

OPEN AND PUBLIC MEETINGS ACT

AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

Senate Sponsor: Howard A. Stephenson

LONG TITLE

General Description:

This bill modifies the Open and Public Meetings Act by amending definitions and requirements for open meetings.

Highlighted Provisions:

This bill:

- ▶ clarifies that the definition of public body includes a public body created by the Utah Constitution as well as by statute, rule, ordinance, or resolution;
 - ▶ amends content requirements for written minutes and recordings of open meetings;
- and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-4-103, as renumbered and amended by Chapter 14 and last amended by Chapters 263 and 265, Laws of Utah 2006

52-4-203, as renumbered and amended by Chapter 14 and last amended by Chapters



28 263 and 265, Laws of Utah 2006

29

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

31 Section 1. Section **52-4-103** is amended to read:

32 **52-4-103. Definitions.**

33 As used in this chapter:

34 (1) "Anchor location" means the physical location from which:

35 (a) an electronic meeting originates; or

36 (b) the participants are connected.

37 (2) "Convening" means the calling of a meeting of a public body by a person

38 authorized to do so for the express purpose of discussing or acting upon a subject over which

39 that public body has jurisdiction or advisory power.

40 (3) "Electronic meeting" means a public meeting convened or conducted by means of a
41 conference using electronic communications.

42 (4) (a) "Meeting" means the convening of a public body, with a quorum present,
43 including a workshop or an executive session whether the meeting is held in person or by
44 means of electronic communications, for the purpose of discussing or acting upon a matter over
45 which the public body has jurisdiction or advisory power.

46 (b) "Meeting" does not mean:

47 (i) a chance meeting;

48 (ii) a social meeting; or

49 (iii) the convening of a public body that has both legislative and executive
50 responsibilities where no public funds are appropriated for expenditure during the time the
51 public body is convened and:

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

54 or

55 (B) the public body is convened solely for the discussion or implementation of
56 administrative or operational matters that would not come before the public body for
57 discussion or action.

58 (5) "Monitor" means to hear or observe, live, by audio or video equipment, all of the

59 public statements of each member of the public body who is participating in a meeting.

60 (6) "Participate" means the ability to communicate with all of the members of a public
61 body, either verbally or electronically, so that each member of the public body can hear or
62 observe the communication.

63 (7) (a) "Public body" means any administrative, advisory, executive, or legislative body
64 of the state or its political subdivisions that:

- 65 (i) is created by the Utah Constitution, statute, rule, ordinance, or resolution;
66 (ii) consists of two or more persons;
67 (iii) expends, disburses, or is supported in whole or in part by tax revenue; and
68 (iv) is vested with the authority to make decisions regarding the public's business.

69 (b) "Public body" does not include a:

- 70 (i) political party, political group, or political caucus; or
71 (ii) conference committee, rules committee, or sifting committee of the Legislature.

72 (8) "Public hearing" means a portion of a meeting in which comments from the public
73 will be accepted.

74 (9) "Public statement" means a statement made in the ordinary course of business of
75 the public body with the intent that all other members of the public body receive it.

76 (10) (a) "Quorum" means a simple majority of the membership of a public body, unless
77 otherwise defined by applicable law.

78 (b) "Quorum" does not include a meeting of two elected officials by themselves when
79 no action, either formal or informal, is taken on a subject over which these elected officials
80 have advisory power.

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

83 Section 2. Section **52-4-203** is amended to read:

84 **52-4-203. Minutes of open meetings -- Public records -- Recording of meetings.**

85 (1) Except as provided under Subsection [(7)] (8), written minutes and a recording
86 shall be kept of all open meetings. [~~The minutes and a recording shall include:~~]

87 (2) Written minutes of an open meeting shall include:

- 88 (a) the date, time, and place of the meeting;
89 (b) the names of members present and absent;

- 90 (c) the substance of all matters proposed, discussed, or decided by the public body
 91 ~~§~~→ **[including] which may include** ←~~§~~ a summary of comments made by members of the public
 91a body;
- 92 (d) a record, by individual member, of [~~votes~~] each vote taken by the public body;
 93 (e) the name of each person who is not a member of the public body, and upon
 94 recognition by the presiding member of the public body, provided testimony [and] or
 95 comments to the public body;
- 96 (f) the substance, in brief, of [~~their~~] the testimony or comments provided by ~~§~~→ **[each**
 97 **person named in] the public under** ←~~§~~ Subsection (2)(e); and
- 98 [~~f~~] (g) any other information that any member requests be entered in the minutes or
 99 recording.
- 100 [~~2~~] (3) A recording of an open meeting shall:
 101 (a) be a complete and unedited record of all open portions of the meeting from the
 102 commencement of the meeting through adjournment of the meeting[-]; and
 103 (b) be properly labeled or identified with the date, time, and place of the meeting.
- 104 [~~3~~] (4) (a) The minutes and recordings of an open meeting are public records and
 105 shall be available within a reasonable time after the meeting.
 106 (b) An open meeting record kept only by a recording must be converted to written
 107 minutes within a reasonable time upon request.
- 108 [~~4~~] (5) All or any part of an open meeting may be independently recorded by any
 109 person in attendance if the recording does not interfere with the conduct of the meeting.
- 110 [~~5~~] (6) Minutes or recordings of an open meeting that [~~is~~] are required to be retained
 111 permanently shall be maintained in or converted to a format that meets long-term records
 112 storage requirements.
- 113 [~~6~~] (7) Written minutes and recordings of open meetings are public records under
 114 Title 63, Chapter 2, Government Records Access and Management Act, but written minutes
 115 shall be the official record of action taken at the meeting.
- 116 [~~7~~] (8) Either written minutes or a recording shall be kept of:
 117 (a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken
 118 by the public body; and
 119 (b) an open meeting of an independent special district as defined under Title 17A,
 120 Special Districts, or a local district under Title 17B, Chapter 2, Local Districts, if the district's

121 annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are
122 \$50,000 or less.

Legislative Review Note
as of 11-15-06 4:47 PM

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-12-06 10:24 AM

The Government Operations Interim Committee recommended this bill.

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Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

12/19/2006, 4:46:24 PM, Lead Analyst: Ricks, G.

Office of the Legislative Fiscal Analyst