



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 27, 1997

The Honorable Barry B. Telford
Chair, Pensions and Investments Committee
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910

Letter Opinion No. 97-096

Re: Whether a governmental body may discuss
a tax abatement in executive session under the
Open Meetings Act, chapter 551, of the
Government Code (ID# 39538)

Dear Representative Telford:

You have requested our opinion regarding the authority of a city council or a county commissioners court to meet in executive session under the Open Meetings Act to discuss a proposed city or county property tax abatement for an existing industry.

The Open Meetings Act, chapter 551 of the Government Code, is specifically applicable to every "governmental body" in Texas, including a "county commissioners court" and a "municipal governing body." Gov't Code §§ 551.002, .001(3)(B), (C). The act requires "every regular, special, or called meeting of a governmental body to be open to the public," with "certain narrowly-drawn exceptions." *See Cox Enterprises v. Board of Trustees*, 706 S.W.2d 956, 958 (Tex. 1986).

In Attorney General Opinion DM-284 (1994), we affirmed the principle, first announced by this office in Attorney General Opinion MW-578 (1982), that an executive session may be held only where specifically authorized. "Such 'specific authorization' must come from the Open Meetings Act itself, or from another statute clearly indicating that a meeting is not open to the public." Letter Opinion No. 96-058 (1996). A "proposed property tax abatement for an existing industry" is not a subject that can easily be fitted into any of the exceptions of subchapter D, chapter 551. Section 551.072 authorizes a closed meeting "to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person." In our opinion, a tax abatement for a particular industry cannot reasonably be said to constitute the "value of real property." Neither does any other provision of subchapter D appear to authorize the kind of deliberation to which you refer.

We conclude that a city council or county commissioners court is not authorized to meet in executive session under the Open Meetings Act to discuss a proposed city or county property tax abatement for an existing industry.

S U M M A R Y

A city council or county commissioners court is not authorized to meet in executive session under the Open Meetings Act to discuss a proposed city or county property tax abatement for an existing industry.

Yours very truly,

A handwritten signature in cursive script that reads "Rick Gilpin".

Rick Gilpin
Deputy Chief
Opinion Committee