actions that could open the door for that very thing to recur. At least three Texas cities and the Texas Municipal League are endorsing a legal challenge in the courts that will render Texas' Open Meetings laws ineffective. TML, which is supported by your tax money in the form of membership fees, is urging more than 1,100 Texas cities to sign on to a federal lawsuit.

The details of the challenge are stated simply: Public officials claim the Texas Open Meetings Act unconstitutionally restricts their right of free speech under the First Amendment. Of course, they are free to say anything they wish to anyone they wish at any time they wish. However, when they are meeting as a quorum of a governmental body, they must say it in front of the public at an open meeting.

More importantly, the First Amendment cannot be a shield to prevent accountability of public officials.

TML wants criminal penalties such as jail time stripped from the law, arguing that the language is too punitive and that "less restrictive penalties would not only continue to preserve the integrity of the Texas Open Meetings Act but would also recognize the fundamental right of city officials to free speech."

In other words, if public officials break the law in the future by conducting business in secret — i.e., exercising their rights to "free speech" behind closed doors — a slap on the wrist should be punishment enough.

It defies logic, and apparently not all of TML's members agree with that position. As reported in The Brownsville Herald on Nov. 21, TML board member and Mercedes Mayor Joel Quintanilla

said, "Either I misunderstood the entire meeting or something is happening. The way I understood it, we all (board members) voted in favor of keeping the restrictive penalties, not lessening them." He went on to say, "We didn't want elected officials to get comfortable."

He was not the only one confused by TML's action. Mercedes City Commissioner Ruben Guajardo is also quoted as saying, "The consensus (of the TML Resolutions Committee) was that things were fine the way they were (with the Texas Open Meetings Act) and that trying to reinvent the wheel was not in the best interest of everyone involved. \u2026We (the resolutions committee) felt that to change something (in the meetings act) was just not correct. It really wasn't right. The consensus was to leave the Texas Meetings Act the way it is."

I couldn't agree with Guajardo or Quintanilla more. As a member of the public, I am left confused by what is happening and why.

Join me in supporting the idea that the Open Meetings Act should be left intact and open government, with no strings attached, should continue to be the law in Texas. Contact your city leaders and encourage them not to join in an effort that could weaken open meetings laws.

If clarifications are needed to address modern-day changes such as electronic and digital communications, then they should be made at the statehouse — not city hall. At a minimum, point out to your public servants that any discussion on this or any other issue involving "free speech" should be debated in a public meeting instead of a rubber-stamp-style vote to please lobbyists.

Hobby was Texas lieutenant governor from 1973-91.