

1                                   **REVISIONS TO OPEN AND PUBLIC**

2   **MEETINGS LAW**

3   2006 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Glenn A. Donnelson**

6                                   Senate Sponsor: Parley G. Hellewell

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8   **LONG TITLE**

9   **General Description:**

10           This bill modifies the Open and Public Meeting Statutes by amending certain  
11 provisions.

12   **Highlighted Provisions:**

13           This bill:

- 14           ▶ defines "recording" to mean an audio, or an audio and video, record of the  
15 proceedings of a meeting that can be used to review the proceedings of the meeting;
- 16           ▶ encourages public bodies to use electronic means to:
  - 17           • provide public notice to media agencies that make a periodic written request to  
18 receive them; and
  - 19           • post public notice of its meetings on the internet;
- 20           ▶ requires public notices with agendas to provide reasonable specificity to notify the  
21 public as to the topics to be considered at the meeting;
- 22           ▶ prohibits a public body from considering topics that are not posted with the public  
23 notice;
- 24           ▶ requires both written minutes and a recording to be kept of all open meetings unless  
25 the open meeting is a site visit or traveling tour and no vote or action is taken by the  
26 public body;
- 27           ▶ repeals a provision that only written minutes are evidence of the official action



28 taken at an open meeting; and  
29       ▶ makes technical changes.

30 **Monies Appropriated in this Bill:**

31       None

32 **Other Special Clauses:**

33       None

34 **Utah Code Sections Affected:**

35 AMENDS:

36       **52-4-2**, as last amended by Chapter 89, Laws of Utah 1994

37       **52-4-6**, as last amended by Chapter 110, Laws of Utah 1998

38       **52-4-7**, as last amended by Chapter 311, Laws of Utah 2002



40 *Be it enacted by the Legislature of the state of Utah:*

41       Section 1. Section **52-4-2** is amended to read:

42       **52-4-2. Definitions.**

43       As used in this chapter:

44       (1) "Convening" means the calling of a meeting of a public body by a person  
45 authorized to do so for the express purpose of discussing or acting upon a subject over which  
46 that public body has jurisdiction.

47       (2) (a) "Meeting" means the convening of a public body, with a quorum present,  
48 whether in person or by means of electronic equipment, for the purpose of discussing or acting  
49 upon a matter over which the public body has jurisdiction or advisory power.

50       (b) "Meeting" does not mean:

51       (i) a chance meeting; or

52       (ii) the convening of a public body that has both legislative and executive  
53 responsibilities where no public funds are appropriated for expenditure during the time the  
54 public body is convened and:

55       (A) the public body is convened solely for the discussion or implementation of  
56 administrative or operational matters for which no formal action by the public body is required;

57 or

58       (B) the public body is convened solely for the discussion or implementation of

59 administrative or operational matters that would not come before the public body for  
60 discussion or action.

61 (3) (a) "Public body" means any administrative, advisory, executive, or legislative body  
62 of the state or its political subdivisions that:

- 63 (i) consists of two or more persons;
- 64 (ii) expends, disburses, or is supported in whole or in part by tax revenue; and
- 65 (iii) is vested with the authority to make decisions regarding the public's business.

66 (b) "Public body" does not include any:

- 67 (i) political party, group, or caucus; nor
- 68 (ii) any conference committee, rules committee, or sifting committee of the  
69 Legislature.

70 (4) (a) "Quorum" means a simple majority of the membership of a public body, unless  
71 otherwise defined by applicable law.

72 (b) "Quorum" does not include a meeting of two elected officials by themselves when  
73 no action, either formal or informal, is taken on a subject over which these elected officials  
74 have jurisdiction.

75 (5) "Recording" means an audio, or an audio and video record of the proceedings of a  
76 meeting that can be used to review the proceedings of the meeting.

77 Section 2. Section **52-4-6** is amended to read:

78 **52-4-6. Public notice of meetings.**

79 (1) Any public body which holds regular meetings that are scheduled in advance over  
80 the course of a year shall give public notice at least once each year of its annual meeting  
81 schedule as provided in this section. The public notice shall specify the date, time, and place of  
82 such meetings.

