

**ELECTRONIC MEETINGS REVISIONS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Bradley M. Daw**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions of the Open and Public Meetings Act relating to electronic meetings.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ deletes the requirement that electronic meetings have an anchor location;
- ▶ requires a public body to conduct any electronic meeting that does not have an

anchor location in a manner so that the public may attend, monitor, and participate in the meeting;

- ▶ requires new notice to be given each time a topic to be considered at an electronic meeting has not been listed as an agenda item; and

- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**52-4-103**, as last amended by Laws of Utah 2007, Chapters 35 and 45



28           **52-4-207**, as last amended by Laws of Utah 2007, Chapter 45



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~~] may originate; 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) (a) "Electronic meeting" means a public meeting convened or conducted by means  
41 of a conference using electronic communications.

42           (b) "Electronic meeting" may include, provided that the requirements of a meeting  
43 under Subsection (4) are met, one or more communications conducted by instant messaging,  
44 electronic chat, or the transmission of an electronic or written communication between  
45 members of a public body.

46           (4) (a) "Meeting" means the convening of a public body, with a quorum present,  
47 including a workshop or an executive session whether the meeting is held in person or by  
48 means of electronic communications, for the purpose of discussing, receiving comments from  
49 the public about, or acting upon a matter over which the public body has jurisdiction or  
50 advisory power.

51           (b) "Meeting" does not mean:

52           (i) a chance meeting;

53           (ii) a social meeting; or

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

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

59 or

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

63 (5) "Monitor" means to hear or observe, live, by audio or video equipment, all of the  
64 public statements of each member of the public body who is participating in a meeting.

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

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

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

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

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

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

79 (9) (a) "Quorum" means a simple majority of the membership of a public body, unless  
80 otherwise defined by applicable law.

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

84 (10) "Recording" means an audio, [or] an audio and video, or a complete verbatim and  
85 graphical record of the proceedings of a meeting that can be used to review the proceedings of  
86 the meeting.

87 Section 2. Section **52-4-207** is amended to read:

88 **52-4-207. Electronic meetings -- Authorization -- Requirements.**

89 (1) A public body may convene and conduct an electronic meeting in accordance with

90 this section.

91 (2) (a) A public body may not hold an electronic meeting unless the public body has  
92 adopted a resolution, rule, or ordinance governing the use of electronic meetings.

93 (b) The resolution, rule, or ordinance may:

94 (i) prohibit or limit electronic meetings based on budget, public policy, or logistical  
95 considerations;

96 (ii) require a quorum of the public body to:

97 (A) be present at a single anchor location for the meeting; and

98 (B) vote to approve establishment of an electronic meeting in order to include other  
99 members of the public body through an electronic connection;

100 (iii) require a request for an electronic meeting to be made by a member of a public  
101 body up to three days prior to the meeting to allow for arrangements to be made for the  
102 electronic meeting;

103 (iv) restrict the number of separate connections for members of the public body that are  
104 allowed for an electronic meeting based on available equipment capability; ~~or~~

105 (v) establish one or more anchor locations for the public meeting, at least one of which  
106 is in the building and political subdivision where the public body would normally meet if it  
107 were not holding an electronic meeting;

108 (vi) provide space and facilities at the anchor location so that interested persons and the  
109 public may attend and monitor the open portions of the meeting;

110 (vii) if comments from the public will be accepted during the electronic meeting,  
111 provide space and facilities at the anchor location so that interested persons and the public may  
112 attend, monitor, and participate in the meeting in a manner that affords them access to all of the  
113 records of the meeting; and

114 ~~(viii)~~ (viii) establish other procedures, limitations, or conditions governing electronic  
115 meetings not in conflict with this section.

116 (3) A public body that convenes or conducts an electronic meeting shall~~[(a)]~~ give  
117 public notice of the meeting:

118 ~~(i)~~ (a) in accordance with Section 52-4-202; and

119 ~~(ii) post written notice at the anchor location;~~

120 ~~(b) in addition to giving public notice required by Subsection (3)(a), provide:]~~

121 ~~[(i) notice of the electronic meeting]~~  
122 (b) to the members of the public body at least 24 hours before the meeting so that they  
123 may participate in and be counted as present for all purposes, including the determination that a  
124 quorum is present[; and].  
125 (4) Public notice under Subsection (3) shall:  
126 ~~[(ti)]~~ (a) include a description of how the members of the public body will be  
127 connected to the electronic meeting[;]; and  
128 ~~[(c) establish one or more anchor locations for the public meeting, at least one of which~~  
129 ~~is in the building and political subdivision where the public body would normally meet if they~~  
130 ~~were not holding an electronic meeting;]~~  
131 ~~[(d) provide space and facilities at the anchor location so that interested persons and~~  
132 ~~the public may attend and monitor the open portions of the meeting; and]~~  
133 ~~[(e) if comments from the public will be accepted during the electronic meeting;~~  
134 ~~provide space and facilities at the anchor location so that interested persons and the public may~~  
135 ~~attend, monitor, and participate in the open portions of the meeting.]~~  
136 (b) be given each time a topic to be considered at an electronic meeting has not been  
137 listed as an agenda item on the meeting agenda as required in Subsection 52-4-202(6).  
138 (5) If there is no anchor location designated for the electronic meeting, the public body:  
139 (a) shall conduct the electronic meeting so that interested persons and the public may  
140 attend, monitor, and participate in the electronic meeting in a manner that affords them access  
141 to all of the records of the meeting; and  
142 (b) may not close a meeting as otherwise allowed under this part.  
143 (6) (a) Written minutes and a recording shall be kept of all electronic meetings as  
144 required in Section 52-4-203.  
145 (b) Written minutes are the official record of action taken at the electronic meeting as  
146 provided in Section 52-4-203.  
147 (c) Notwithstanding Subsection 52-4-203(3), the secretary of a public body conducting  
148 an electronic meeting shall delete from a recording any:  
149 (i) pornographic material, as defined in Section 76-10-1203; and  
150 (ii) obscene material, as defined in 20 U.S.C. Sec. 9101.  
151 ~~[(4)]~~ (7) Compliance with the provisions of this section by a public body constitutes

152 full and complete compliance by the public body with the corresponding provisions of Sections  
153 52-4-201 and 52-4-202.

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**Legislative Review Note**  
**as of 1-11-11 2:35 PM**

**Office of Legislative Research and General Counsel**

# FISCAL NOTE

H.B. 106

SHORT TITLE: **Electronic Meetings Revisions**

SPONSOR: **Daw, B.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

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

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.