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**Special Problems Under the Open Meetings Act:
Applicability of the Open Meetings Act
to the Texas Legislature**

David Méndez

Bickerstaff, Heath, Smiley, Pollan, Keever & McDaniel, L.L.P.
816 Congress Avenue, Suite 1700
Austin, Texas 78701-2443
(512) 472-8021
(512) 320-5638 (fax)
www.bickerstaff.com

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SPECIAL PROBLEMS UNDER THE OPEN MEETINGS ACT:
APPLICABILITY OF THE OPEN MEETINGS ACT
TO THE TEXAS LEGISLATURE

The applicability of the Open Meetings Act¹ to the Texas Legislature raises unique issues which have generally remained unaddressed. This paper reviews the legislature's effort to bring itself under the coverage of the Texas Open Meetings Act in the wake of the Sharpstown Scandal 30 years ago. The paper further describes the manner in which the respective chambers of the Texas Legislature have attempted to implement the principles of the Texas Open Meetings Act through their rules. Because of the controversial and volatile issues facing our leaders, the application of these principles to the policies and practices of the Texas Legislature is likely to receive heightened scrutiny. It is hoped that this review will be helpful to Texas attorneys and governmental officials seeking to understand and apply these principles to the Texas Legislature.

The heightened scrutiny of our legislature seems inevitable for a variety of reasons. In recent years, the public in general and the media in particular have brought tremendous pressure to bear upon Texas governmental bodies to secure strict adherence to the requirements of the Texas Open Meetings Act. Legal actions under the Texas Open Meetings Act to attempt to void governmental action are more and more common. Criminal prosecution of governmental officials for violations of the act have also increased. The Texas Legislature is one governmental body covered by the law whose processes and policies which have thus far not been the subject of this type of scrutiny and challenge. Given the tremendous pressure under which the legislature is being forced to respond to highly controversial issues these days, it seems only a matter of time before this same type of scrutiny is brought to bear on this body.

Also, over the past three decades, legislators have dealt with issues of notice and procedure through parliamentary procedures in the respective chambers. Because of the strong sense of bipartisan cooperation among legislative leaders that characterized most of those thirty years, there does not appear to have been a strong concern among members as to what their colleagues were doing. The 78th Regular Legislative Session and the four tumultuous special sessions on congressional redistricting and public school finance may have signaled the end of bipartisan cooperation in these chambers. If indeed this shift has occurred, those members left out of the more meaningful aspects of the legislative process must insure that the deliberations and actions of their colleagues in control of the process are fully laid out to the members and to the citizens of the state. If the parliamentary process is found to be ineffective in achieving this objective, the remedies and sanctions of the Texas Open Meetings Act appear to be fully applicable to public officials serving in this governmental body.

Adherence to the principles of the Texas Open Meetings Act is a tremendously important public policy objective. Holding each official accountable for his or her actions and having full access to that official's reasoning for taking the action is at the heart of the act. With this in mind, I hope this analysis is helpful.

¹ TEX. GOVT. CODE ANN. Chapter 551

Article III, Section 16 of the Texas Constitution provides that: “The sessions of each House shall be open, except the Senate when in Executive session.” The Texas Open Meetings Act as currently amended provides that: “In this chapter, the legislature is exercising its powers to adopt rules to prohibit secret meetings of the legislature, committees of the legislature, and other bodies associated with the legislature, except as specifically permitted in the constitution.” TEX. GOV’T CODE §551.003

The reference in TEX. GOV’T CODE §551.003 to the legislative body’s rule making powers is the legislature’s attempt to bring itself within the coverage of the statute notwithstanding Article III, Section 11 of the Texas Constitution, which provides that: “Each House may determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member, but not a second time for the same offense.”