83 (2) In addition to the notice requirements of Subsection (1) of this section, each public  
84 body shall give not less than 24 hours' public notice of the agenda, date, time and place of each  
85 of its meetings.

86 (3) Public notice shall be satisfied by:

87 (a) posting written notice at the principal office of the public body, or if no [such]  
88 principal office exists, at the building where the meeting is to be held; and

89 (b) providing notice to:

90 (i) at least one newspaper of general circulation within the geographic jurisdiction of  
91 the public body[;]; or [to]

92 (ii) a local media correspondent.

93 (4) ~~[Public bodies are]~~ A public body is encouraged to:

94 (a) develop and use electronic means to [post] provide notice [in addition to those  
95 means listed in Subsection (3).] of its meetings under Subsection (3)(b);

96 (b) provide public notice to all other media agencies that make a periodic written  
97 request to receive them; and

98 (c) post public notice of its meetings on the Internet.

99 (5) When because of unforeseen circumstances it is necessary for a public body to hold  
100 an emergency meeting to consider matters of an emergency or urgent nature, the notice  
101 requirements of Subsection (2) may be disregarded and the best notice practicable given. No  
102 such emergency meeting of a public body shall be held unless an attempt has been made to  
103 notify all of its members and a majority votes in the affirmative to hold the meeting.

104 (6) (a) A public notice that is required to include an agenda under Subsection (2), shall  
105 provide reasonable specificity to notify the public as to the topics to be considered at the  
106 meeting. Each topic shall be listed under an agenda item on the meeting agenda.

107 (b) Except as provided in Subsection (5), a public body may not consider a topic in an  
108 open meeting that is not:

109 (i) listed under an agenda item under Subsection (6)(a); and

110 (ii) included with the advanced public notice in accordance with this section.

111 Section 3. Section **52-4-7** is amended to read:

112 **52-4-7. Minutes of open meetings -- Public records -- Recording of meetings.**

113 (1) ~~[Written]~~ Except as provided under Subsection (8), written minutes [or a digital or  
114 tape] and a recording shall be kept of all open meetings. Such minutes [or a digital or tape] and  
115 a recording shall include:

116 (a) the date, time, and place of the meeting;

117 (b) the names of members present and absent;

118 (c) the substance of all matters proposed, discussed, or decided, and a record, by  
119 individual member, of votes taken;

120 (d) the names of all citizens who appeared and the substance in brief of their testimony;

121 and

122 (e) any other information that any member requests be entered in the minutes.

123 (2) Except as provided in Section 52-4-7.5, written minutes or a ~~[digital or tape]~~  
124 recording shall be kept of all closed meetings. Such minutes or ~~[digital or tape]~~ recording shall  
125 include:

126 (a) the date, time, and place of the meeting;

127 (b) the names of members present and absent; and

128 (c) the names of all others present except where such disclosure would infringe on the  
129 confidence necessary to fulfill the original purpose of closing the meeting.

130 (3) The minutes and recordings are public records and shall be available within a  
131 reasonable time after the meeting. A meeting record kept only by a ~~[digital or tape]~~ recording  
132 must be converted to written minutes within a reasonable time upon request.

133 (4) All or any part of an open meeting may be recorded by any person in attendance;  
134 provided, the recording does not interfere with the conduct of the meeting.

135 (5) Minutes of meetings that are required to be retained permanently shall be  
136 maintained in or converted to a format that meets long-term records storage requirements.

137 (6) Written minutes ~~[or digital or tape]~~ and recordings shall be of open meetings are  
138 public records ~~[pursuant to]~~ under Title 63, Chapter 2, Government Records Access and  
139 Management Act, but ~~[only]~~ written minutes shall be the primary evidence of the official action  
140 taken at ~~[such]~~ the meeting.

141 (7) A recording of an open meeting shall be a complete and unedited record of all open  
142 portions of the meeting from the commencement of the meeting through adjournment of the  
143 meeting.

144 (8) Either written minutes or a recording shall be kept of an open meeting that is a site  
145 visit or a traveling tour if no vote or action is taken by the public body.

**Legislative Review Note**

**as of 10-19-05 12:06 PM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

**Interim Committee Note**

**as of 12-21-05 1:45 PM**

The Government Operations Interim Committee recommended this bill.