The autonomy granted to each chamber of the legislature by Section 11 suggests that, without these special efforts by the legislature to bring itself within the coverage of a law, the Texas Open Meetings Act , its predecessor statute TEX. REV. CIV. STAT. ART. 6252-17, and other laws arguably do not apply to the regulation of the proceedings in a chamber of the legislature. Essentially, because, a Texas Statute, to become effective, must be passed by both chambers of the legislature and signed by the governor, application of such a law to the proceedings in either the House of Representatives or in the Senate would infringe on the constitutional autonomy of each chamber over its proceedings. For example in the Preface to the Senate Rules, the following language is found:

Pursuant to and under the authority of Article III, Section 11, of the Constitution of 1876, as amended, and notwithstanding any other provision of statute, the Senate adopts the following rules to govern its operations and procedures. The provisions of these rules and of the Constitution shall be deemed the only requirements binding on the Senate, notwithstanding any other requirements expressed elsewhere in statute.

In 1973, when the Texas Legislature amended TEX. REV. CIV. STAT. ART. 6252-17 to include the legislative department within the definition of “Governmental body” and when it specifically defined its own activities as fitting within the coverage of the law, the two chambers comprising the legislature attempted to bypass the constitutional issue, by referencing their respective constitutional rule-making powers.² While the legislature attempted to deal with Article III Section 1 of the Texas Constitution by characterizing the statute as an expression of each chamber’s respective rule-making authority, at least one Attorney General has interpreted this constitutional provision to provide no exemption for the house from duly enacted state statutes.

² Acts 1973, 63rd Leg., p. 45 ch. 31, §2(b).

In Atty. Gen. Op. JM-122 (1983) Representative Stan Schlueter, the Chairman of the Committee on Ways and Means, asked the Attorney General to determine whether certain house rules adopted under the authority of Article III Section 11 of the Texas Constitution, excepting certain legislative records from disclosure, were effective even though they were in contravention of portions of the Open Records Act, TEX. REV CIV STAT. ANN. ART. 6252-17a.³

In addressing the legislature's inquiry, the Texas Attorney General first noted that the legislature had specifically included itself within the scope of the Open Meetings Act. "Governmental body" is defined in the Open Meetings Act as including:

a board, commission, department, committee, institution, agency, or office that is within or is created by the executive or legislative branch of state government and that is directed by one or more elected or appointed members;

The Attorney General then concluded:

We do not believe that one house of the legislature, under the guise of its rule-making authority, may remove itself from the coverage of a specific substantive law that has been enacted by both houses of the legislature and signed by the governor, pursuant to article III, section 1 of the Texas Constitution, which vests the 'legislative power of this State...in a Senate and House of Representatives...' (citing to various authorities at a state and federal level over the last century).

When the law which eventually evolved into what we now know as the Texas Open Meetings Act, was originally enacted in 1967, the definition of "Governmental body" in that initial version of the act did not encompass the legislative branch of government.⁴ In fact, the definition in Section 1(b) of the 1967 act, defined "governmental body" as "any board, commission, department, or agency *within the executive department* of the state which is under the direction of three or more elected or appointed members; and every Commissioners Court and city council in the state and every deliberative body having rule-making or quasi-judicial power and classified as a department, agency, or political subdivision of a county or city; and the board of trustees of every school district...." (Emphasis added.)

Although the law was expanded and revised in 1969 and again in 1971, it was not until 1973 that the legislature appears to have finally addressed the specific question of applying the Act to the two respective legislative chambers.⁵ This expansion of the Act, and the specific

³ The Open Records Act, TEX. REV CIV STAT. ANN. ART. 6252-17a is now codified at TEX. GOVT. CODE ANN. Chapter 552 and has been renamed the Public Information Act.

⁴ Acts 1967, 60th Leg., p. 597 ch. 271.

⁵ Acts 1969, 61st Leg., p. 674 ch. 227; and, Acts 1971, 62nd Leg., p. 1401 ch. 381.

inclusion of the legislature within the terms of the statute occurred at the same time that the state government was under tremendous political reform pressure because of the “Sharpstown Scandal.” This incident resulted in the indictment and eventual conviction of the Speaker of the House of Representatives, Gus Mutscher and other representatives for bribery.⁶ In addition to the criminal prosecutions, many other legislators lost their bids for re-election during this period as the state was swept up in a powerful political reform movement.

It thus appears that in 1973, to allow the public to scrutinize legislative actions more closely, in 1973, both TEX. REV CIV STAT. ANN. ART. 6252-17 the Texas Open Meetings Act was expanded to include the legislature. Furthermore, with an almost identical definition for “Governmental body” the legislature enacted TEX. REV CIV STAT. ANN. ART. 6252-17a, the Open Meetings Act.⁷

There is only one reported court case involving the application of the Open Meetings Act to the legislature. *In re The Texas Senate and the Honorable Rodney Ellis, Relators*, 26 S.W.3d 119 (Tex. 2000) was an appeal by the Senate of a writ of mandamus issued by a Travis County District Court prohibiting the Texas Senate from electing one of its senators as Lieutenant Governor by secret ballot. The Senate and its President, Senator Ellis, petitioned the Supreme Court to vacate the district court order.

The Supreme Court determined that the Open Meetings Act did not prohibit a secret ballot in a senate election of its officers. The Court cited TEX. GOVT. CODE §551.003 which prohibits secret meetings of the legislature, “except as specifically provided in the constitution.” The Court went on to note that Article III, Section 41 of the Texas Constitution provides that votes in the respective chambers of the legislature are required to be given “viva voce, except in the election of their officers.” The Court then determined that the Lieutenant Governor is a senate officer within the meaning of various constitutional provisions.

Implementation of the Open Meetings Act in the Texas House of Representatives

Each house of the legislature has promulgated rules that govern the proceedings in their respective chamber. Because the members of the House of Representatives are all elected every two years, the house must formally reorganize at the beginning of each regular legislative session. The adoption of rules by the house is a regular aspect of this reorganization. The current rules of the Texas House of Representatives for the 78th Regular Session were adopted in Acts 2003, 78th Leg., H.R. 5, and are published on the Legislative website at the following address: <http://www.house.state.tx.us>. It has been the practice of the house to re-adopt rules in

⁶ *Mutscher v. State*, 514 S.W.2d 905 (Tex. Crim. App. 1974).

⁷ TEX. REV CIV STAT. ANN. ART. 6252-17a was added by Acts 1973, 63rd Leg., p. 1112 ch. 424.

substantially the same form each session with revisions, from time to time, as necessary. These rules include specific procedures for the conduct and posting of meetings, both of the chamber at large, and of its committees and subcommittees. Relevant rules of the House of Representatives are discussed below.

Committees of the House

Meetings required to be public. All meetings of a committee or subcommittee of the House of Representatives are open to the public. Article III Section 16 of the Texas Constitution provides that all sessions are to be public and TEX. GOV'T CODE § 551.002 further requires that "Every regular, special, or called meeting of a governmental body shall be open to the public, except as provided by this chapter." Committees of the House of Representatives appear to be covered as a "Governmental body" within the meaning of TEX. GOV'T CODE § 551.001(3)(A) as a "committee, or agency within the executive or legislative branch of state government that is directed by one or more elected or appointed members; ..."

The House of Representatives has further adopted rules that provide for the manner in which public meetings shall be conducted. Specifically, Section 12 of Rule 4 "Organization, Powers, and Duties of Committees provides:

Section 12. Meetings Open To The Public All meetings of a committee or subcommittee, including a calendars committee, shall be open to other members, the press, and the public unless specifically provided otherwise by resolution adopted by the house. However, the general investigating committee or a committee considering an impeachment, an address, the punishment of a member of the house, or any other matter of a quasi-judicial nature may meet in executive session for the limited purpose of examining a witness or deliberating, considering, or debating a decision, but no decision may be made or voted on except in a meeting that is open to the public and otherwise in compliance with the rules of the house.

Committees of the House of Representatives may meet, under the rules for three purposes: to hold public hearings; to hold formal meetings; and, to meet in informal work sessions.⁸ A quorum of members is required to be present in order to convene a meeting and conduct business.⁹ A majority of the members of a committee constitutes a quorum.

Section 12 of rule 4 appears to preclude executive sessions except for the general investigating committee or a committee considering impeachment, an address, the punishment of

⁸ Rules of Texas House of Representatives, 78th Regular Session, Rule 4, Section 10.

⁹ Rules of Texas House of Representatives, 78th Regular Session, Rule 4, Section 16.

a member of the house, or any other matter of a quasi-judicial nature. The general investigating committee is a standing committee of the house which is empowered to conduct investigations of agencies and political subdivisions under the framework provided in TEX. GOV'T CODE Chapter 301.

While this committee and other committees considering impeachment and other items do have authority to meet in executive session, the rules expressly prohibit making a decision or taking a vote except in a meeting that is open to the public. This requirement of action only in public is consistent with the requirements in TEX. GOV'T CODE §551.102, that “[a] final action, decision, or vote on a matter deliberated in a closed meeting under this chapter may only be made in an open meeting that is held in compliance with the notice provisions of this chapter.”

While the Open Meetings Act provides for the preservation of a certified agenda or tape recording of an executive session and for the manner in which such a record may be maintained and disclosed, the house rules and TEX. GOV'T CODE Chapter 301 are silent as to the manner of the maintenance of the records of a committee that convenes in a closed meeting.

Posting requirements. The rules of the House of Representatives for the posting of notice differ from the 72 hour posting requirement in TEX. GOV'T CODE §551.043. Specifically, TEX. GOV'T CODE §551.046 provides that “The notice of a legislative committee meeting shall be as provided by the rules of the house of representatives or of the senate.”

Different time periods for posting have been established by the House of Representatives for the various types of committee meetings. Different posting rules apply depending upon whether the legislature is in Regular Session, in a Special Called Session, or during the interim.¹⁰ Committee meetings cannot be convened while the house chamber is in session unless special permission is granted by a vote of the house.¹¹

As soon as a standing committee of the House of Representatives is appointed at the beginning of the regular session, it is required to create a schedule of regular meetings for the legislative session and to publish the schedule in the house journal. The rules require the committee to adhere to this published schedule to the extent practicable.¹²

The rules provide a 5 calendar day posting requirement for committees holding public hearings during regular sessions of the legislature. The posting requirement for public hearings

¹⁰ Rules of Texas House of Representatives, 78th Regular Session, Rule 4, Section 11.

¹¹ Rules of Texas House of Representatives, 78th Regular Session, Rule 4, Section 9.

¹² Rules of Texas House of Representatives, 78th Regular Session, Rule 4, Section 8.

is reduced to 24 hours when called during a special session of the legislature.¹³ The rule further provides that notice is not required for a hearing on a senate bill that is substantially the same as a house bill that has been the subject of a duly posted public hearing of the committee.

During regular and special sessions of the legislature, the rules further provide a two (2) hour posting requirement for committee meetings and work sessions and written notice transmitted to each member of the committee or filed with the clerk of the house and announced by the reading clerk while the house is in session.¹⁴

During the interim (while the House of Representatives is not in regular or special session, all committee hearings, meetings or work sessions must be posted at least five (5) calendar days before the date of the meeting.¹⁵

The chairperson of a committee of the house is responsible for posting of a committee's agendas.¹⁶ The minutes of a committee meeting must contain a reference to the date of posting of the notice for the meeting.¹⁷ The actual location for the posting of committee notices is determined by the Committee on House Administration. Notices are generally posted in a convenient and conspicuous place near the entrance to the house and on other posting boards for committee meeting notices, designated by the Committee on House Administration.¹⁸

The house rules do not specify the content of the notice. However, the general practice at the legislature has been for the notice to include not only the date, time and location of the meeting, but also the number and caption of all legislation under consideration at such hearing or meeting.

The House of Representatives as a Body

Quorum and Order of Business During the Session. Attendance of two thirds of the membership of the House of Representatives constitutes a quorum for the purpose of conducting the business of the chamber.¹⁹ The constitution further specifies time periods for the conduct of

¹³ Rules of Texas House of Representatives, 78th Regular Session, Rule 4, Section 11(a).

¹⁴ Rules of Texas House of Representatives, 78th Regular Session, Rule 4, Section 11(b).

¹⁵ Rules of Texas House of Representatives, 78th Regular Session, Rule 4, Section 11(c).

¹⁶ Rules of Texas House of Representatives, 78th Regular Session, Rule 4, Section 6(6).

¹⁷ Rules of Texas House of Representatives, 78th Regular Session, Rule 4, Section 18.

¹⁸ Rules of Texas House of Representatives, 78th Regular Session, Rule 4, Section 8.

¹⁹ TEX. CONST., art. III, § 10.

certain business of the legislature including periods when action on legislation is prohibited.²⁰ During the first thirty (30) days of the session, the activities are limited to the filing of legislation and actions on certain emergency measures. During the next 30 days, each chamber may hold hearings on legislation. The respective chambers of the legislature may not proceed to act on legislation until after the 60th day of the session. While a chamber of the legislature may modify this constitutionally prescribed schedule, it takes a four-fifths (4/5th) vote of the chamber to take this action.

Public Sessions. The sessions of the House of Representatives are required to be public.²¹ Business of the chamber is directed by the Speaker of the House in accordance with the rules concerning the daily order of business.²² The daily order of business is generally dictated by the calendars as established by the calendars committee.²³ The system of calendars is detailed in the rules and includes, in the following order of precedence:

1. Emergency Calendar
2. Major State Calendar
3. Constitutional Amendment Calendar
4. General State Calendar
5. Local, consent and resolutions Calendar
6. Resolutions Calendar
7. Congratulatory and Memorial Calendar

A separate system based on the same categories is established for senate bills in the house.

The Calendars Committee, a procedural standing committee, establishes the various calendars for each day of the session. A bill is not eligible for placement on a calendar for consideration until it has been referred to and reported favorably from committee. Depending upon the type of legislation that is involved, the bill must meet other requirements prior to being placed on the appropriate calendar. Except for the local, consent and resolutions calendar and the congratulatory calendar, the calendars are considered in the order of precedence listed above.²⁴ Calendars are printed daily when the house is in session and must be delivered to the newspaper

²⁰ TEX. CONST. art. III, § 5.

²¹ TEX. CONST. art. III, § 16.

²² Rules of Texas House of Representatives, 78th Regular Session, Rule 1, Section 3.

²³ Rules of Texas House of Representatives, 78th Regular Session, Rule 6, Section 7.

²⁴ Rules of Texas House of Representatives, 78th Regular Session, Rule 6, Section 15.

box of each member at least 36 hours before the calendar may be considered in the house if in regular session or 24 hours if the house is convened in a special called session.²⁵

In addition, on two (2) hours notice a supplementary calendar may be published that includes the following:

(1) bills or resolutions which were passed to third reading on the previous legislative day; (2) bills or resolutions which appeared on the Daily House Calendar for a previous calendar day which were not reached for floor consideration; (3) postponed business from a previous calendar day; and (4) notice to take from the table a bill or resolution which was laid on the table subject to call on a previous legislative day.

An additional calendar of Items Eligible for Consideration may, upon six (6) hours notice be published and may contain:

(1) house bills with senate amendments that are eligible for consideration under Rule 13, Section 5; (2) senate bills for which the senate has requested appointment of a conference committee; and (3) conference committee reports that are eligible for consideration under Rule 13, Section 10.

The Calendars Committee must time-stamp the original with the time that the copy was delivered to each member.

While the constitution provides for the Senate to convene, as a whole, in an executive session, the House of Representatives has no similar authority.²⁶

Implementation of the Open Meetings Act in the Texas Senate

The Senate has also promulgated rules that govern the proceedings in that chamber. Because the members of the Senate serve staggered six-year terms of office, a number of the Senators are serving the unexpired portions of their terms of office at the time that the Senate is convened for each regular session. The returning incumbent Senators reconvene the chamber and as part of the process they adopt rules for the chamber. The current rules of the Texas Senate for the 78th Regular Session were adopted in Acts 2003, 78th Leg., S.R. 16, and are published on the Legislative website at the following address: <http://www.senate.state.tx.us>. It has been the practice of the Senate to re-adopt rules in substantially the same form each session. For example, in S.R. 16 the senate rules from the 77th Regular Session were re-adopted with one amendment.

²⁵ Rules of Texas House of Representatives, 78th Regular Session, Rule 6, Section 16.

²⁶ TEX. CONST. art. III, § 16.

Senate Committees

Public Sessions. As with the house, the senate committee meetings are required to be public under both Article III Section 16 of the Texas Constitution and TEX. GOV'T CODE §551.002. The Senate has adopted rules for the operation of its committees that require notice of the business to be conducted by the committees. Unlike the house rules, there is no general senate rule which expressly states that meetings of the committees shall be public. On the other hand, Senate Rule 14.03 provides that hearings on nominations by a proper committee are open meetings unless an executive session is ordered by a majority of the members of the committee.

Posting Requirements. The rules for the posting of notice in the Senate again differ from the 72 hour posting requirement in TEX. GOV'T CODE § 551.043. Texas Government Code Section 551.046 provides that “[t]he notice of a legislative committee meeting shall be as provided by the rules of the house of representatives or of the senate.”

Senate Rule 11.10 requires that committees or subcommittees provide at least 24 hours notice of any regular or special meeting. Further, no legislation may be reported from committee to the Senate which has not been the subject of a public hearing, properly posted for at least 24 hours.²⁷ Posting of such meeting notices is the responsibility of the Secretary of the Senate and posting occurs on a bulletin board outside the office of the Secretary of the Senate.²⁸ Committee meetings cannot be convened while the Senate chamber is in session unless unanimous consent.²⁹

While the notice requirements in the rules are fairly explicit, it is important to note that the Senate, as a body can suspend the application of the rules requiring a public hearing on any legislation in order to take up the legislation on the senate floor. For example, the commentary to Senate Rule 11.10 suggests that: “motion to suspend ‘the posting rule’ for the purpose of allowing a committee to conduct a public hearing on a bill at a time and place stated in the motion is sufficient for suspension of both Rule 11.10 and Rule 11.18 (74 S.J. Reg. 3029-3032 (1995)).”

The chairperson of a senate committee is required to advise the Secretary of the Senate of the setting of any meeting of the Committee as soon as practical after that time is established. The Secretary of the Senate then posts the notice on a bulletin board outside the door of the office of the Secretary of the Senate which is located by the entrance to the senate chamber.³⁰

²⁷ Rules of Texas Senate, 78th Regular Session, Rule 11.18(a).

²⁸ Rules of Texas Senate, 78th Regular Session, Rule 11.10(a).

²⁹ Rules of Texas Senate, 78th Regular Session, Rule 11.19.

³⁰ Rules of Texas Senate, 78th Regular Session, Rule 11.10(c).

A Senator may “tag” a bill and request 48 hours notice of any public hearing to consider such tagged legislation.³¹ The 48 hour notice requirements also apply to a house bill before the committee on the same legislation.³² The rules provide that notice concerning a hearing on “tagged” legislation be provided to a requesting Senator’s office between 8:00 a.m. and 5:00 p.m. during days when the Senate is convened.³³

The senate rules do not specify the content of the notice. However, the general practice at the Secretary of the Senate has been for the notice to include not only the date, time and location of the meeting, but also the number and caption of all legislation under consideration at such hearing or meeting.

The Senate as a Body

Quorum and Order of Business During the Session. As in the house, attendance of two thirds of the membership of the House of Representatives constitutes a quorum for the purpose of conducting the business of the chamber.³⁴ During the first sixty (60) days of the session, legislation shall not be taken up, considered or acted upon by the Senate.³⁵ While the Senate may modify this constitutionally prescribed schedule, it takes a four-fifths (4/5th) vote of the chamber to take this action.

Public Sessions. The sessions of the Senate are required to be public except that the Senate may convene in executive session.³⁶ The presiding officer of the Senate is the Lieutenant Governor by virtue of his office as President of the Senate.³⁷ The Lieutenant Governor presides in accordance with the rules concerning the daily order of business.³⁸ The daily order of business for consideration of legislation is established by rule.³⁹ The rule calls for consideration of legislation in the following order of precedence:

³¹ Rules of Texas Senate, 78th Regular Session, Rule 11.19.

³² Rules of Texas Senate, 78th Regular Session, Rule 11.19(j).

³³ Rules of Texas Senate, 78th Regular Session, Rule 11.19(g)(1).

³⁴ TEX. CONST. art. III, § 10.

³⁵ TEX. CONST. art. III, § 5.

³⁶ TEX. CONST. art. III, § 16.

³⁷ *Id.*

³⁸ Rules of Texas Senate, 78th Regular Session, Rule 5.08.

³⁹ Rules of Texas Senate, 78th Regular Session, Rule 5.09.

1. Special orders;
2. Unfinished business;
3. Senate Joint Resolutions;
4. Senate Resolutions;
5. Senate Concurrent Resolutions;
6. Senate bills on third reading;
7. Senate bills on second reading;
8. House Joint Resolutions;
9. House bills on third reading;
10. House bills on second reading;
11. House Concurrent Resolutions

Executive Sessions. The constitution further provides for the Senate to convene, as a whole, in an executive session.⁴⁰ In *In re The Texas Senate and the Honorable Rodney Ellis, Relators*, 26 S.W.3d 119 (Tex. 2000), discussed earlier, it was noted that the Supreme Court determined that the Open Meetings Act did not prohibit a secret ballot in a senate election of its officers. In reaching that conclusion, the Court cited Article III, Section 41 of the Texas Constitution which provides that votes in the respective chambers of the legislature for officers may be secret. Article III, section 41 of the Texas Constitution is thus an exception to the Open Meetings Act applicable to this chamber of the legislature only.

CONCLUSION

The Texas Legislature, in 1973 made an explicit and concerted effort to bring itself within the body of law known as the Texas Open Meetings Act. Over the ensuing three decades, the legislature has promulgated rules based on the principles of the Texas Open Meetings Act. However, except for the one instance cited in this paper, the legislature's adherence in practice to the principles of the Open Meetings Act has not been challenged. In the climate of bipartisan cooperation that characterized those three decades the rules, and the manner in which they may have followed policies such as the Texas Open Meetings Act, were not seriously tested.

On the other hand, the 78th Regular Session and the four Special Called Sessions in 2003 and 2004 on congressional redistricting and public school finance have seen the rise of a culture in the chambers characterized by partisanship. With the demise of a bipartisan culture, the committees and policies for operation of the chamber will need to be reviewed and analyzed to determine how well they adhere to the Open Meetings Act as the Act may represent one of many tools that can be utilized to check the power of the body. While the parliamentary rules may be one means of applying these checks, the Texas Open Meetings Act has a full panoply of remedies and sanctions, both civil and criminal which have yet to be applied by the Courts to this governmental body.

⁴⁰ TEX. CONST. art. III, § 16.